# The Impact of Elected Police and Crime Commissioners in England and Wales on Police-Black and Ethnic Minority Community Relations, with Specific Reference to Stop and Search

**by**

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## Abbreviations

| | |
|---|---|
| **ACPO** | Association of Chief Police Officers (now NPCC) |
| **APPGC** | All Party Parliamentary Group for Children |
| **BME** | Black and minority ethnic |
| **BUSSS** | Best Use of Stop and Search Scheme |
| **CDRP** | Crime and Disorder Reduction Partnership |
| **Code A** | Code of Practice A, issued under the Police and Criminal Evidence Act 1984 (also "the Code") |
| **COP** | College of Policing (also "the College") |
| **ECHR** | European Convention on Human Rights |
| **ECtHR** | European Court of Human Rights |
| **EHRC** | Equality and Human Rights Commission |
| **GLA** | Greater London Assembly |
| **HMIC** | Her Majesty's Inspectorate of Constabulary |
| **IAG** | Independent Advisory Group |
| **IPCC** | Independent Police Complaints Commission |
| **MPS** | Metropolitan Police Service |
| **NPCC** | National Police Chiefs' Council |
| **PACE** | Police and Criminal Evidence Act 1984 |
| **PCC** | Police and Crime Commissioner |
| **PCMA** | Police and Magistrates' Court Act 1994 |
| **PRA** | Police Reform Act 2002 |
| **PRSR** | Police Reform and Social Responsibility Act 2011 |
| **PTA** | Prevention of Terrorism (Temporary Provisions) Act 1989 |
| **RCCP** | Royal Commission on Criminal Procedure |
| **RCP** | Royal Commission on the Police |
| **RCPPP** | Royal Commission on Police Powers and Procedure |

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**It is to all of you and, of course, *you*, the reader, that I dedicate this thesis in the hope that it satisfies your curiosity and then stimulates it further.**

## Declaration

I declare that this thesis is the labour of my own work.

I also confirm that the thesis has not been submitted for a degree at another university.

## Abstract

Police and Crime Commissioners (PCCs) are hailed as one of the greatest constitutional reforms of the police in modern times and were elected in 2012 in a blaze of controversy. Whilst some claim these powerful actors can ensure policing is more responsive to local priorities, others claim that PCCs will undermine democratic police accountability by encouraging populism and inequalities, and become too close to their chief constables to ensure that they are more robustly held to account. This thesis investigates whether PCCs have improved local police accountability through a mixed-methods study of how police-initiated stops are governed in three PCC areas, using interviews, observations, and statistical and documentary analysis. As such, it is one of the first empirical studies to explore this new model of police governance, certainly in relation to the operation of police powers.

Research suggests that police-initiated stops are a flash-point in relations with ethnic minority communities, are disproportionately used against them, and has reduced perceptions of police legitimacy. Despite this, their use has grown exponentially and, as this thesis argues, is exemplary of a democratic deficit in local police accountability whereby police officers have become more responsive to national government in exercising their powers rather than local priorities.

Unexpectedly, stop and search became heavily politicised during the fieldwork, resulting in improved governance and dramatic reductions in their use. The findings suggest that this was due to national developments, thus indicating that although police powers are amenable to external influence, their governance remains highly centralised. However, chief officers remain powerful in determining whether any reforms are implemented locally. Despite potential controversies, PCCs have been able to influence various operational practices but appear too hesitant to risk this for 'minority issues' like police-initiated stops, thus undermining their own capacity to enhance local democratic police accountability.

# 1. Introduction

Directly-elected Police and Crime Commissioners (PCCs) have been hailed as one of the greatest constitutional reforms of the police in modern times (Lister, 2013; Reiner, 2016). This is amid claims that they enjoy stronger powers than the former police authorities to set police priorities and more robustly hold their chief constables to account. However, others argue that they are more likely to have a deleterious effect on local police accountability by encouraging populism, exacerbating inequalities and potentially becoming too close to their chief constables to sufficiently hold them to account (Jones, 2008; Millen & Stephens, 2011; Lister, 2013; Lister & Rowe, 2015). This thesis explores these claims through a multi-site, mixed-methods study of three PCC areas and the governance of coercive police powers to stop and search members of the public and to conduct other types of stops. This thesis is the first study of PCCs' impact on relations with ethnic minority communities, as well as how the wider range of stakeholders, including national government agencies and the electorate, influence commissioners.

PCCs were elected only a year after Britain experienced its worst public disorders in thirty years. In August 2011, five days of rioting and looting across a number of cities caused an estimated half a billion pounds of damage and some of this violence was deliberately targeted towards police property and personnel (Riots Communities and Victims Panel, 2011). This included parts of the cities of Birmingham and Nottingham, which fall into two of the case study areas. Although rioters came from a range of backgrounds, the centre of those disturbances took place in areas where large ethnic minority populations reside and dramatically highlighted how poor relations had become between the police and minority communities. Research with the rioters revealed that anti-police sentiment arising from

prior experiences of stop and search was a common aggravating factor fuelling the disorders (Riots Communities and Victims Panel, 2011; Lewis et al., 2011). But what was striking was just how similar this was to other disorders throughout the 1980s and 1990s (see Scarman, 1981; Keith, 1993). Thus it appears that public frustrations towards these coercive powers have remained constant over the decades despite the repetitive cycle of crisis and reform discussed in the literature review (chapter 4).

In fact, police-initiated stops have expanded considerably in that time as their scope has been strengthened and regulatory controls weakened, thus enhancing the 'highly permissive' nature of police powers and shielding them from the necessary visibility to ensure effective oversight into their use (Baldwin & Kinsey, 1982; Reiner, 2010; Manning, 2010; Sanders et al., 2010). It also points to the lack of power afforded to ethnic minorities to change their policing experiences, arguably providing little incentive to engage in existing formal arrangements for police accountability.

Research has consistently found that police authorities were overall too bureaucratic, 'out of touch' with the public, and unwilling to exert the full extent of their powers to ensure policing was more responsive to their local populace (Scarman, 1981; Morgan & Swift, 1987; Jones et al. 1994; Millen & Stephens, 2011; Caless & Tong, 2013). It is then, perhaps, not surprising that they were also unable to ensure people from ethnic minority backgrounds had more equitable policing experiences despite this being a defining criteria for any arrangement for police governance to be considered 'democratic' (chapter 2). This lack of robust accountability led to claims of police authorities being the ‘architects of their own decline' (Jones et al., 1994) and there being a ‘democratic deficit' in local police accountability (e.g. Baldwin & Kinsey, 1982; Jones, 2008). But these criticisms have not

always been fair given that successive governments have circumscribed the powers of police authorities whilst enhancing their own and that of police officers. Thus even the most determined police authority could only obtain an explanation for police practice rather than secure changes to such decision-making, particularly as these practices are insulated from direct political control by 'operational independence'. As this thesis argues, police-initiated stops are a good example of this as police officers have assumed greater discretionary powers alongside that of increasingly interventionist Home Secretaries who have tacitly encouraged the expansion in the use of these encounters. Meanwhile, police authorities and ethnic minority groups have been powerless to change these practices which have disproportionately impacted upon the latter and undermined confidence in the police and their perceived legitimacy (e.g. Skogan, 2006; Bradford et al., 2009; HMIC, 2013; Delsol & Shiner, 2015). As in the famous words of Marshall (1978), police accountability in England and Wales has been 'explanatory and co-operative' rather than 'obedient and subordinate'. In other words, the institutional arrangements intended to ensure that the police are robustly held to account on behalf of the public have failed to produce anything other than a retrospective account of decisions already made and unlikely to change following external scrutiny. Even then, some research suggests that chief officers have become so powerful that they could even choose whether or not their local policing bodies would receive a response to any explanations sought (Millen & Stephens, 2011; Caless & Tong, 2013).

So with firmer powers to hold their chief constables to account, this thesis analyses the capacity of PCCs to introduce greater local police accountability in relation to police-initiated stops, with a particular focus on opportunities afforded to the public by three PCCs. Unexpectedly, stop and search became heavily politicised shortly after the

fieldwork for this thesis began. This resulted in significant changes to their governance and reductions in use, partly due to legal challenges by members of the public and partly due to national government reforms in response to these and the 2011 riots. Later, the broader range of police stops also came under scrutiny, notably those conducted under road and traffic legislation. Although the origins of this thesis predate the government reforms, these developments are also analysed throughout the findings for their revealing insight into the power dynamics between the Home Secretary, PCCs, chief constables and ethnic minority groups. The activities of three of the most active PCCs with regards to police-initiated stops are analysed to understand how commissioners sought to strengthen local accountability in relation to these encounters and empower their ethnic minority populations to more directly shape their own policing experiences.

### *1.1. Thesis outline*

Reforms to the arrangements for governing the police in England and Wales are typically legitimised through claims of improving 'democratic accountability' and, therefore, this thesis starts by reviewing academic theories on what this constitutes (chapter 2). Chapter 2 reviews the very British and ambiguous concept of 'operational independence' and how it promotes explanatory rather than more robust forms of accountability. It then analyses academic theories on what constitutes democratic police accountability and discusses the broad consensus relating to its core criteria, although areas of disagreement are also reviewed. It suggests that *equity*; *responsiveness* to public demands, and a greater dispersal of *power* are its key components, all of which provide the theoretical framework to guide this thesis. Additionally, opportunities for public *participation* in accountability is a fourth element guiding this thesis despite some differences concerning whether it is a separate

dimension to responsiveness, or sufficient to be mediated through a democratically representative body, such as an elected government, mayor or other official.

Chapter 3 applies these theories to the institutional arrangements governing the police in England and Wales (i.e. England and Wales) and the extent to which it has sufficiently produced democratic police accountability. In particular, it analyses the legislative reforms since the inception of the first professional police force in 1829 and how central government's influence has grown alongside the expanding powers of chief constables, both at the expense of local democratic bodies. It is here that a discussion of the 'democratic deficit' in local police accountability takes place (e.g. Baldwin & Kinsey, 1982; Jones, 2008; Reiner, 2016), which is said to be amplified in relation to issues affecting ethnic minorities (Bowling et al., 2008). It ends by analysing PCCs' functions and powers to assess whether, at least theoretically, they appear to represent a reversion to the historic local democratic deficit and ahead of the findings which discuss how they were found to operate in practice.

Chapter 4 analyses police powers to stop and search and the conduct of other encounters as an example of how the democratic deficit operates in practice. Relying upon police-recorded data and a review of the related literature, it shows how the strong central influence and over-reliance upon regulation to control expansive police powers have encouraged adversarial contact between the police and the public, particularly for ethnic minority groups who have been powerless to change these experiences.

Chapter 5 outlines the methodology for this study, the significant challenges experienced throughout the fieldwork, related decision-making, and their potential impact upon the data

analysis relied upon to arrive at the claims made in the findings. As chapter 5 explains, shortly after the fieldwork started, stop and search powers were subject to significant national government attention following a series of damning reports into their use nation-wide. This made it impossible to understand what may have happened had the only change during this thesis been the introduction of PCCs. However, it was extremely revealing of the power dynamics within this new arrangement for governing the police.

Chapters 6 and 7 present the research findings, analysing the power dynamics within the new governance structures and what they reveal about local police accountability. Chapter 6 analyses the significant changes to the use and governance of stop and search immediately before PCCs were introduced. It analyses the actions taken by frustrated members of the public and the impetus it provided for the national government reforms discussed throughout the findings. This was a relatively straightforward period in comparison to that analysed in chapter 7: the period following the introduction of PCCs. During this latter period, pressures upon chief constables to implement government reforms had intensified but so too had a culture of police resistance that frustrated the success of these proposals thus pointing to just how complex police accountability is negotiated in practice. It questions the role of commissioners across the country in influencing those changes and whether national government has really devolved control towards its flagship police policy.

Chapters 8 and 9 complement the national focus of the previous two chapters by analysing what role PCCs sought to play in relation to making police-initiated stops accountable to their public. Chapter 8 analyses the police and crime plans of all 42 PCCs (including the Mayor for London) published each year during their first term in office. These plans are

important because they set out the priorities and relevant budget that the police are legally expected to have regard to. It discusses what appears to be an overall lack of attention to police-initiated stops or other issues affecting people from ethic minority backgrounds and its implications for democratic police accountability. Chapter 9 analyses how three of the country's most active PCCs on police-initiated stops sought to negotiate better scrutiny of those practices, whilst also discussing similar activities undertaken by commissioners elsewhere. It raises broader questions about the accountability of operational practice as a whole and shows how PCCs have enhanced some aspects of what constitutes democratic police accountability but failed in other respects.

Finally, chapter 10 concludes this thesis with an overview of the research findings concerning whether PCCs do represent a reversion to the historically weak forms of local police accountability that characterised their predecessors. It then analyses various government proposals announced in the last year of this thesis seeking to expand PCCs' functions. Drawing upon the research findings, it discusses whether these proposals can enhance local police accountability, including in relation to the areas PCCs were found to be deficient in.

### *1.2. Collaborative studentship*

This PhD took place at an exciting time in the reform of stop and search governance. Funded by the Economic and Social Research Council, the PhD arose from a collaboration between the Department for Sociology at the University of Warwick and *Stopwatch*, a charity that campaigns for fair and effective policing. StopWatch is a coalition of legal experts, academics, citizens and civil liberties campaigners who aim “to address excess and

disproportionate stop and search, promote best practice and ensure fair, effective policing for all."[1]

The Department for Sociology and *Stopwatch* both set the central question that this thesis would seek to investigate and the overall terms of reference. This included spending at least one day (often two days) a week with *StopWatch* and its constituent organisations to support their following activities:

- "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
- Provide legal support challenging stop and search."[2]

Importantly, the author retained full control over the direction and content of the thesis, the choice of which three PCC areas to investigate, and the data analysis and findings. As already noted and discussed in the findings, stop and search became heavily politicised during the fieldwork and intensified throughout. This meant that the socio-political environment under research changed frequently, thus making it difficult to follow the full range of national developments, the local responses of PCCs, police officers and ethnic minority groups, and what they all revealed about police accountability. However, it also presented opportunities for the author to inform the activities of national policing bodies which directly contributed to the political environment studied. This included advising the stop and search portfolio holders within Her Majesty's Inspectorate of Constabulary, the College of Policing and certain police forces. The start and end of the studentship coincided with the first and second PCC elections in 2012 and 2016, respectively. These were subject to field observations and the author helped to organise some of these events.

[1] See: www.stop-watch.org
[2] Ibid

These issues are discussed in the methodology alongside their potential impact upon the data collected and analysed to produce the research findings.

### *1.3. A note on 'ethnicity', 'race' and 'communities'*

The terms ‘race’, ‘ethnicity’ and ‘ethnic minority communities’ are used throughout this thesis to discuss group-level experiences of the police. However, the veracity of these terms has been open to debate. ‘Race’ and ‘ethnicity’ are often used interchangeably and while both carry connotations of foreignness (Fenton, 2010) they are conceptually different. The scientific validity of formerly dominant views in the natural and social sciences that human beings inherit their abilities and can therefore be divided into a fixed racial hierarchy of biological and phenological differences has been discredited (Miles & Brown, 1989; Fenton, 2010). But whilst it is now widely accepted that race is a social construct, discourses on race still persist today due to their practical value and are often but not always determined by skin colour or religion due to these being the most obvious 'signifiers' (Miles & Brown, 1989; Holmes & Smith, 2008).

Theories of ethnicity on the other hand argue that groups are formed on the basis of claims to common ancestry and cultural identities, and are fluid and self-electing rather than objectively or scientifically determined (Bowling & Philips, 2002; Fenton, 2010). This operates partly as an inclusive process that encourages the sense of commonality necessary to help a group to define itself and promote internal cohesion. At its weakest, it can operate as what Fenton (2010) describes as a 'diffuse identity', a dormant identity or merely a 'tick-box' exercise. Simultaneously, identities are also exclusive in that they differentiate group members from other collectives even if they might possess some similarities between them and their outer boundaries remain dynamic. This exclusionary process can also serve to

marginalise certain groups by denying them specific rights or privileges offered to others (Rex, 1986). Therefore, both processes operate in mutually reinforcing ways that promote a sense of community amongst its members.

But the suggestion that ethnicity plays such a defining role in determining social relations is also debatable because this assumes that these characteristics are *the* most important factor in identity formation (Carter & Fenton, 2009; Fenton, 2010). Or that they can produce and sustain social action (Fenton, 2010). As Carter and Fenton (2009) argue, the dangers of such an 'over-ethnicised' sociology is that it can distort analyses by dismissing other factors that may be more salient in explaining social relations and provide a more powerful stimulus for social action. However, research shows that these signifiers can become important during periods of conflict (Holmes & Smith, 2008; Fenton, 2010), including between groups who feel subordinated by a police force considered to uphold a socio-political order that discriminates against them (Keith, 1993).

According to Carter & Fenton (2009) it is "politics [that] makes groups and not the other way round" (p.15) and so they argue for a reorientation "away from accounts of social solidarity defined in terms of ethnicity or culture towards accounts framed in terms of the practical activities and purposes of people collectively seeking to realise interests" (p.16). This is important for the current study as it investigates the extent to which policing styles can become more accountable and responsive to social groups who may have at least some negative experience of the police by virtue of their ethnicity (or perceived race), and often organise around those identities. Carter & Fenton do not deny the importance of ethnicity as an explanatory factor but question its relevance for every research setting. Indeed, studies have shown that ethnicity can play an important role in explaining conflict with the

police and stimulating social action, notably in relation to police-initiated stops which is a common experience for many ethnic minorities and underprivileged groups (e.g. Scarman, 1981; Keith, 1993; Macpherson, 1999; Bowling et al., 2008; Holmes & Smith, 2008; Lewis, 2011). As Bowling et al.'s (2008) review of a multitude of policing activities show, a vast amount of research suggests that ethnic minorities are disproportionately subject to a range of police powers and simultaneously less likely to receive protection. But these discourses suggest a certain homogeneity of experience that might not be justified because research also shows important differences in how groups of minorities interact with the police, including in relation to the various types of police stops (see chapter 4).

In light of this discussion, this thesis adopts Carter & Fenton's focus on collective social action in seeking to understand how groups of ethnic minorities are impacted by police powers and seek to improve their experiences through their PCCs. This is because it provides a pragmatic focal point by recognising some common overall attitudes, experiences and interests of ethnic minority groups who seek to influence the police, but also acknowledges the important differences in how group members identify themselves and interact with the police.

### *1.4. Stop and Search in England and Wales*

Three case study areas were investigated. However, given the centralisation of police governance discussed later and how contentious police-initiated stops became during the fieldwork, it is important to assess trends at the national level. Doing so would situate local patterns within their wider, national context and help to understand whether these trends simply reflect developments at the national level or whether the coalition government had in fact relinquished power in favour of PCCs.

In 2011, the year of the last national census and the year that legislation for PCCs was introduced, over 56 million people were estimated to be residing in England and Wales. This compares to almost 49 million recorded in 2001, a growth of 14% (see table 1.1; ONS, 2003). Of these, 86% self-classified as white and the remaining 14% belonged to an ethnic minority group. Whilst the absolute population growth of whites and ethnic minorities since 2001 was approximately similar at 3.5 million and over 3.4 million, respectively, this represented a far higher percentage growth for minorities of 76% compared to 8% for whites. This is partly due to minorities' smaller population sizes but there was also wide variation in growth between each major minority ethnic group. By 2011, Asians (excluding Chinese) represented the largest minority group, followed by blacks and then mixed and other categories.

**Table 1.1 Ethnic composition of England and Wales in 2011 and growth since 2001**

| | White | Black | Asian | Mixed | Other | Total |
|---|---|---|---|---|---|---|
| *Count* | 48,209,395 | 1,864,890 | 3,820,390 | 1,224,400 | 956,837 | **56,075,912** |
| *Percentage (%)* | 86 | 3 | 7 | 2 | 2 | **100** |
| *Growth since 2001 (N)* | 3,530,045 | 732,254 | 1,572,253 | 580,989 | 521,382 | **6,936,923** |
| *Growth since 2001 (%)* | 8 | 65 | 70 | 90 | 120 | **14** |

Sources: ONS, 2003; ONS (undated)

Despite comprising no more than 14% of the total population, ethnic minority groups experienced higher rates of searches although this ethnic disproportionality fell during the fieldwork. When fieldwork started in 2012/13, black people were searched at 5 times the rate of whites under powers that require officers to reasonably suspect criminality has or is taking place ("PACE searches"). Asians or mixed people were searched at twice the rate of whites; only those self-defining as 'other' were under-represented in these searches (Home

Office, 2014b). Only 10% of PACE searches resulted in an arrest although this figures includes arrests of people for resisting the encounter rather than for potential criminality, and these figures also exclude other outcomes not recorded at the time such as warnings, fines or a summons. Under section 60, a power that does not require any suspicion, disparities were far higher: black people were searched at a staggering 25 times that of whites, mixed people at over 5 times that rate, Asians at over 3 times and people from Chinese or other backgrounds were searched at twice the rate of whites. Further, the arrest rate was much lower at 5% although, again, this includes arrests for obstruction and excludes other outcomes.

Overall in 2012/13, a total of 20 street searches were conducted per 1,000 of the country's population which was down from 25 and 23 per 1,000 in 2010/11 and 2011/12, respectively. It was from around this period that recorded stop and search use and ethnic disproportionality began to decline. Schedule 7 examinations and detentions at ports and airports had also witnessed reductions in use from 65,684 in 2010/11 to 56,257 in 2012/13, representing a 14% reduction over that period (Home Office 2014g).

Interestingly, as national government pressures mounted towards the end of this study, disproportionality increased and so too did outward resistance from chief officers to those reforms. This thesis investigates the historic rise and recent fall of stop and search use, and what role PCCs may have had in influencing the various developments over the life course of this study.

## 2. Democratic Accountability of the Police

> "The only reason to maintain police in modern society is to make available a group of persons with a virtually unrestricted right to use violent and, when necessary, lethal means to bring certain types of situations under control. That fact is as fundamentally offensive to core values of modern society as it is unchangeable. To reconcile itself to its police, modern society must wrap it in concealments and circumlocutions that sponsor the appearance that the police are either something other than what they are or are principally engaged in doing something else."
> (Klockars, 1988:457)

This chapter reviews the literature on what constitutes the democratic accountability of the police ahead of the next one which assesses the extent to which this has been emulated by the various institutional arrangements governing police in Britain. According to the opening quote from Klockars, the police are a necessary evil despite being "fundamentally offensive" to the aspirations of "modern society". It offends because police officers enjoy "virtually unrestricted" powers to inflict upon members of the public the very kinds of violence that modern societies de-legitimise and the police are sworn to protect citizens against. However, such coercion is rarely necessary (Sanders et al., 2010) because this capacity to inflict violence, and potentially end lives (Manning, 2010; Klockars, 1988), engenders public compliance. Police officers can also exploit people's ignorance of their legal rights to obtain their cooperation in situations where no lawful right exists to intervene (Young, 2016). Thus, Klockars argues, democratic societies "reconcile" themselves with the presence of police by concealing their functions in "circumlocutions" that give the impression of officers being sufficiently held accountable by the legal controls, military-style discipline, professionalism, and community-oriented policing that actually fails to restrain them in practice.

Jefferson & Grimshaw (1984:10) define police accountability as "the institutional arrangements designed to ensure the obligations of the police are upheld" with almost identical definitions produced by Brodgen et al. (1988) and Lustgarten, (1986). But this is hardly unique to democratic societies. Therefore, when democratic theories are applied to accountability (i.e. institutional arrangements) and policing (i.e. practice) they are particularly concerned with how the liberties required for a democratic society to function can prevail over the coercive nature of police powers whose use would otherwise render it illegitimate. To complicate this, police powers are 'highly permissive' and lack the visibility necessary to ensure effective oversight (Baldwin & Kinsey, 1982; Reiner, 2010; Manning, 2010) as in the case of police powers to stop, question and search members of the public considered by this thesis. However, even where practices are rendered visible, democratic accountability in England and Wales is constrained by the autonomous decision-making legally afforded to police officers known as operational independence. This limits the extent to which external actors can influence police practice and is discussed in the first section below. The second part analyses the constituent elements of democratic police accountability and how it relates to operational independence.

### *2.1. Police accountability and operational independence*

Unlike other public services, the British police is considered to be uniquely accountable to the law itself rather than "subordinate and obedient" to a democratic body (Marshall, 1978; also Jefferson & Grimshaw, 1984).[3] This is intended to ensure the law is enforced impartially but, in practice, police protection and sanctions are distributed unequally across social groups, particularly against ethnic minorities (see Bowling et al., 2008 for a good review of the research evidence). The inability of local democratic institutions to hold the

[3] A good contrast is the prison service which is firmly under the direction of the relevant secretary of state, although the judiciary is another example of a powerful, autonomous body.

police to account rests partly on the constraints posed by ‘operational independence’ which Lustgarten (1986:32) defines as the understanding that:

> “no political body shall have the power to direct or command those in charge of the police organisation to adopt or reject a particular policy or practice, and that in the end responsibility for policing rest with the chief constable.”

But operational independence is a 'fragile' and 'dynamic' concept (Hewitt, 1991) that has never been legally defined (Jones & Newburn, 1994). Jefferson & Grimshaw (1984) and Lustgarten’s (1986) painstaking analysis of case law shows that it was only since the 1930s that operational independence emerged and was eventually enshrined into statute for the first time in the Police Act 1964, leading to Lustgarten famously describing it as a ‘twentieth century heresy’. Archival research into the watch committees, the earliest form of local democratic arrangement, reveals there was no separation between operational matters and police policy, and that these committees not only routinely directed officers and chief officers but also regularly dismissed those who dissented, particularly in the urban forces (Hart, 1956; Lustgarten, 1986; Hewitt, 1991). Since then, case law has repeatedly reinforced the autonomy of the police, and government legislation has replaced these once powerful local institutions with weaker ones whilst also enhancing the powers of the Home Secretary and the police. The Police Act 1964 placed police forces under the “direction and control” of their chief constables but failed to define what this meant; this has continued under the Police and Social Responsibility Act 2011 which introduced PCCs. This ambiguity, it is argued, is purposeful so as to ensure police authorities and chief constables have room to negotiate, with the Home Secretary acting as an arbiter and police authorities typically losing out (Jones & Newburn, 1997; Jones, 2008; Reiner, 2010).

Therefore, Baldwin & Kinsey (1982:106) rightly distinguish modern forms of *accountability*- referring to police officers' "liability to account for a decision after it has been taken"- from *control* over those operational decisions which police authorities have been denied since the 1930s. This contrasts with the powers of elected mayors in the United States of America to actually direct their police (Newburn, 2012; Sampson, 2012) which, in the famous words of Marshall (1978), makes them 'subordinate and obedient' rather than merely 'explanatory and cooperative' as in Britain. Klockars (1988) goes the furthest in criticising the limited external influence over British policing by characterising the governance arrangements as circumlocutions for giving the false impression that they can control operational practices.

Jefferson & Grimshaw (1984:155), who rather optimistically view the law as "the most authoritative expression of democratic opinion", agree and argue in favour of giving democratic bodies room to ensure that policing is responsive to local communities than the prevalent (mis)reading of case law suggests. As they rightly argue, legal accountability is deficient for two reasons. First, it fails to help police officers decide what laws and limited resources should be prioritised which, as Manning (2010) and Reiner (2010) frequently point out, can exacerbate inequalities through selective enforcement. Second, textual ambiguities in legislation leave considerable room for interpretation concerning whether powers should be applied or not in individual circumstances. As the next chapter shows, a good example of this is the use of police powers to stop and/or search members of the public for which officers hold widely divergent views concerning when the legal threshold for reasonable suspicion has been met. Therefore, Jefferson & Grimshaw suggest that legal accountability is only one part of a dual form of accountability alongside democratic accountability to a representative body which should be responsible for deciding policing

policies. Whilst they consider the individual exercise of powers to be an operational matter, they suggest members of the public can play a key role in resolving the first problem identified. As they forcefully argue, this makes police accountability complementary to operational independence and requires public direction if it is to be democratic. The next section pursues this further by analysing theories on how police accountability is rendered democratic.

### *2.2. What makes police accountability 'democratic'?*

As Brodgen et al. (1988:2) argue, the police secure public consent by "persuasion if possible, violently if necessary". When democratic theories are applied to police accountability they are, essentially, concerned with how the institutional arrangements governing the police can secure public legitimacy by ensuring that the use of their coercive powers is exercised in ways that preserve wider freedoms rather than undermine them. Unfortunately, few have sought to explicitly connect democratic theories to police accountability (Sklansky, 2005; Manning, 2010) and most police research does so "in a largely unthinking or uncritical way" (Newburn & Jones, 1997:viii). This means that this section relies upon only a few and mostly dated works in this long-neglected field following a period of 'marked de-politicisation' from the 1990s as Conservative and Labour governments have converged in pursuing neo-liberal reforms and crime control policies (Jones, 2008; Reiner, 2010; Newburn, 2011). Fortunately and ironically, however, this debate appears to have been reinvigorated by a more recent consensus in the last decade favouring greater citizen involvement in police accountability as discussed in the next chapter.

Studies into the relationship between democracy, accountability and policing demonstrate a great deal of consistency in what this entails even when approached from different angles. These are briefly reviewed here before a more detailed discussion of what the constituent parts are. According to Jefferson & Grimshaw's (1984) legal analysis of operational independence, the police are accountable to the law in their operational practice but the ambiguities arising from how officers interpret those powers and negotiate competing priorities necessitate a public steer, although not to the detriment of non-participating social groups. Jones et al. (1994) propose the most extensive criteria of what constitutes democratic policing in their study of how three police authorities performed their statutory functions. Ranked in order of descending importance, their seven-pronged criteria are: *equity*; an effective and efficient *delivery of service*; *responsiveness* to representative bodies; dispersal of *power*; *information*; opportunities for *redress*; and civic *participation*. Although the authors have reproduced these criteria since (Jones & Newburn, 1997; Jones, 2008; Jones et al., 2012), their more recent works omit the significance of the ordering, thus suggesting that they may no longer see a tension between these inter-related elements. Most other contributors, however, concern themselves with elucidating the core elements of how democracy and policing relate rather than examining how those constituent parts compete.

Loader & Walker (2007) envisage a strong and positive role of the state in producing security as a 'thick public good' by promoting pluralistic forms of policing co-determined with citizens but firmly 'anchored' around state institutions. Keenly aware of how state 'vices' dominate approaches to security, the authors nonetheless remain faithful in the state's 'virtues' in exercising its unique capacity to distribute security to produce a cohesive society wherein citizens can better understand the diverse needs within a complex

democracy, compromise, learn to live with risks and thereby flourish. The public police, they rightly argue, is placed within its broader environment forming just one component of a wider range of complex relationships that produce a stable social order from which security emerges. Similarly, Reiner (2010) and Manning (2010) also argue that social order is produced by society but are more sceptical of the police's ability to do anything other than help to maintain this order which also serves to reinforce the wider discrimination experienced by already marginalised social groups. Loader & Walker are aware of this but nonetheless view the state as the prime defender of its citizens' welfare. They propose a four-pronged institutional framework to ensure security production is governed democratically: resources, recognition, rights, and reasoning. States, they argue, should exercise their unique access to security *resources* in ways that benefit all social groups, regulate the totality of security alternatives, and, where necessary, intervene to protect marginal groups. In deciding how to distribute security and avoid marginalisation, processes for *recognising* the diverse and competing needs within society are required but each claim must be evidenced. The then inevitable process of *reasoning*, they hope, would promote the shared understandings and co-dependences between social groups to produce a cohesive society better protected but also more informed about continued risks. Therefore, it is this process of *rights* recognition that they argue can enhance security and contrary to the dominant view which suggests a 'trade-off' between the two.

Finally, Manning (2010) also envisages a strong, redistributive role of the police. Concerned with how policing operates in practice, he argues for the police's need to become cognisant of the wider structural inequalities in the societies that they operate within so as to avoid reproducing them. However, unequal policing can be justified and is indeed encouraged only so far as this differential treatment can improve the outcomes of

minorities and other vulnerable groups, such as offering protection to those who cannot otherwise afford private security.

This overview of some key works on policing and its relation to democracy, reveals an important consensus on its constituent parts which are directly relevant to this thesis and are discussed next. However, they also differ in some respects which, although less relevant, are worth discussing afterwards to complete the analysis.

### 2.2.1. Equity

Equity is given overriding importance in all conceptualisations of democratic policing and its accountability (Jefferson & Grimshaw, 1984; Jones et al., 1994; Newburn & Jones, 1997; Loader & Walker, 2007; Manning, 2010). This universally-held value is essential because it is only through guaranteeing fair treatment that the liberties that democracies purport to afford their citizens be realised, including for those who choose to *not* participate in democratic processes. Despite this, few indicate how equity is to be achieved. Jones et al. (1994) suggest that equity is achieved by first, delivering a police service that satisfies people's needs and, second, exercising only as much force as is necessary and proportionate in apprehending suspects. For Manning (2010), the police's ability to 'distribute life chances' leads him to argue more radically than any other in proposing that policing goes beyond its usual call for equal access to its resources by explicitly redistributing services in favour of people most disadvantaged and therefore less likely to afford greater protections. For Reiner (2010), it is precisely this uneven nature of policing that makes it so inherently political and partisan, particularly against underprivileged groups.[4] As his historical account of British policing shows, it was partly due to the

[4] See Bowling et al. (2008) for an excellent review of the literature on ethnic minority experiences of the police as both victims and suspects.

Metropolitan Police's strategy of integrating the lower social classes into its functions that helped it gain acceptance in a society then vehemently opposed to its introduction in the early 1800s. Conversely, it was public perceptions of overzealous and unequal law enforcement a century later that resulted in the police entering a period of crisis from the 1960s and then outright conflict with social groups during the 1980s, with ongoing concerns for legitimacy during the current era of 'crime control'. Although equity is not directly relevant to the structural issues analysed in this thesis, its central relevance to democratic police accountability necessitates this thesis to be mindful of it, particularly as it concerns the differential policing experiences of various ethnic minority groups.

### 2.2.2. Responsiveness and public participation

Responsiveness to public concerns is another essential feature of democratic policing and this is typically underlined by the assumption that the 'public will' is both identifiable and then implemented. Jones et al. (1994; also Jones & Newburn, 1997), however, make an explicit distinction between responsiveness and public participation. Responsiveness, for them, requires that police priorities are formulated in consultation with a body representative of public opinion, whether local or national. Participation, which they rank last in their seven-pronged hierarchy, denotes the actual opportunities afforded to citizens to more directly influence policing. They offer two reasons to justify this distinction and relegation of participation. First, they highlight the practical constraints in managing mass participation beyond the historically narrow input of elite individuals and argue that expanding arrangements beyond a small group of representatives is therefore unnecessary. Second, and rather contradictory, they point to the “uphill struggle” of ensuring issues discussed are salient enough to interest a wider group of people. This conclusion is perhaps unsurprising given that their framework is derived from an analysis of historical practices

that have traditionally limited meaningful opportunities for public participation rather than elucidating what is, arguably, the aspirational nature of democratic police accountability. Unlike other works, the authors do not attempt to understand the causes of selective participation, such as the disenfranchisement of people who are regularly subject to policing (e.g. Loader & Walker, 2007), or acknowledge their lack of power to change those experiences (Morgan, 1997; Brogden et al., 1988; Rowe, 2004). Brogden et al.'s (1988) review of the-then newly introduced mechanisms for public scrutiny[5] highlights the narrow scope of accountability that they afford and the authors lambast these mechanisms for failing to tackle the more fundamental issue of police culture and discretion. The fact that these mechanisms still form the bedrock for public consultation today shows how little has changed over the decades to enhance public participation and is something that Jones et al. surprisingly ignore. However, whereas scholars have traditionally conflated responsiveness with civic participation, more recent contributions have joined Jones et al., albeit implicitly, by distinguishing the two. Following the political convergence on electoral reform of police authorities, these recent contributions have asserted that direct participation may in fact undermine democratic policing and a more responsive police service by encouraging inequitable practices, particularly against minority groups (Jones, 2008; Millen & Stephens, 2011; Lister & Rowe, 2015). Thus responsiveness is never questioned, only the extent to which direct participation can achieve this without undermining the central concern for equity.

Related to this and more practically, the literature frequently highlights the difficulties posed in obtaining citizens' views to then inform how police resources should be allocated between the divergent and competing interests. However, even fewer have sought to

[5] These are: internal supervision; public monitoring; community partnerships; crime surveys; and independent community monitoring groups. The authors are less critical of the latter precisely because these lay outside of the very structures that seek to limit external influences.

answer this problem, all of whom propose collective negotiations. These processes are important because, as Manning (2010:4) argues, democratic policing is "deeply rooted in practices and ensemble rather than the structure and function" of such arrangements. Therefore, it is inclusive processes that generate consent and democratic legitimacy. For Jones (2008:695) representative bodies, irrespective of the extent of participation, must move beyond attempts to "reflect the 'community view'" as there is no homogeneous public but must instead seek to "provide a genuine conduit for expression, negotiation and ordered compromise", or at least a compromise that "proves satisfactory to all" (Brogden et al., 1988:191). Unfortunately, this rather optimistic outlook fails to devote sufficient attention to how the product of such negotiations can be attuned to the needs of people less likely to participate owing to their lack of faith in a system perceived to routinely discriminate against them. Reiner (2010:34) alone recognises this and provides a sobering view by asserting that the police "can never command universal love" and so should ensure "at a minimum that the broad mass of the population, and possibly even some of those who are policed against, accept the authority, the lawful right, of the police to act as they do, even if disagreeing with or regretting some specific actions."

But, as with the most scholarship, these are abstract arguments and only two contributions stand out for attempting to devise any practical arrangements for generating consent and negotiating interests.[6] Jefferson & Grimshaw (1984) propose the establishment of citizens-led, elected police commissions with the statutory responsibility for consulting the public and clearing the ambiguities arising from legal accountability by directing chief constables on how resources are to be allocated.[7] However, their proposals are silent on how these

[6] Of course, a great deal of literature exists on 'procedural justice' which is discussed in chapter 4 rather than here. This is because such theories are more narrowly concerned with how routine experiences of the criminal justice system can engender trust rather than seeking to elucidate grander theories about democracy and its relationship to police accountability as this chapter does.

[7] This is remarkably similar to the police and crime commissioners investigated by this thesis.

commissions should be composed, how they are to fulfil their mandate of ensuring public representation, and how to resolve competing interests. It is for those involved, the authors argue, to decide their own processes and scope of accountability. Similarly, direct participation is core to Loader & Walker's (2007) idea of security as a 'thick public good' of which citizens are its co-determinants. Thus the authors also encourage affording citizens with considerable autonomy to not only define the scope of their deliberations but also the processes by which they negotiate outcomes. Through these considered deliberations ('reasoning'), citizens would come to appreciate the diversity of security needs ('recognition'), realise their mutual dependencies and arrive at what Jones aptly (2008:695) refers to as an “ordered compromise”; all that is required is faith in humanity.

In sum, there is a conceptual difference between responsiveness and participation despite scholarship routinely conflating the two. Responsiveness presumes to understand what the public want and may be mediated through elected bodies such as police authorities and national government who may pursue partisan or majoritarian interests. Participation, however, requires direct public engagement including with the minority social groups whose electoral size is too small to sufficiently influence those elected bodies. Further, participation itself does not automatically lead to policies being adopted by the police and this reinforces its distinction from responsiveness. This thesis explores both of these owing to their relevance to the research question.

### 2.2.3. Power

Police governance is essentially about power relations. Unfortunately, only Jones et al. (1994) explicitly identify this as a core element of democratic policing and argue for a greater distribution of power. Marshall (1978) argues for firmer accountability structures to

balance the considerable powers of chief constables but chief officers, their police officers and the Home Office have since then continued to grow in power as local democratic bodies have been weakened (see chapter 3). The narrow accountability Brogden et al. (1988) identify essentially stems from this lack of power citizens enjoy to influence the police beyond the limited opportunities provided by police consultative groups (also Rowe, 2004). Jones et al. (1994) show awareness of this but still relegate participation to the bottom of their seven-pronged criteria. The proposals of Jefferson & Grimshaw (1984) and Loader & Walker (2007) have already been discussed and stand out as the only contributions to the literature to have sought to address these uneven power relationships, even if couched in terms of democratic principles rather than explicitly of power. However, now that the public have been given greater opportunities to define police priorities through their elected PCCs, it seems that a more recent turn in police studies has ensued, breaking away from the earlier, radical advocates of direct public input in formulating these priorities. This new camp is characterised by a self-contradiction which is keenly aware of the deficit in local police control but yet still rejects or criticises the new arrangements for injecting greater public steer of police priorities (Millen & Stephens, 2011; Lister, 2013; Lister & Rowe, 2015).

Earlier studies viewed the increased police autonomy as problematic and sought more radical approaches to enhancing the power of local democratic institutions to directly influence policing, including through electoral reform (Baldwin & Kinsey, 1982; Jefferson & Grimshaw, 1984; Brogden et al., 1988; Lustgarten, 1986). This was a time of expanding police powers unaccompanied by a commensurate strengthening of the supervisory powers of local bodies to which chief officers were supposedly accountable for their decisions and that of their officers (see next chapter). Recent contributions, however, perceive these local

democratic structures to be problematic and argue in favour of protecting operational independence from directly-elected commissioners (Millen & Stephens, 2011; Lister, 2013; Lister & Rowe, 2015; Reiner, 2016). Two reasons may account for this shift in debate. First, despite their contrasting positions, both share a common concern for equity. The studies that were published in the 1980s were written at a time Reiner (2010) described as highly controversial for the police following a series of public disorders in 1981, related concerns of discriminatory police practice and opposition towards government proposals at the time to further enhance police powers. These were later incorporated into the Police and Criminal Evidence Act 1984 which has been described then and since as the most significant expansion of police powers (Bridges & Bunyan, 1983; Reiner, 2010; Sanders et al., 2010). The more recent studies, however, also acknowledge the inequalities in police practice but argue that concentrating power into the hands of directly-elected officials would exacerbate this by introducing political partisanship, particularly against ethnic minority groups (Millen & Stephens, 2011; Lister & Rowe, 2015). From this perspective, operational independence serves as a protection against partisanship but this argument fails to appreciate the inevitable inequalities already inherent within discretionary police practices. This thesis investigates both claims but, for now, another potential reason underlying this change may be the narrowing of police research towards being applied rather than concerning itself with the more fundamental questions of democratic police accountability that featured more prominently in the 1980s. This is what Manning (2010) criticised as a shift of focus in studies since the 1990s towards being *'for'* the police at the expense of more fundamental research *'of'* them which so concerned the earlier criminologists (also Morgan, 2000). The speculative nature of more recent works and shortage of empirical research into PCCs which this thesis aims to fill may also explain some of these tensions.

In sum, *power* and *responsiveness* to the public, whether through direct *participatory* opportunities for the public or indirectly mediated through an elected body, are three core elements of democratic policing and its accountability. Incidentally, these are the most relevant criteria to this thesis and so provide this study with its theoretical framework. Underlying democratic accountability is the fundamental concern for *equity* which, in assessing the impact of PCCs on ethnic minorities' policing experiences, is also explored but is of less relevance. From hereon, this chapter discusses the differences in scholarship to compete the analysis and is returned to in the conclusion of this thesis.

### 2.2.4. Other criteria

Whereas Reiner (2010) and Manning (2010) emphasis the negative role of the police in distributing inequalities, Jones et al. (1994) and Loader & Walker (2007) emphasise its positive capacity for 'public good'. For this reason, *service delivery* itself features as Jones et al.'s second most important criteria of what constitutes democratic policing which they argue is derived from equity. Loader & Walker understand the typically negative role of a state and police in distributing security but seek to remedy this by unlocking its potential to act virtuously. Reiner acknowledges some widespread societal benefit arising from policing but advances a more nuanced view by recognising that even this remains differentially experienced. Jones et al. suggest that service delivery must be measured by other criteria and the twin pillars of efficiency and effectiveness. However, these are both highly subjective sub-criteria and are likely to be shaped by perceptions of police legitimacy. Therefore, as is implicit in Jones et al.'s argument, the capacity for service delivery to enhance democratic policing may be better read alongside its ability to deliver a responsive service rather than forming a distinct criteria.

Good *information*, as Jones et al. (1994:48) rightly distinguish from just 'information', is another necessary feature of democratic policing as it is an enabler of accountability, providing that it extends beyond "the provision of routine information alone... some body should be able to interrogate the police service and find out more through a sequence of interactions." For Loader & Walker (2007), the state has a unique capacity to produce and disseminate information to enable citizens to understand risks, make informed decisions about their security arrangements, and alleviate the scepticism that the authors encourage citizens to have concerning government intentions to restricting liberties in the name of enhancing security. Police authorities have held the primary responsibility for interrogating police decision-making but research suggests that they have often acted as passive receivers of information and failed to ask the 'right questions' to ensure more robust accountability (e.g. Jones et al. 1998; Millen & Stephens, 2011). But despite local failures, it is still worth emphasising the importance of information in enabling better accountability and also attending to the power dynamics in soliciting information. As research shows, some chief constables have been able to determine the type of information police authorities relied upon to hold them to account thus undermining robust scrutiny (Jones et al. 1998; Millen & Stephens, 2011; Caless & Tong, 2013).

Finally, only Jones et al. include *redress* as an essential aspect of democratic police accountability. This is a surprising omission by others given the consensus that the exercise of police powers is largely hidden away from the arrangements for accountability and fall disproportionately on minority and other vulnerable groups. As one of the only available opportunities for citizens to officially register their dissatisfaction and seek remedies,

redress forms an obvious, necessary dimension of police accountability which could also promote organisational changes.

### *2.3. Conclusion*

This chapter reviewed the literature concerning what constitutes the democratic accountability of the police, focusing particularly on its relation to police powers. It has shown the considerable agreement that exists concerning its core aspects, albeit with some differences that can be explained by the broader socio-political context at the time of writing. This should not, however, obscure some fundamental differences and omissions, such as whether the police can function as a universal public good, and the obvious role of redress in police accountability. Perhaps the most important difference and central to the next chapter is the role of direct public participation in police accountability. For Jones (2008), more 'imaginative' solutions are required rather than the 'periodic input' afforded by the occasional election as this does not in and of itself automatically lead to greater democratic control, a view shared by others (Millen & Stephens, 2011; Reiner, 2016). Despite these differences, this thesis is predominantly concerned with the following areas of consensus as it better reflects the focus of this thesis: *responsiveness*, opportunities for direct public *participation,* and the distribution of *power*. As Manning (2010:4) notes, democratic policing is "deeply rooted in practices and ensemble rather than the structure and function" and it is precisely these process-related issues that generate the consent underlying democratic forms of police accountability. As the next chapter analyses, the historic arrangements for local police accountability have fared badly in meeting these core requirements, prompting suggestions of a 'democratic deficit' in local police governance.

# 3. The 'Democratic Deficit': Local Police Accountability in England and Wales

Using the criteria developed in the previous chapter, this one analyses the extent to which the various institutional arrangements governing the police in England and Wales have been conducive to local democratic accountability. It supports the consensus within police studies that power over the last century has been centralised between national government and chief constables and at the expense of local democratic bodies. This has prompted claims of a 'democratic deficit' in accountability (e.g. Baldwin & Kinsey, 1982; Jones, 2008; Reiner, 2016), particularly with regards to the policing experiences of ethnic minorities (Bowling et al., 2008). This chapter starts by analysing the foundations of this democratic deficit during the period of 'watch committees', the earliest local arrangement. It then discusses their successors, the police authorities, whose remaining powers were curtailed by increasingly interventionist Home Secretaries. Finally, it analyses the origins of the newly introduced directly-elected PCCs and the extent to which they may represent a reverse to this centralised control ahead of future chapters which draw upon this study's fieldwork to investigate this empirically (chapters 6-10).

## *3.1. Watch Committees, 1829 to 1963*

When the first professional police force was set up in London in 1829 in response to concerns of a rise in crime, it faced considerable opposition from all social classes who feared that this would undermine individual civil liberties and represented a shift towards an oppressive state (Newburn, 2007; Reiner, 2010). To allay these fears, the police were placed under the direct oversight of the Home Secretary to ensure it was directly answerable to parliament, but day-to-day control was delegated to two justices appointed as its first commissioners (one ex-military colonel, one barrister). Soon after, the

Municipal Corporations Act (MCA) 1835 and County and Borough Police Act 1856 required other local councils country-wide to also establish their own police force and a separate local watch committee of elected councillors to supervise them. However, many refused to do so (Hart, 1956) thus illustrating central government's lack of control over local matters at the time. Nonetheless, these Acts gave watch committees powers to appoint and dismiss constables; levy a 'watch rate' upon residents to pay for the police; and set out regulations to prevent neglect of duty and enhance police efficiency. Two appointed justices were only given powers to suspend constables but also enjoyed executive powers to appoint 'special constables' to support the ordinary police if the latter were deemed "insufficient at the date of the warrant to maintain the peace of the borough" (MCA 1886, section 196(4)). Exemplary of the Home Secretary's limited influence at the time outside of London, he[8] retained a narrow oversight role in only receiving quarterly reports from watch committees detailing their regulations issued to constables. Police constables themselves enjoyed broad discretionary powers to apprehend people they had "cause to suspect of intention to commit a felony" or, more loosely, "apprehend any idle and disorderly person whom he finds disturbing the public peace... and deliver him to a watch-house to be brought before a justice" (MCA 1882, Section 193).

Further, in recognition of the huge public opposition towards the police at the time, constables were recruited from the lower strata of society whose daily lives were most affected by the new police. They were also under instruction to adhere to '9 Principles of Policing' emphasising the maintenance of good relations with the public, obtaining consent in exercising the law and exercising restraint where coercion was necessary, (Jones et al.,

[8] The Home Secretary is referred to in the masculine form as office holders were until recently all men. Later on in this chapter and throughout the rest of the thesis, the feminine form is used as office holders since 2007 have been predominantly women.

2004, Reiner, 2010).[9] These were later accompanied by the 'Judges' Rules', a set of guidelines issued to constables relating to how suspects ought to be detained and questioned, following concerns within the judiciary over the impact of malpractice in undermining the quality of evidence heard in court. Although breaches of the Rules could result in disciplinary action or evidence rendered inadmissible, and there were indeed concerns over the widely divergent interpretations of those rules (RCPPP, 1929), neither sanctions tended to be applied (Wood, 2010). Up until the 1930s, these arrangements were considered by officialdom to be operating well and police misconduct to be rare (RCPPP, 1929). Little historical research exists on how watch committees exercised their powers or sought to involve the public in the formulation of police priorities. What is clear, however, is that this early period was one where these local democratic bodies wielded "great powers of control over the police" which, as Lustgarten's (1986:37) seminal analysis shows, was "exercised regularly, and involved sacking head constables when they resisted directions" although "such occasions of conflict were relatively rare, for the extreme exercise of power was seldom necessary" given the degree of chief constables' subordination to their committees.

By 1929, however, the situation appeared to have altered in favour of chief constables. As the previous chapter argued, the 1930s was a key transitional period during which watch committees began to lose their powers to directly control the police in relation to 'operational' matters. A Royal Commission at the time found watch committees to be "mainly concerned with matters of policy and finance and interfere[d] little, if at all, with the executive or technical control of the Force" (RCPPP, 1929: para38). Simultaneously, however, the increased autonomy of the police had also come under significant

[9] Widely known as the 'Peelian principles, these can be read here: https://www.gov.uk/government/publications/policing-by-consent [Accessed 20/09/2015].

controversy by members of the public amid claims that police powers were not subject to adequate controls, although more fundamental opposition to the police's existence had largely subsided by then (Reiner, 2010). Wood's (2010) archival research into news reports of police malpractice challenges the largely positive assessment of the Royal Commission which itself was established to investigate public concerns into how the police handled and interrogated suspects.[10]

### 3.1.1. The Royal Commission on Police Powers and Procedures (RCPPP, 1929)

In 1928, what became known as the Hyde Park case evoked outrage amongst members of parliament and the British press (HC Deb 17 May 1928; Wood, 2010) leading to a Royal Commission to investigate how the rights of citizens could be balanced against the use of police powers, particularly during interrogations. This was prompted by the five-hour interrogation of a 22 year old woman for public indecency (i.e. associating with a married man) after which she claimed to have been sexually harassed by her interrogators and coerced into providing a confession. This was despite an original police investigation being dismissed by the Director for Public Prosecutions and no action taken against her more 'respectable' associate who was, helpfully for the case, a former government minister

As Reiner (2010) argues, the RCPPP (1929) conveyed a 'romanticised' view of the police by concluding that the “Policeman possesses few powers not enjoyed by the ordinary citizen” (para15) and by rejecting fears at the time that the police were “more arbitrary and oppressive in their attitude towards the public than they were before the [First World] War” (para299). As for the watch committees, the Commission merely remarked that they “interfere[d] little, if at all, with the executive or technical control of the Force” (para38)

[10] It is notable that this is only the first of four Royal Commissions within century relating to the police, the highest form of public inquiry in the United Kingdom.

and so ignored the longer history of greater democratic control over policing, the more contentious relationship in the urban forces, and their potential role in improving public confidence. Miscarriages of justice were deemed to be rare despite news reports at the time suggesting otherwise (Wood, 2010) and the Commission's acknowledgement of concerns that the Metropolitan Police's detective branch considered itself to be "above the law". The Judges Rules were assessed to be working well even if the Commission recommended more guidance and it explicitly rejected proposals to move the responsibility for complaints against police officers to the Director of Public Prosecution. Instead it argued in favour of "trust[ing] the Police, in the belief that, having the responsibility for their own discipline they will discharge it more faithfully in the absence of interference from some outside authority" (para283). Clearly, watch committees had no role in complaints either.

In summary, the limited research into watch committees suggests that this early period was one where the police was robustly held to account by their local democratic bodies. These committees could even exert control over police decisions right up to the 1930s when this became increasingly circumscribed as the concept operational independence emerged (see chapter 2). Unsurprisingly, the resulting ambiguities concerning what powers these bodies retained led to a number of disputes with their chief constables, particularly in the 1950s as the Home Secretary reinstated the chief constables for Nottinghamshire and Birmingham after they were dismissed by their watch committees (Critchley, 1978; Jefferson & Grimshaw, 1984; Brodgen et al., 1988). To exacerbate this, Parliamentary conventions prevented the Home Secretary from answering questions from Members of Parliament about this or other developments outside of London because of his lack of direct supervisory powers over other constabularies (Critchley, 1978). Eventually, another Royal Commission, the Royal Commission on the Police (RCP, 1962:1), was established to

"review the constitutional position of the police", the accountability of chief constables; how complaints can be managed more effectively; and also investigate pay and conditions. Its recommendations led to the establishment of the 'tripartite' structure of governance which survived up until the introduction of PCCs in 2012 and consisted of the Home Secretary, chief constables, and local police authorities which replaced the watch committees. The next section analyses this structure particularly with regards to successive national government legislation which limited the powers of police authorities bodies and centralised police accountability.

### *3.2. Police authorities, 1964 to 2011*

#### 3.2.1. Police Act 1964

Following the RCP (1962) the Police Act 1964 for the first time sought to clarify the functions of the various actors and their powers in relation to one another (Critchley, 1978; Jones, 2008; Reiner, 2010). It introduced a 'unified' system of accountability widely criticised for being "self-contradictory or vague at crucial points" (Reiner, 2010:227). This is perhaps an outcome of the considerable disagreement at the time between the Labour Party, which proposed more intrusive powers for police authorities to decide police policy, and the Conservative government which opted for less direct approaches through introducing measures that gave members of the public opportunities to input into policing (Morgan & Swift, 1987). Incorporating the recommendations of the RCP, the 1964 Act significantly empowered the Home Secretary and chief constables (Critchley, 1978; Morgan & Swift, 1987; Reiner, 2010) but ignored the Commission's proposals to balance this by enhancing police authorities' supervisory powers. Police authorities were given the statutory duty of maintaining an "adequate and efficient" police force (section 4(1)) but chief constables assumed power over the "direction and control" (section 5(1)) of their

constabulary in what is widely interpreted as the first enactment of operational independence (Jefferson & Grimshaw, 1984; Morgan & Swift, 1987; Jones, 2008). The Act failed to define what this meant but this is considered to be deliberate (Jefferson & Grimshaw, 1984; Morgan & Swift, 1987; Jones, 2008) to provide some room for negotiation (Hewitt, 1991). Although police authorities were not prevented from issuing directions to their chiefs, they lacked the formal powers to enforce such measures (Critchley, 1978; Jefferson & Grimshaw, 1984; Hewitt, 1991). What was clear was that chief constable's direction and control extended to powers over the appointment, suspension and dismissal of all officers below the rank of assistant chief constable; their ability to enter into cross-force collaborations with other chiefs and share resources, albeit with consent of their police authorities; and providing personnel or other resources to reinforce the capacity of other requesting chiefs or upon the direction of the Home Secretary, both irrespective of their police authority's consent. Arguably, this latter provision was the first direct attempt of a national government to expressly curb the powers of police authorities by removing them from future, controversial decisions concerning how resources were to be deployed. As discussed in the next section, this tension became pronounced during the miners' strike in the 1980s where radical-leaning police authorities found themselves powerless to stop their chief constables from aiding other forces who were engaged in efforts to dismantle and frustrate local protests against the government's closures of coal mines across the country (see Loveday, 1986).

Police authorities could appoint and dismiss their chief, deputy and assistant chief constables; and determine the ranks within the force but all subject to the Home Secretary's approval. Even their powers to manage buildings and premises required the Home Secretary's approval. Police authorities could request their chief constable to report on any

matter, unless the latter deemed it beyond the authority's remit or against the 'public interest' in which case s/he could appeal to the Home Secretary against disclosure. Importantly, the default position was non-disclosure unless overruled by the Home Secretary and, although no research exists on how often these powers were invoked, chief constables clearly gained a determinant role in deciding what information police authorities could rely upon to then hold them to account. Whereas the RCPPP (1929) recommended no role for police authorities on complaints against the police, the Police Act 1964 did but only gave them the extraordinarily vague duty of keeping themselves 'informed' of those processes without any further guidance on how.

The Home Secretary made huge gains in the Act, as proposed by the RCP (1962) and a far cry from his earlier impotence. He enjoyed a “general duty” to use his powers as he considered “best calculated to promote the efficiency of the police” (section 28). This included powers to require chief constables to retire or submit to him a report on any matter; hold inquiries; make information public; set up research bodies and others to promote efficiency; force constabularies to amalgamate or collaborate and to overrule any voluntary agreements; and establish regulations into disciplinary procedures, how the police are governed more generally, and the provision, design and use of equipment.

Overall, the Act continued the shift of control already under way since the 1930s from local policing bodies to chief constables, and now also to the Home Secretary. Whereas case law had circumscribed the scope of control local policing bodies had over their chief constables, the Police Act effectively shrunk this by ignoring the RCP's proposals to enhance their supervisory powers in concomitant with the expansion of powers for the police and the Home Secretary. Arguably, the most significant development in the Act was

its granting the Home Secretary powers to interpret the law for all parties and then bind them to his conclusion. If the watch committees had fought a losing battle against their chief constables, their predecessors were now enmeshed in a struggle against both their chiefs and the Home Secretary.

### 3.2.2. Police and Criminal Evidence Act 1984

Up until this point, the role of the public in directly shaping policing was largely ignored. However, well-publicised urban riots across the country throughout the 1980s led to a 'moral panic' (Keith, 1993) and exposed the failures of the tripartite structure to ensure police powers were exercised in ways congruent to local expectations, particularly for ethnic minority communities. A number of 'race riots' had occurred since the 1960s (Keith, 1993) but it was the Brixton riots in 1981 in South London that led to reforms. The riot was triggered by false rumours that police officers had caused the injuries of a young, black man who later died from his wounds (Scarman, 1981). However, long-standing hostilities towards the police had reached fever-pitch in the days before by 'Operation Swamp', an anti-burglary police operation which deliberately subjected vast numbers of black people to a stop and search (Scarman, 1981).[11]

Lord Scarman's (1981) inquiry report into the disturbances pointed to a number of underlying causes behind the disorders, much of which laid outside of police control: housing, education and social cohesion. Although he denied the police and British society were 'institutionally racist', he did acknowledge the “strong racial element” to the disorders (para3.110) and blamed the police for provoking anti-police sentiment by their lack of “flexibility” and “imagination” in enforcing the law at the expense of their more important

[11] The role of stop and search in prompting the anti-police sentiment that fuelled these riots, which also spread to other cities, is notable and is discussed in chapter 4.

and concomitant duty of “keeping the peace” (para3.79). For Scarman, chief constables lacked accountability to the same police authorities that he partially blamed for being “somewhat uncertain of themselves” in exercising their powers with greater “firmness” (para5.62), but also to the public who chiefs were failing to consult and were therefore producing a police service with an “inward thinking... siege mentality” (ibid:para5.58). His recommendation to establish statutory police liaison committees to give members of the public opportunities to influence police practice was incorporated into the Police and Criminal Evidence Act (PACE) 1984, whose main purpose was to balance police powers with safeguards following the recommendations of the 1981 Royal Commission on Criminal Procedure, including in relating to stop and search. However, it is debatable whether the correct balance has been achieved (Bridges & Bunynan, 1983; Reiner, 2010).

PACE placed a duty upon police authorities to obtain their public's views on policing and seek their co-operation in preventing crime, but in consultation with their chief constables (PACE 1984, section 106).[12] In line with the now interventionist predisposition of the Home Secretary, the Secretary of State was empowered to require any police authority to submit to him a report on these arrangements if he deemed them to be inadequate, and then request further reports having considered the first. Significantly, however, despite hopes now being pinned upon these police consultation groups to secure better relations between the police and the public, particularly with ethnic minorities, chiefs were under no obligation to take account of any views expressed in those meetings. Therefore, the aim behind these groups was not to actually devolve power but, as Morgan (1987:89) observes, merely to project “outward and visible sign[s] that policing was being consented to”, thus

[12] The Metropolitan Police, whose jurisdiction covered Brixton, had no police authority at the time and so its commissioner was responsible for making those arrangements for every London borough in consultation with all constituent local councils. However, it was required to take into 'account' any guidance issued by the Home Secretary to whom it remains directly accountable.

resulting in them “becoming incoherent repetitive talking shops” (ibid:p.94). Essentially, whilst the public now enjoyed a statutory right to be consulted on a range of issues, albeit still mediated through their police authority, and nothing could prevent them from even making recommendations, they were denied any real power to ensure their proposals translated into operational practice. Further, their ability to ensure effective police accountability was hampered by their lack of representation of the social groups routinely subject to police powers and their reliance upon the police for information with which to hold them to account (Morgan, 1987; Rowe, 2004). Instead, the essence of PACE was to make the police accountable to the law through administrative rules and codes of practice rather than external actors. As Klockars (1988) argues, this is a 'circumlocution' given that the law has never provided adequate controls for police malpractice (also Bridges & Bunyan, 1983; Reiner, 2010; Sanders et al., 2010). Indeed, PACE had incorporated into law what was already routine malpractice, including in relation to stop and searches, and therefore had a legitimising effect of such transgressions rather than inhibiting them (Baldwain & Kinsey, 1984; Reiner, 2010).

Even fundamental changes to the system of complaints against the police was averted. Although Scarman (1981:para7.21) strongly recommended the introduction of an independent system of complaints to ensure that it commanded the necessary public confidence to give the process legitimacy, the Act only replaced the existing Police Complaints Board with that of a Police Complaints Authority (PCA) and set out a more detailed process for complaints, including tribunals chaired by chief constables to consider disciplinary sanctions. Here, the Home Secretary also gained wide ranging powers to regulate every stage of the complaints process and how the various parties exercised their functions. Police authorities retained powers to investigate complaints against officers of

the rank of assistant chief constable and above but all others fell under the remit of their chief. In another highly ambiguous duty, police authorities were required to keep themselves informed of their force's complaints processes without detailing what this meant nor how far they could extend themselves without breaching operational independence. Members of the public had no role in this process besides as complainants and choosing whether to opt for informal resolution before initiating any formal disciplinary proceedings. Perhaps their only consolation was knowing that complaints following deaths, serious injury,[13] or any cases requested by the PCA were to be automatically forwarded onto it for investigation rather than by the force complained against. Also, for ethnic minorities at least, the Act added 'racially discriminatory behaviour' to the list of disciplinary offences.

Police authorities' lack of influence became most apparent during the miners' strike of 1984-5, a bitter year long protest against the intentions of then Conservative government to close coal mines across the country. The dispute placed considerable pressures upon the chief constables whose forces covered the mines or the 'picket lines' set up to disrupt access to those locations, and also upon other chiefs who were required to supply personnel or other resources under mutual aid agreements, thus losing officers and witnessing increases in crime locally (Loveday, 1986). What the strike most clearly demonstrated was just how sidelined local policing bodies had become. Supported by the Home Secretary, chief constables set up a National Reporting Centre to coordinate mutual aid and excluded any input from police authorities. Authorities were powerless to veto the transfer of resources and even unable to solicit the information necessary to ensure that

[13] Originally defined as a “fracture, damage to an internal organ, impairment of bodily function, [or] a deep cut of deep laceration” (see PACE 1984, section 87(4)).

they were fulfilling their own legal obligation of ensuring that their force was effective and adequately maintained (Loveday, 1986).[14]

### 3.2.3. Police and Magistrates' Courts Act 1994

The first major revision to the relations established by the Police Act 1964 came much later in the Police and Magistrates' Court Act (PCMA) 1994. This introduced a 'managerialist' approach to police governance through the imposition of local and national performance targets. It was also the Conservatives' last police Act before being succeeded by a Labour government. PCMA was introduced at a time when Britain's political parties had converged in pursuing harsh penal policies, an era Reiner (2010) dubs as 'crime control', and traditional concerns for civil liberties were replaced by those seeking greater police efficiencies and reductions in crime. Loveday (1997:76) views the Act with optimism, arguing at the time that it could potentially "alter" police authorities' relationship with their chief constables by enabling them to influence the strategic direction of their forces and matters falling into operational independence. For Jones & Newburn (1997), "potential" was indeed the prime word in an uncertain future where, at time of writing, these relations were untested, particularly the Home Secretary's vast powers to impose any targets unpopular with police authorities and chief constables. Overall, however, as is now discussed, the Act had made the roles of police authorities and their chief constables more interdependent and transferred further powers to the Home Secretary.

Police authorities central duty was redefined to "secure the maintenance of an efficient", rather than merely adequate, "and effective police force" (PCMA 1994, section 4(1)). They were given the responsibility for issuing a local policing plan setting out the priorities for

[14] Although the Home Secretary had part-financed mutual aid, the police authorities whose chief constables were in receipt of aid were still required to reimburse those authorities whose forces were supplying resources.

their force for every financial year but with the proviso that all objectives had to comply with those set nationally by the Home Secretary. Oddly, chief constables were responsible for drafting the plan in the first instance before handing it over to the police authority who could then make amendments before publishing it, providing that they consulted their chiefs on any changes. Police authorities were required to consult the public through the police-liaison groups set up by PACE in developing their objectives. Any views obtained needed to only "be considered" thus showing how peripheral the public really were to this process. Additionally, authorities were required to publish an annual report assessing the extent to which these priorities had been met or not, and to also send a copy to the Home Secretary, perhaps as a way of pressuring chiefs to conform with the plans.

Other changes included reducing police authority's membership to seventeen; introducing independent members with wider skill-sets to fulfil the authority's enhanced functions; and giving them powers to employ civilians. Confusingly, all civilian employees were placed under the direction and control of chief constables, including the powers of "engagement and dismissal" unless otherwise agreed between them, thus showing how further interdependent their functions had become.

Jones & Newburn's (1997) detailed study of the PCMA, its former Bills and the circumstances surrounding the Act's introduction shows that the composition of police authority members was the most controversial proposal. As they argue, the Conservative Home Secretary's far-reaching proposals to directly appoint the chairperson and a higher number of independent members was defeated by successful police lobbying. Instead, the final Act ensured elected councillors constituted the majority of an authority's membership, enabled them to select their own chair and introduced a complicated process of nominating

independent members whereby the Home Secretary could shortlist candidates but not decide the final appointees. What the Home Secretary did gain was greater powers to amalgamate and make alterations to forces without the need for the prior consultation required by the Police Act 1964. He also gained powers to directly intervene into the workings of police authorities by issuing codes of practice regulating their conduct; powers to require reports on any matter be submitted to him and, potentially, to make this public; and also to direct them to undertake any measures he considered necessary if their force received a negative inspection report.

Overall, the PCMA had made the roles of chief constables and police authorities more interdependent but, as others have argued, had also increased the potential for greater local democratic control over policing (Jones & Newburn, 1997; Loveday, 1997). Significantly, this was against the centralising trend of legislation at the time. In particular, police authorities' ability to set performance targets and use this to base their decision concerning whether to renew their chief constable's contract and to decide performance-related pay gave them considerable powers to potentially influence areas that fell into operational independence (Loveday, 1997). However, their powers were subject to important constraints. First, the success of police authorities depended upon them actually exercising their powers with the confidence that they had thus far been 'shirking' (Scarman, 1981; Morgan, 1987; Jones & Newburn, 1997). Second, much depended upon how future Home Secretaries exercised their powers to define local priorities, establish regulations and enforce them upon police authorities and chief constables. Further, chief constables were given a 'get-out clause' allowing them to ignore local and national objectives where justified by operational reasons (Loveday, 1997; Jones & Newburn, 1997), another highly ambiguous and undefined criteria.

Jones & Newburn (1997) conclude that the tripartite structure immediately following PCMA's introduction was one of little practical change aside from an immediate concentration of power into the hands of chief constables. As they stress, this is only because the Home Secretary at the time- who had encountered tremendous difficulties in introducing the Act- had refrained from exercising his vast powers in ways that could trigger further political controversies and issued vague objectives already prioritised locally. Although relations were "untested" for some time, the potential "for some highly significant confrontation" remained (Jones & Newburn, 1997:209). However, the potential for this and more robust local police accountability was short-lived following the election of a Labour government shortly after PCMA.

### 3.2.4. Crime and Disorder Act 1998

Labour's first legislation on policing and crime came in the form of the Crime and Disorder Act (CDA) 1998 which implemented its electoral promise to introduce tough measures against anti-social behaviour.[15] The Act required local government councils- rather than police authorities- to "formulate and implement... a strategy to reduce crime and disorder" in their area (section 6(1)). As 'responsible authorities', local councils were required to first gather, analyse and publish data on crime in their area and then use this to consult and develop appropriate strategies in partnership with other bodies they considered appropriate to involve. Although police authorities were among the partners to be *consulted* on these strategies, they could at best only achieve 'co-operating body' status if either their chief constable or any constituent local authority granted them such a role. Therefore, crime reduction strategies were placed firmly in the hands of responsible authorities rather than

[15] The Act defined anti-social behaviour incredibly broadly as "a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself" (CDA 1998, section 1(a)&(b)).

the police authorities who could even have short-term and long-term targets imposed upon them to measure their performance! At this point, the Home Secretary only had a monitoring role through powers to require local councils to submit reports and, potentially, to make them public. He obtained no additional powers over chief constables although he could still rely upon section 30(1) of the Police Act 1964 to request a report on such matters or impose targets through the PCMA. Significantly, he did not gain any powers to intervene in or direct the activities of responsible authorities. However, as discussed later, this was quickly rectified as the Labour government continued to amass central powers to direct local policing.

Finally, responsible authorities could seek judicial orders against people over the age of ten from engaging in anti-social behaviour. The Act granted them considerable latitude to decide what the order should entail having deliberately failed to impose constraints on potential sanctions and even required such orders to last for a minimum of two years. The only safeguards introduced was the requirement of a magistrate to grant the order and the possibility of it being revoked in the unlikely circumstance that all responsible authorities and any co-operating body agreed (defendants could request changes to the order but not its revocation). Whilst these are arguably operational matters, police authorities were given no specific powers to monitor these arrangements despite their far-reaching consequences upon members of the public.

### 3.2.5. Crime, Justice and Police Act 2001

Labour's first amendments to the Police Act 1996, which already consolidated the legislative changes to the 1964 Act and others outlined above, came in two minor amendments in Crime, Justice and Police Act 2001. Its main provisions were to introduce

additional measures to reduce crime and disorder and establish national policing bodies. The Act reintroduced the requirement for police authorities to appoint a deputy chief constable and gave them powers to suspend or dismiss them, again all predicated upon the Home Secretary's approval. It made changes to their structure by giving them the option, annually, to elect among themselves at least one vice-chair and abolished the disqualification of members who reached the age of seventy. Overall, these amendments may have facilitated more efficient workings of each actor within the tripartite structure rather than seeking to alter their functions and relations unlike the next Act discussed.

### 3.2.6. Police Reform Act 2002

Continuing with their priority of tackling anti-social behaviour, the Police Reform Act (PRA) 2002 finally expanded the list of 'responsible authorities' for crime and disorder reduction partnerships (CDRP) to include police authorities and other agencies, such as local fire services. It also widened these strategies to include the misuse of drugs. However, PRA's central feature was to substantially enhance the Home Secretary's powers to monitor and direct police authorities, chief constables and local government councils in matters previously negotiated locally; and it also established an Independent Police Complaints Commission (IPCC) to investigate complaints.

The Home Secretary was required to publish a National Policing Plan every year setting out what priorities he expected from the police and the targets used to measure performance in meeting those objectives. Police authorities were required to produce three year policing plans detailing the medium and long term strategies of their force and, crucially, both they and their chiefs were legally obliged to have regard to the Home Secretary's priorities and performance targets. In case there was any doubt, the Home

Secretary could more explicitly issue police authorities with specific guidance on what he expected them to include in their plans and, to ensure compliance, they had to send their plans to him. If the Home Secretary felt that any local plan was inconsistent with or did not sufficiently take into account his national plan, he could inform them. Oddly, considering Labour's tendencies, the Act did not grant him with any firm measures to mandate any changes other than his already existing powers to call for further reports. He could, however, rely upon his now expanded powers to commission Her Majesty's Inspectorate of Constabulary (HMIC) to inspect more specific matters and direct remedial action to be taken where the HMIC deemed any force to be inefficient or ineffective in that respect. It was this power to direct remedial action that gave national government the greatest scope to intervene in the activities of police authorities and chief constables. Previously, the Police Act 1996, which again replaced the 1964 as the main legislation concerning the tripartite arrangement, enabled the Home Secretary to issue remedial orders if a HMIC inspection judged a police force to be operating inefficiently more generally. However, the 2002 Act enabled him to be more intrusive in commissioning inspections and remedies on more specific issues. Although a police authority, in consultation with its chief, had a legal right to present its own measures to potentially avert central direction, the Home Secretary could amend their proposals or dismiss them entirely by setting out his own programme of reforms, targets, deadlines and reporting periods. Finally, PRA made it easier for the Home Secretary to make a police authority suspend or dismiss their chief or deputy chief constable in the interests of “public confidence” in addition to the existing criteria of efficiency and effectiveness.

Clearly, Labour's PRA continued the Conservatives' approach of increasing central government's steer of police priorities but also signalled an era of unprecedented micro-

management of policing and now also police authorities. However, as Jones (2008) described, and also similar to the PCMA, the Act was in fact a watered down version of a Bill the government had failed to introduce which sought even greater national steering had it not been defeated by successful police lobbying. Nonetheless, the end result was one of substantial centralised police accountability enabling the Home Secretary to not only directly control the priorities formulated by police authorities but also define the targets used to measure performance in meeting those objectives, setting out regulations concerning how police forces were to operate, and making it easier for him to dismiss chief constables even against the relevant police authority's wishes. To illustrate how potent the Home Secretary's powers were, Reiner (2010:236) gives the example of its then incumbent, David Blunkett, and chief architect behind the PRA, whose dismissal of Humberside's chief constable was supported by the High Court following a legal challenge by the police authority themselves.

Much has been written about central performance targets in undermining operational independence. The previous chapter showed how local democratic bodies since the 1930s have only managed to achieve a shallow degree of accountability through obtaining retrospective explanations without powers to control police decision-making. By contrast, empirical research has shown that the PRA gave national government direct influence, if not control, over those same operational matters supposedly legally under the direction and control of chief constables. As much of this research shows (e.g. Loveday, 2006; Cockcroft & Beattie, 2009), such was the potency of Home Secretary's powers, that police officers had become so preoccupied with meeting national targets that they became less responsive to crimes more relevant to local populations and exercised their coercive powers, such as police-initiated stops, in circumstances where they would not have otherwise done so.

### 3.2.7. Police Authorities and the Local Democratic Deficit

As this survey of legislation and patchy research into its implementation shows, police accountability since the 1930s has become increasingly centralised. Whereas case law had limited police authorities' control over what later emerged as operational police matters (chapter 2), this chapter has argued that they were further hampered by legislation which strengthened the powers of chief constables and the Home Secretary whilst diminishing those of the police authorities. This produced a democratic deficit wherein chief constables and their officers became more responsive to central government rather than local democratic bodies, even prompting claims of "a de facto national police" (Reiner, 2010:205). Part of the explanation for this lies in long standing tensions concerning how far police authorities should exert influence over their chiefs, especially between radical Labour authorities and Conservative governments. As already discussed, the 1950s saw the Home Secretary reinstate chief constables dismissed by their police authorities which partly led to the 1962 Royal Commission (Critchley, 1978), which itself led to the uneven tripartite relationship set up by the Police Act 1964. The ambiguities within the Act produced further tensions with yet another Conservative government in the 1980s which enacted more limitations to police authorities' powers, particularly following the attempts of radical Labour authorities to prevent their chief officers from disrupting the miners strike (Loveday, 1986; Reiner, 2010). It is no surprise, therefore, that with limited powers and resources, police authorities have been unable to more robustly hold their chiefs to account, especially following further diminution to their role as the Labour government had adopted and expanded the former Conservative government's centralising agenda.

Despite being weakened and finding themselves micro-managed by national government, the failures of police authorities to fully exercise their remaining powers led to scepticism concerning their ability to ensure robust police accountability locally. With some exceptions, research has consistently found that police authorities were unwilling or even unaware of how to exercise their powers to more robustly hold their chief constables to account, and that members were 'out of touch' with the opinions of their local populations (Morgan & Swift, 1987; Jones et al., 1994; Millen & Stephens, 2011; Caless & Tong, 2013). The major public inquiries and Royal Commissions set up to inform the legislative changes analysed above have also supported this finding or completely omitted police authorities from their deliberations, thus privileging regulatory controls over local democratic accountability (notably RCPPP, 1929; RCP, 1962; Scarman, 1981). Morgan (1987:93-94) argues that police authority members were "shrink[ing]" from their duties due to a reluctance to appear "collusively responsible for jointly formulating policing policy" that they had no power to determine how it was implemented. Thus, he concludes, the arrangements for local accountability were encouraging members "to be irresponsible about operational policy" (p.93). He also points to their limitations in relying upon police generated information and lack of "methods whereby they can independently verify and monitor these police-filtered accounts" (p.93). Of course, engagement with the public has always been one means of verifying police accounts but police authorities were also found to be lacking in this regard.

Subsequent research has produced broadly similar, if more varied, results. Jones et al. (1994) disagree with the idea that police authorities were "impotent" having found a more varied relationship in their study of four police authorities. They argue that all but one had been very active in asserting its role and with varying degrees of success, although,

essentially, none had managed to exert any significant influence over operational practice. They highlight the need for authority members to understand their legal powers and their findings suggest, at least implicitly, that chief constables have been able to determine how they are held to account.

Similarly, Millen & Stephens' (2011) study reveals how complex police accountability is negotiated locally. They conclude that police authority members were well aware of their limited powers within the tripartite structure and opted for pragmatic strategies. However, such is the power of chief constables, they argue, that even where changes do occur they do so within “almost agreed boundaries” (p.280). To remedy this, the authors make two recommendations: first, police authorities should enhance public awareness of their role and the degree to which local communities can participate in accountability, thus transforming the tripartite structure into a quartet. Second, they should develop a more “inquisitive” and “investigative” mindset that can challenge the “strictures which the other two members of the tripartite system permit them to work within” (p.280). Key to this is a “robust secretariat” but this was already enabled by the PCMA 1997. As the authors findings suggest, over a decade later the police authorities they studied did not establish a robust secretariat, thus giving some support to the idea that they have been 'architects of their own decline' (Jones & Newburn, 1997). Caless and Tong (2013) would probably welcome this in their scathing assessment of police authorities following their study of chief constables attitudes towards the tripartite structure. They rightly locate some of the tensions in the fact that “no one seems certain where the independence of police operational activities ends and the proper democratic exercise of oversight by a police authority begins” (p.13) and also cast doubt upon proposals at the time for directly-elected police and crime commissioners to resolve this. Strangely, they blame police authorities

and their presumed enhanced powers for what they describe as the “marked deterioration” in tripartite relations. This places them at odds with the other studies already analysed because, as this chapter has argued, police authorities have remained largely powerless despite the significant expansion of police powers. Further, any rare enhancement of their functions has been predicated upon the consent or direction of the Home Secretary. This makes Caless and Tong's judgement misplaced and better aimed at central government who even they acknowledge as having attracted the greatest scorn of the chief officers they interviewed.

In sum, police authorities have been unfairly blamed for failing to ensure that policing is more responsive to the demands of local populations, including by both the Conservative and Labour parties whose centralising tendencies have produced this outcome. However, this should not deflect from police authorities own failures to understand their role and confidence in exercising their powers with greater firmness. Nonetheless, it was within the context of growing concerns about a democratic deficit in local police accountability that proposals for electoral reform gained ground. This culminated in the introduction of directly-elected PCCs, as is now discussed before concluding this chapter.

### *3.3. Police and Crime Commissioners, 2011 – present*

PCCs were introduced in 2011 following the election of a Conservative-led coalition government and at a time when Britain's main political parties had converged in seeking reforms to police authorities. Loveday & Reid (2003) are widely credited with introducing the idea of electoral reform later pursued by the Conservatives (e.g. May, 2013, 2016; see Newburn, 2012). Unfortunately, Jefferson & Grimshaw's (1984) proposals have been largely forgotten despite being the first to actually propose directly-elected commissioners.

As discussed in the previous chapter, they proposed introducing directly-elected 'public commissions' tasked with defining police priorities and directing resources according to the public will, although, crucially, the police would retain independence over individual operations (a position shared by Loveday & Reid, 2003). However, they were thin on how these commissions were to be composed, canvass opinion, and resolve competing demands.

Two decades later, Loveday & Reid (2003) also made similar proposals in their scathing assessment of the capacity of British, Dutch and French governance structures to deliver a responsive police service, which they also blamed for increasing crime and conflict between ethnic groups at the time. Loveday & Reid proposed introducing American style structures whereby the police would be unambiguously placed under the control of elected mayors or local council leaders. To ensure the police were responsive to local demands rather than national government, constabularies would be financed entirely through local taxation and divided into smaller units to coincide with their mayor or district council's geography. Further, what constitutes operational independence would be deliberately narrowed to cover individual operations only so as to ensure the greatest of scrutiny and policy direction from elected officials. All specialist operations would be merged under a National Crime Agency accountable to the Home Secretary who would also provide support to local forces when required, although this specific proposal would probably exacerbate the dissonance and lack of responsiveness of specialist units to local communities that the authors claim to address.

In opposition, the Conservative Party (2005:15) adopted electoral reform in their 2005 manifesto promising a smaller but tougher government with harsher crime policies, stricter

controls on immigration, and greater accountability of public services including of the police. The manifesto proposed devolving control over policing to locally elected police and crime commissioners but was thin on their functions until its 2010 manifesto set out what powers they would enjoy: “setting policing priorities for local communities”, “setting the budget and the strategy for local police forces, with the police retaining their operational independence” (Conservative Party, 2010:57). The Liberal Democrats (2005) also proposed devolving powers to local councils and residents including in relation to the police but did not specify how they would do so. The Labour government briefly flirted with idea of electoral reform before backtracking in 2008 following claims of the politicisation of the police after the-then Metropolitan Police Commissioner, Ian Blair, resigned and alleged he had been forced to do so by the newly elected Conservative Mayor (Newburn, 2012; Sampson, 2012). Interestingly, Labour had in fact been an earlier advocate of stronger democratic oversight of the police. One of its greatest achievement in this regard was introducing a police authority to oversee the Metropolitan Police as part of a wider devolution of powers to the capital through the Greater London Authority Act 1999. Up until then, the Metropolitan Police was the only constabulary without a dedicated police authority and was solely accountable to the Home Secretary. The Act created the position of a powerful elected Mayor of London who enjoys a wide portfolio, including sharing joint responsibility for the Metropolitan Police with the Home Secretary. However, the Home Secretary retains powers to appoint and dismiss the Commissioner, deputy commissioners and assistant commissioners although, in practice, this is usually in consultation with the Mayor. It also created a separate and very influential, wholly elected London Assembly to hold the Mayor to account in fulfilling his duties but also the Metropolitan Police Commissioner and deputy and assistant commissioners through a dedicated sub-committee. Yet as early as 2005, and certainly by 2008, Labour had cooled

to the idea of stronger electoral controls over the police and instead proposed to increase police-public consultation through expanding its flagship neighbourhood policing teams and also giving residents powers over how their local councils dealt with anti-social behaviour (Labour Party, 2005).

Following the Labour government's re-election in 2005, its Home Secretary commissioned a review into the modernisation of the police and later fully accepted its recommendations. Flanagan's (2008) review tackled a range of issues including how to enhance local police accountability. Whilst he reviewed various models, including those proposed by Labour and the Conservatives, Flanagan (2008:85) declined to endorse any particular one and instead called for a distinctly consumerist approach through the *"*acceleration in fully adopting a citizen-focused approach to policing; putting customer service and the interests and needs of local people at the core of priority setting." The specific form that this took, he argued, was less important than achieving the outcome of giving the public a genuine say over policing and ability to the hold their police to account. Subsequently, ahead of the 2010 election, Labour vehemently opposed the Conservatives' plans for directly-elected police and crime commissioners (PCCs), attacking what they saw as the politicisation of policing (Labour Party, 2010). Instead, it proposed yet further expansions to its neighbourhood policing model by giving local residents a 'right' to hold senior officers to account, although it did not specify how, and also proposed firmer action against forces by introducing powers to "take over" borough commanders, entire police forces or chief constables deemed to be consistently failing.

It was only once the Conservative-led coalition government was elected in 2010 that police authorities were replaced with directly-elected PCCs in all police force areas outside of

London[16] by the Police Reform and Social Responsibility Act (PRSR) 2011. Under the Act, PCCs inherit their predecessors responsibilities for securing an efficient and effective constabulary and holding the chief constable to account, but they also gain firmer powers over the budget, to commission services that could contribute to safety or crime reduction, and to hire and dismiss their chief constables.

As Loveday & Reid (2003) repeatedly highlight, chief constables' dual reporting to both their police authorities and the Home Secretary produced conflicting lines of accountability with the latter gaining precedence. The Act attempts to address this by placing chiefs firmly under their PCCs control through a number of provisions. First, and unlike their predecessors, PCCs enjoy complete control over drafting the police and crime plan which sets their force's priorities, although they must consult the public and their police and crime panels, and publish a response to any of the latter's recommendations.[17] Although chief constables must be consulted for each and every revision to the plan, they can only make suggestions, they have no legal power to make recommendations, and but are still legally obliged to have 'regard' to the plan in carrying out their duties. Relatedly, the Act repealed Labour's legislation which imposed central targets upon the police and gave commissioners the legal right to do so, although the Home Secretary has since repeatedly encouraged them to avoid imposing targets (e.g. May, 2013).[18] PCCs also gained powers to manage the police budget, estates, land and other resources without requiring the consent of the Home Secretary.

[16] The Mayor of London performs the duties of a PCC in London and currently delegates this responsibility to a deputy. The City of London police retains its former police authority and so does the British Transport Police which polices the national railways and the London Underground network.

[17] Police and crime panels are a group of locally elected councillors within a PCC's geographic area set up with the conflicting duty of scrutinising their commissioners but also supporting them in their activities.

[18] As the Rt Hon Theresa May was appointed as the Secretary of State in May 2010 and maintained this position throughout the fieldwork, from hereon references to the Home Secretary will be referred to in the feminine form.

Finally, PCCs inherit powers to hire chief constables but, more significantly, have stronger powers to dismiss them with only limited checks. PCCs must inform their panels of their nominated chief constable to enable them to hold a 'confirmation hearing' to reach its own conclusions and potentially veto this decision. This process also governs any other appointments made by the PCC, such as a deputy PCC, although in such cases they have no right of veto. PCCs lost powers to appoint and dismiss deputy and assistant chief constables who are now under the control of their chief constable. Where a PCC invokes their power to dismiss their chief, they are no longer required to obtain the Home Secretary's permission but they must first inform their panels and provide them with enough time to scrutinise that decision. Ultimately, however, commissioners are not bound by the panel's subsequent verdict. Clearly, by removing national targets and the legal requirement for the Home Secretary's consent to appoint and dismiss their chief constables or manage police resources, PCCs enjoy greater executive powers than their predecessors and can exercise their functions with considerably less interference from national government.

What the Home Secretary does retain is quite broad and wide-ranging powers of regulation, including to arbitrate any conflict between PCCs, chief constables and police and crime panels. To ensure the adequate policing of nationally strategic issues, the Home Secretary issues a Strategic Policing Requirement setting out the threats facing the country for which chief constables must also have 'regard' to in addition to their PCC's priorities (Home Office, 2012b). Whilst this contains an assessment of the threats, it does not impose any performance measures upon local actors. The Home Secretary must also publish a Policing Protocol setting out how the relevant actors within this new landscape of policing

must work together and, importantly, also refrain from using their powers so as to promote co-operation (see Home Office, 2011b). The Act also amended the Police Act 1996 to ensure that the Home Secretary could still require chief officers to provide her with information on any local or national matter and even make this information public.

What is clear from the provisions outlined so far is that the Home Secretary has not abdicated responsibility for policing but rather the Act has bolstered the powers of local policing bodies to allow "the Home Office to withdraw from day-to-day policing matters" (Home Office, 2011b:para27). Of course, chief constables retain their operational independence in determining the direction and control of police officers and civilian staff, although they must act "in such a way as is reasonable to assist the relevant police and crime commissioner to exercise the commissioner's functions" (para23). Perhaps in recognition of the potential for conflict to arise in this politicised system, the Protocol obliges PCCs and their chiefs to "work together to safeguard the principle of operational independence" (para35) but chiefs are obliged to ensure that commissioners request for "access to any information must not be unreasonably withheld or obstructed" (para19). Ultimately, it also deliberately left what constitutes operational independence undefined so as to provide PCCs and their chiefs room to negotiate, with the Home Secretary retaining her role as the final arbiter. Despite this, it is unclear whether the Home Secretary would continue the long tradition of ruling in favour of chief constables against their local policing body, and the research on PCCs thus far is silent on this matter.

As can be seen, overall PCCs gain stronger power than their predecessors even if they lost control over assistant and deputy chief officers. They are also closer to Jefferson & Grimshaw's (1984) proposals for directly-elected 'public commissioners' rather than

Loveday & Reid's (2003) American-inspired reforms which recommended placing chief constables under the control of mayors or council leaders and limiting what constitutes operational independence. However, current government intention to devolve powers to local, directly-elected mayors who would also act as the PCC for their area, similar to that in London, goes some way to realising Loveday & Reid's model. Yet, this all casts doubt upon the claim that British policing has been 'Americanized', particularly given the ongoing central importance of operational independence which is virtually non-existent in the United States and the reluctance of national government to completely abdicate its responsibility for policing (Newburn, 2012; Sampson, 2012). But whether PCCs can fill the historic democratic deficit characterising local police accountability with their enhanced powers and public profile has been subject to surprisingly little academic scrutiny and one that this thesis investigates. Further, since national government still supplies the lion's share of the police grant and directs national policing bodies, the literature has been silent on how future Home Secretaries may use these levers to steer local policing (Newburn, 2012). This is perhaps better analysed in relation to specific policing issues rather than more generally, as this thesis does. Unfortunately, despite PCCs having completed their first four-year term,[19] the academic literature thus far is dominated by theoretical speculation and a lack of empiricism which this thesis seeks to fill (cf. Caless & Ownes, 2016). However, they do raise important questions outlined in the concluding section and answered in the rest of this thesis.

### *3.4. Conclusion*

Directly-elected PCCs were introduced under huge expectations to reverse the historic democratic deficit in local police accountability that arose from the legislative changes

[19] Following the initial elections in 2012, a second PCC election took place in May 2016. Unlike in 2012, these were held on the same day as other local council and mayoral elections.

discussed in the second part of this chapter. In particular, PCCs are tasked with enhancing the police's *responsiveness* to their diverse communities through using their firmer *powers* to ensure the police are attentive to local concerns and by also ensuring that the public can *participate* in more firmly setting police priorities, three core elements of what constitutes democratic policing (chapter 2). As chapter 2 argued, the overriding concern for democratic accountability of the police is to promote equity but the research into PCCs is still in its infancy and most assessments of their ability to fulfil these criteria has been speculative.

Flanagan (2008) warns that elected commissioners could produce a governance model unrepresentative of Britain's diversity and even argues that appointed police authority members were more representative of their local communities than elected councillors, and also held a wider skill set. This is something supported by Lister & Rowe's (2015) analysis of the first cohort of PCC candidates. According to Lister & Rowe (2015:364), the lack of female PCCs reflects a "[white] male hegemony within party political structures" as the female-male ratio is actually lower than that of Members of Parliament and even chief officers, and there are no ethnic minority commissioners. This, they argue, "present[s] a significant challenge to the democratic legitimacy of the office... [which] may be having unforeseen and important consequences for the social organisation of the police" (ibid). Arguably, this largely reflects the lack of diversity in political parties' nominations but the authors main concern is for its potential consequences on democratic legitimacy and particularly on how policing priorities are formulated. Their analysis of the manifesto pledges of all 2012 candidates illustrates a severe lack of attention towards issues concerning ethnic minorities and therefore, they conclude, demonstrates just how narrow PCCs have interpreted their already "brittle" mandate having secured a turnout of only

15%, the lowest turnout of any modern election (Electoral Commission, 2013). However, whilst Lister & Rowe's findings show the narrow framing of policing and crime issues during the first election, their analysis does not take into account the police and crime plans of candidates subsequently elected which legally sets out their force's priorities. This means that their findings cannot be indicative of how PCCs conceptualise their role whilst *in* office and is something analysed in chapters 8-9 of this thesis. What it does raise is real questions about PCCs' ability to overcome the temptation to prioritise the concerns of majority or privileged groups and at the expense of those most affected by the operation of police powers but least likely to participate in these institutional processes.

Police authorities are alleged to have been 'out-of-touch' and unaccountable to their populations, in turn created a police service unresponsive to local populations. The next chapter analyses this further in relation to the use of police-initiated stops. The electoral nature of PCCs supposedly enhances the public's say in policing, at least through commissioners duty to consult the electorate when devising their plans and setting their priorities. However, this is a narrow interpretation of participation and, as Jones (2008) and Reiner (2016) argue, such limited and periodic input does not necessarily produce more responsive or democratic policing. PCCs are of course free to introduce whatever mechanisms they feel can give their electorate a more meaningful say over policing but this relies upon their own initiative and can lead to significant variation across the country. Further, the traditional reliance upon community consultation groups is unlikely to resolve inequalities as they tend to include already privileged groups, potentially resulting in what Reiner (2016) calls a 'plutocracy'. The lack of statutory footing of any alternative, more innovative initiatives developed by PCCs to improve public input means that its success is entirely reliant upon the co-operation of their chief constables. Yet research casts doubt

upon anyone but the most determined of commissioners to move accountability beyond the existing 'explanatory and co-operative' forms that have prevailed. This is particularly difficult given how powerful chief constables have been in determining the extent to which their local policing bodies can hold them to account (e.g. Jones et al., 1994; Millen & Stephens, 2011; Caless & Tong, 2013). This itself raises questions about whether even this shallow explanatory form of accountability has been achieved. Even progress made by police authorities on more general issues has been due to astute chief officers permitting such developments to take place rather than any forceful attempt by those bodies (Millen & Stephens, 2011; Caless & Tong, 2013). Thus PCCs must come to terms with their far more experienced counterparts who are particularly adept at frustrating external reform (e.g. Shiner, 2015a, 2015b).

Finally, the fundamental issue of power has rightly remained core to much police scholarship even if couched almost exclusively in terms of operational independence. Lister (2013:5) speculates that PCCs' governance and executive responsibilities has created "too powerful an office-holder" for chief officers to resist "encroachment" into their operational independence, a prospect probably welcomed by the radical scholarship that dominated the 1980s (e.g. Jefferson & Grimshaw, 1981; Baldwin & Kinsey, 1982; Brogden et al., 1988). Despite this, Lister contends that these powers have made the role of PCCs and their chief constables "mutually contingent" and therefore places no incentive upon commissioner to publicly criticise their chiefs and risk any negative publicity which might also raise questions their own competence. By contrast Newburn (2012) and Sampson (2012) doubt the ability of even the most outspoken of commissioners to ensure a more responsive police service due to their powers being more limited than is commonly perceived.

Taken together, scholarship thus far on PCCs suggest that they face major constraints in exercising their powers whether by acquiescence or by design. However, various high profile fall-outs between a handful of PCCs and their chiefs within their first year in office demonstrates that these 'new kids on the block' have not been afraid to flex a bit of muscle,[20] leading to a committee of MPs expressing concerns over the lack of safeguards to prevent them from politicising their powers to hire and fire chief constables (HASC, 2013). Whether these were only extreme cases of commissioners trying to 'make their mark'- for there have been no cases since-[21] or whether PCCs are willing to exercise their powers to more robustly hold police officers to account for the operational practices that disproportionately affect ethnic minorities remains to be seen and is explored in this thesis with regards to police-initiated stops. Significantly, these early power struggles concerned the PCC-chief constable working personality and more general policing issues rather than those disproportionately affecting ethnic minority voters for which Lister & Rowe (2015) suggest PCCs have been largely disinterested in.[22] Suffice to say for now that how operational independence is negotiated is one of the best measures of the extent to which power has been devolved to PCCs and one particularly relevant for this thesis given its focus on police-initiated stops.

[20] These were Avon and Somerset, Lincolnshire and Gwent.

[21] Unlike the former cases which were allegedly due to personality clashes, other chief constables have also since been suspended and even dismissed but this was for proven misconduct.

[22] The Lincolnshire chief constable was initially suspended for allegedly providing undue support to an ethnic minority police officer in gaining a promotion. However this was overturned following a judicial review in the case of *Rhodes vs Police and Crime Commissioner for Lincolnshire*. Although this was the specifics of the case, the issue was one of general malpractice rather than ethnic minority progression within the police.

# 4. Regulating Police-Initiated Stops: A History of Crises and Reform

As the previous chapter argued, police accountability has been deliberately centralised by national government leading to imbalances in the tripartite structure. Using the example of police-initiated stops, this chapter develops this argument by showing how the ensuing local democratic deficit has encouraged more adversarial forms of policing, particularly for ethnic minorities, as police officers have become more responsive to national priorities rather than their local communities. As previously alluded to and analysed here, legal rules form the primary means of regulating police practice since the 1980s. Contrary to the retrospective and explanatory nature of police accountability (chapter 2), regulation is prospective and seeks to anticipate potential misconduct (Smith, 2009) whilst maintaining opportunities for redress when they do occur (Shiner, 2015b). But regulations rely upon the police to implement those controls into their discretionary practices and therefore limits the scope for local policing bodies and the public to participate in these processes.

The first part of this chapter outlines the main police powers to stop and search and conduct other types of stops. The second part analyses the uneven regulatory framework governing police stops that has evolved from a repetitive cycle of crisis and reform, namely the requirement for reasonable suspicion; prior authorisation; and record-keeping and monitoring. The third section augments this by analysing historic data on the use of these powers to assess the effect that this local democratic deficit has had in encouraging the huge expansion of their use. This chapter concludes by discussing the implications of these encounters for democratic police governance.

Stop and search is a flash-point in relations between the police and ethnic minority communities (Delsol & Shiner, 2015) and is associated with reduced perceived legitimacy of the police as well as major anti-police disorders since the 1960s (Scarman, 1981; Keith, 1993; Miller et al., 2000; Bowling & Philips, 2007; Riots Communities and Victims Panel, 2012; HMIC, 2013, Medina, 2013). But it is just one of a wider range of police-initiated stops with similar implications. Taken together, they raise questions about the extent to which these police practices are democratically accountable, particularly to the minority groups most affected by their use. Searches under counter-terrorism legislation are also discussed throughout this thesis despite being treated separately by most research in this area (e.g. Hallsworth, 2006; Qureshi, 2007; Parmar, 2011; Lewis, 2015). So too are other encounters which do not result in a search (e.g. Young, 2016), although Delsol & Shiner (2015) provide a notable exception. Despite some key differences in their regulatory framework and varied scope for public accountability, they reveal a common trajectory and societal impact. Therefore, a holistic focus can help to better understand the broad range of influences that shape police officers' use of their coercive powers, how it then translates into people's policing experiences on the ground, and how existing institutional arrangements have promoted or undermined police accountability. Doing so also reflects the realities of operational practice whereby police officers interchange between their available powers and practices to maintain social control.

### *4.1. Stop and search and other police-initiated stops*

'Stop and search' refers to powers available to police officers to search people in public places for dangerous weapons, stolen property or other prohibited items like controlled drugs.[23] As an investigatory power (Delsol, 2006), its main purpose is to discover evidence

[23] A 'controlled' drug is one that is illegal to possess or supply unless authorised to do so by a warrant under the the Misuse of Drugs Act 1974.

of law-breaking, and any prohibited items found may be seized for any criminal proceedings and the person arrested, although police officers have the discretion to apply other sanctions such as a warning, fine or a community penalty notice. Because people searched are obliged to comply and police officers may use 'reasonable force' to effect searches, such encounters constitute a legal form of detention (Bowling & Phillips, 2007). However, officers are encouraged to first question suspects in order to better inform their decision to search, but this is not a requirement of any encounter (Home Office, 2014h; TSO, 2012).

Before the modern legislation analysed in this thesis, police officers relied upon ad-hoc local by-laws to conduct searches. This caused wide variation in the quality of those encounters and the lack of controls resulted in racially discriminatory practices (Brogden, 1981; Scarman, 1981; Willis, 1983). Additionally, up to the early 1980s, the Vagrancy Act 1824 provided officers across the country with the only national power to arrest people for suspected *intent* to commit a crime, whereas local search powers required the higher threshold of actual *evidence* of law-breaking for an arrest to lawfully take place (Demuth, 1978; Willis, 1983). This power was known as 'Sus' because arrests and prosecutions were led by officers' suspicions regardless of whether there was any evidence of such crimes having taken place or likely to occur (Demuth, 1978). Following a recommendation of the Royal Commission on Criminal Procedure (RCCP) in 1981, Sus was repealed and PACE replaced all stop and search powers with a permanent, nation-wide power regulated by a code of practice ('Code A').[24] Since PACE, more powers to stop and search members of the public have been added to police officers' arsenal (see Appendix A). Most of these require police officers to have some degree of prior suspicion of law-breaking in order to detain a

[24] Scarman (1981) recommended all stop and search powers be repealed and replaced by a single, national power. This was not endorsed by the government at the time nor any other since.

person for a search. These are discussed first, followed by the minority of 'exceptional powers' that do not require suspicion and are targeted towards serious violence or terrorism. Finally, other types of encounters or legal powers that are used in considerable volumes to stop and/or search people, drivers and vehicles are discussed.

### 4.1.1. Powers requiring 'reasonable suspicion'

Most stop and search powers require reasonable suspicion that an individual is or has committed an offence in order to lawfully search them (Appendix A). This is the same legal threshold for an arrest and, following lessons learned from Sus, points to the secondary aim of searches: to avoid unnecessary arrests (Scarman, 1981). **Section 1 of the Police Criminal and Evidence Act 1984** is one such power and enables police constables to search people and vehicles for evidence of a wide range of offences such as carrying weapons, fireworks and stolen or other prohibited items obtained through burglary, fraud or theft. Additionally, **Section 23 of the Misuse of Drugs Act 1971** allows officers to search people and vehicles believed to possess controlled drugs. Further, **Section 47 of the Firearms Act 1988** provides powers to search people and vehicles suspected of carrying firearm or ammunition in a public place or about to commit a crime anywhere using that weapon. Finally, **Section 43 of the Terrorism Act 2000** enables police officers to search people (and drivers under Section 43A) for evidence of involvement in terrorism and stands out from other all counter-terrorism powers in being the only one that requires reasonable suspicion.

### 4.1.2. Exceptional powers

Three powers currently exist which do not require officers to have prior suspicion of a person's involvement in crime in order to stop, question and/or search them. These are

known as 'exceptional powers' because they are meant to be used only in the rare circumstance that routine powers are deemed insufficient to manage serious threats of violence or incidents of terrorism to justify their deployment. In recognition of the ease with which people can be searched without suspicion, these powers require the prior authorisation of a senior officer to bring it into legal effect and only for a defined period of time. But this has been found to provide little practical safeguards, as discussed later.

**Section 60 of the Criminal Justice and Public Order Act 1994** provides powers to stop and search people and vehicles without the requirement for suspicion in locations where "serious violence" may take place or dangerous or offensive weapons are believed to be carried "without good reason". It requires prior authorisation by an officer of the rank of Inspector or above where s/he believes that such authorisations are expedient to preventing such violence and can last up to an initial period of 24 hours with a possible extension to a further 48 hours. Section 60 is the only exceptional power governed by PACE Code A but is "solely in the hands of local police" because unlike other exceptional powers it does not require the external authority of the Home Secretary (Bridges, 2015:25). When in place, **Section 60AA** provides officers with an ancillary power to require people to remove disguises used to conceal identities but this requires a separate authorisation to have effect.

**Section 47A[25] of the Terrorism Act 2000** provides powers to search people and their vehicles for evidence of involvement in terrorism, also without the requirement for prior suspicion. It is the most recent addition following the repeal of section 44 of the same Act, a power which is also analysed in this thesis due to its on-going relevance to debates on and legal challenges to stop and search.[26] Whereas an authority to use **section 44** could

[25] Not to be confused with Section 47 of The Firearms Act 1988, already discussed.
[26] Chapter 6 discusses the reasons and circumstances behind the repeal of section 44.

only be granted where an officer of at least the rank of assistant chief constable (or a commander of a London borough) believed that terrorism *may* occur and the power was *expedient* to prevent those acts, section 47A has the higher threshold of requiring belief that acts of terrorism *will* take place and that the power is *necessary* to prevent it. The duration and geographical extent of section 47A authorisations is also stricter although, unlike section 60, it requires the confirmation of the Home Secretary to last the full duration, although the Secretary of State can also shorten or cancel it altogether.

The maximum period for a section 44 authorisation was 28 days if confirmed by the Home Secretary otherwise it would automatically lapse at the end of the first 48 hours. However, police forces were exploiting this loophole by making 'rolling authorisations' every 48 hours for large geographical areas irrespective of the nature of threats perceived (HM Government, 2011; Lennon, 2013). By contrast, section 47A can only last up to 14 days if confirmed by the Home Secretary otherwise it automatically lapses after 48 hours, and the geographical extent of the order can only be as far as is considered *necessary* to prevent terrorism. Further, the codes of practice attempt to defeat the former loophole by expressly forbidding constabularies from making another authorisation for the same area by stating that the Home Secretary will only extend orders or requests to alter the geography if justified by new intelligence (TSO, 2012). Therefore, the requirements surrounding section 47A is far stricter than its predecessor and may explain why it has never been authorised in England and Wales,[27] even during major public events where section 44 would have almost certainly been used, such as the London Olympics in 2012 and various public celebrations relating to Britain's royal family since.

[27] Section 47A has only ever been used once and in Northern Ireland (See: Anderson, 2014).

Finally, **Schedule 7 of the Terrorism Act 2000** is, arguably, the widest ranging of all police powers to stop and search, albeit one confined to ports, airports and their surrounding areas. Counter-terrorism officers may 'examine' or 'detain' travellers for up to six hours without requiring any suspicion to believe that they are involved in terrorism.[28] During the encounter, officers may undertake any of the following. First, they can *examine* a person for up to an hour to question them; inspect their passport or other identification; and search the individual, their property and any associated vehicle(s). If by the end of the first hour officers still wish to examine the person, they must formally *detain* them for up to an additional five hours, although the detention can commence earlier on during the encounter. However, no combination of an examination and detention can last beyond the maximum legal period of six hours and suspects are obliged to co-operate with the full extent of the encounter. Following recent legislative changes discussed in chapter 6, detentions can now only take place with the authority of a 'review officer' who is at least one rank above the detaining officer(s), was not involved in the original decision to examine the person, and s/he must also review the detention at least every two hours thereafter. Where officers are authorised to detain a person, they can carry out more in-depth questioning of that detainee; conduct a more extensive search of their body, belongings, or any associated vehicle(s) still in the port, and all areas of the port or transport that they are believed to have used; carry out a strip-search if they believe the detainee is concealing any items; take samples of their DNA and fingerprints regardless of the outcome of the encounter; scan and download information from electrical property such as mobile phones, laptops and tablet computers; and confiscate property for up to seven days for further analysis or longer for any criminal proceedings.

[28] During the research period, legislative changes were made to Schedule 7, including reducing the maximum detention period down from nine hours to six as discussed in chapter 6.

4.1.3. Other police-initiated stops

In addition to the powers outlined above, there two other types of police encounters which are used in considerable volumes. **Section 163 of the Road and Traffic Act 1988** is a stand-alone power enabling police constables to stop motor vehicles and people riding bicycles without requiring any suspicion or even a specific reason to do so. **Sections 164-165** provide ancillary powers to require stopped drivers to produce their driver's license, name, address, insurance certificate and state their date of birth if they are believed to have been involved in any traffic offences or a road accident. This power is not governed by any of the statutory codes of practice nor is data on its use required to be collected by forces. Should officers wish to search a person or their vehicle, they must use any of the other legal powers already described.

**Stop and account** is another type of police-initiated stop and the least intrusive of all. Here, people are asked to account for themselves, their behaviour or presence in an area but, crucially, officers cannot search them unless they invoke one of the legal powers just described. Significantly, stop and account is not a legal power and so people are neither formally detained nor obliged to answer questions. However, police officers usually obtain compliance by exploiting people's wrongly-held belief that they are obliged to co-operate (Young, 2016) and, in any case, from the public's awareness that officers could invoke more forceful action should persuasion fail (Klockars, 1988; Brogden et al., 1988). The misconception that the encounter is a legal power came from the statutory requirement to record it following a recommendation of Macpherson's (1999) inquiry into the Metropolitan Police's mishandling of the racist murder of teenager Stephen Lawrence. Macpherson recommended the recording all stops, including those that did not result in a search, and giving people a written record of the encounter. This arose from the evidence

he heard from ethnic minority groups across the country suggesting that police stops was a universal cause for concern despite the repeal of Sus and rationalisation of the law almost two decades beforehand. As Young (2016) argues, the police successfully persuaded the government at the time to not extend the statutory requirement to record the full range of stops, notably traffic stops, owing to concerns about the 'bureaucracy' involved. Therefore, recording stop and accounts alongside the legal powers to search promoted the idea that it too was a legal power. However, by 2011, less than a decade after it begun, the police succeeded in persuading the Conservative-Liberal Democrat to revoke the requirement to record these encounters, as discussed in more detail later in this chapter. Most police forces immediately ceased doing so without any public consultation (Bridges, 2015). Thus, as Reiner (2015:xiii) rightly points out, "we are left with a phantom power brought into some kind of formal existence by a now abolished safeguard". This raises significant questions about the extent to which regulation is effective in ensuring police officers are held accountable for using their powers, as is now discussed.

### *4.2. Regulating police stops*

Clearly, police officers enjoy a broad range of discretionary powers to stop people and, if desired, to also search them. These functions have grown over the decades alongside the expansion of police powers more generally and the weakening of procedural safeguards, particularly since 'crime control' has become the 'hegemonic' discourse since the 1990s (Reiner, 2010; Sanders et al. 2010). At the same time, for the reasons explained in the previous chapter, numerous legislation have made the police more accountable to the law through regulatory controls rather than to police authorities or local community groups. This section analyses the efficacy of the following three primary forms of regulatory

controls over police stops and their implications upon democratic accountability: reasonable suspicion, prior authorisation, and record-keeping.

### 4.2.1. Reasonable suspicion

Reasonable suspicion is defined by PACE code A and applies to section 1, section 23 and section 47; a similar definition applies to section 43 which used to be governed by the code until a separate one was established for it and other counter-terrorism street powers (see: TSO, 2012). Code A states that reasonable suspicion "should normally be linked to accurate and current intelligence or information, relating to articles for which there is a power to stop and search, being carried by individuals or being in vehicles in any locality" (Home Office, 2014h:para2.4; TSO, 2012:9). This could be based upon officer's own assessment of how people are behaving rather than any actual evidence that suggests they may or have already committed a crime.

The extent to which reasonable suspicion limits unnecessary searches is open to debate. Whereas studies of exceptional powers argue that it does, in comparison, limit use by at least requiring some explanation to be recorded and given to persons searched (Parmar, 2011; Lennon, 2013), others consider it to be weak (Bowling & Phillips, 2007), a "slippery concept" (Sanders et al., 2010:74), or even rarely met in practice (Lustgarten, 2002). This could partly be due to the widely divergent interpretations officers have concerning when that legal threshold has been met (Quinton et al. 2000; Quinton, 2011; HMIC, 2013), but also the permissive nature of police powers in general (Reiner, 2010; Sanders et al., 2010).

Observational studies into how police officers form their suspicions, though rare, collectively show that such decision-making is based upon a combination of subjective

factors: interpreting people's behaviour; previous contact with individuals already known to them; perceptions of things being 'out-of-place'; and stereotypes concerning who are the 'usual suspects' involved in crime (Quinton et al., 2000; Quinton, 2011; Johnson & Morgan, 2013). International comparative studies show that this is not unique to the British police (Delsol, 2006; Johnson & Morgan, 2013), but is a consistent feature of police occupational culture worldwide (Reiner, 2010; Sanders et al., 2010).

Basing suspicion purely on the perceived 'race' of a person has long been prohibited by Code A which states: “reasonable suspicion can never be supported on the basis of personal factors” (Home Office, 2014h:para2.2B). In 2009, religion was expressly added to this list of prohibited factors following claims of discrimination against Muslims since the New York terrorist attacks in 2001 and the London bombings in 2005 (Sanders et al., 2010; Bridges, 2015). As Sanders et al. (2010:75) argue, this “twenty-first century addition” is “a rare example of the law attempting to take into account the social reality of policing on the streets.” Additionally, using a person's previous contact with the police or criminal record to justify a search is generally prohibited, except in relation to counter-terrorism searches given the nature of those crimes. Even so, the codes still provide officers with extremely wide latitude to justify even the most baseless of searches, particularly through claims of a person 'acting suspicious'. A recent inspection of a representative sample of stop and search records from every police force in England and Wales revealed that almost a third of them (27%) had in fact no reasonable grounds to justify the search, with the most common reason being “acting suspicious” (HMIC, 2013). The scale of such practice also supports Sanders et al.'s (2010) suggestion that formal rules have had an 'enabling' effect by legitimising dominant practice rather than restraining them. Ultimately, Code A provides officers with practical guidance on how to interpret and

exercise their powers but any breaches do not make officers liable for their actions even if it may be referred to in criminal or disciplinary proceedings. Indeed, observational studies have found that police officers act primarily in accordance to occupational cultures and rules developed on the job (Miller et al, 2000; Quinton, 2011), thus suggesting that adherence to PACE is largely tokenistic.

Code A was recently strengthening in relation to what constitutes reasonable suspicion to the following:

> "This test must be applied to the particular circumstances in each case and is in two parts:
>
> (i) *Firstly,* the officer must have formed a *genuine suspicion* in their own mind that they will find the object for which the search power being exercised allows them to search; and
> (ii) *Secondly*, the suspicion that the object will be found must be *reasonable*. This means that there must be an *objective* basis for that suspicion based on facts and information which are relevant to the likelihood that the object in question will be found so that a reasonable person would be entitled to reach the same conclusion based on the same facts and information."
>
> (Home Office, 2014h:para2.2; original emphasis)

Arguably, this is another example of the law accounting for the social realities of policing and is significant for many reasons. The revised code did not make any substantial changes to the prohibition on race/religion or use of stereotypes. Instead, traditional concerns relating to fairness have been broadened from the narrow focus upon racial/religious discrimination towards the broader question of: can the intrusion upon a person's liberty be justified by the reason for the search? The Code answers by suggesting this can only be objectively justified if some other person is likely to reach the same conclusion. Related to this, 'hunches' or other more subjective factors are explicitly excluded from forming grounds for the "genuine suspicion" described. More significantly, for the first time ever, the criteria ties reasonable suspicion to a justifiable outcome of the search. By linking this

to the likelihood of finding the object sought for, this much stricter test recognises the ease with which people can be searched and is intended to end the practice whereby officers could detain people and then fish around for a retrospective justification for the search. There is also hardly any doubt that a search resulting in evidence of a crime having been or likely to be committed would be justified in the eyes of this hypothetically "reasonable person".

It is too soon to ascertain what impact this revision may have on officers' discretion but, in any case, it is likely to be minimal because formal rules feature less prominently in their decision-making compared to on-the job occupational rules (Quinton et al. 2000; Quinton, 2011). A recent HMIC (2013) inspection, which prompted these revisions to Code A, reinforced the findings of earlier Home Office studies (Quinton et al., 2000; also Miller et al., 2000) by finding huge variations still exist in officers' understanding of what constitutes reasonable suspicion, even among those within the same deployment teams. Further, this inspection revealed not only a woeful lack of front-line supervision necessary to ensure that officers are held accountable by their line managers for any misconduct, but, alongside follow-up inspections, have found that chief officers have not been willing to provide the necessary leadership to drive through longer term changes to practice (HMIC 2013, 2015a, 2016). Therefore, it is perhaps unsurprising and inevitable that the ambiguities surrounding what constitutes reasonable suspicion, together with the lack of proactive internal monitoring against abuse, has rendered this procedural safeguard almost entirely useless. Even if these weaknesses were to be addressed, police officers could still circumvent them by exercising their powers which do not require suspicion or use more informal means to stop people and make them account for themselves, particularly as this is no longer longer recorded by most police forces. As the individual decision to subject a

person to a search is an operational decision, it excludes members of the public from being consulted or involved in this process. One solution is to subject search records to public scrutiny, but few force have historically done this as discussed in the later section on external monitoring.

### 4.2.2. Prior authorisation

Exceptional powers do not require suspicion and so their main procedural control emanates from the need for prior authorisation to bring them into legal effect. Use of the power without authorisation is illegal but can go unnoticed without the adequate front-line supervision found to be missing across forces (HMIC, 2013). Only street powers require prior authorisation (i.e. section 60 and section 47A) unlike schedule 7 which is permanently in effect across ports and airports.[29] Authorisations are meant to ensure that the powers are granted only in the rare circumstances that the ordinary powers are insufficient to counteract serious violence or terrorism incidents. However, as this section discusses, once granted, there continues to be little procedural safeguards to ensure that only people genuinely suspected of serious violence or terrorism are searched, particularly as senior and chief officers have historically exploited legal loopholes to ensure the de-facto permanency of the power.

Unlike section 44, section 60 use remains firmly within the police's control because it does not require any external authority for its initial use nor for any subsequent extensions to the maximum legal period (Bridges, 2015). The Knives Act 1997 loosened this safeguard by reducing the level of authorising officer required to make such orders from superintendent down to inspector and also lengthened the maximum period authorisations could be

[29] Recent legislative changes to schedule 7 introduced a different type of authority required. This relates to the role of a 'review officer' in authorising a person's continued detention, as already discussed.

extended from six hours to twenty-four. Surprisingly, despite wide agreement on the power having been expanded and misused since (e.g. Sanders et al., 2000; Shiner, 2012; Delsol & Shiner, 2015), there is only sparing literature on the efficacy of prior authorisations as a safeguard.

The Independent Police Complaints Commission (IPCC), the regulatory body that investigates and monitors complaints against the police, raised concerns over the misuse of section 60 in a complaint it upheld against the West Midlands Police. The IPCC (2007) concluded that the relevant authorisation was "unjustified" because it was used for routine crime problems rather than its legally intended purposes. It also highlighted that it had "raised similar concerns over the last 3 years" thus suggesting that authorisations had been frequently misapplied. An analysis by the Equality and Human Rights Commission (EHRC, 2012), the U.K.'s equalities watchdog, of section 60 orders across the country suggests that the issues raised by IPCC has been a wider systemic problem. The EHRC shows that, even between comparatively similar forces, there was considerable variation in the number of authorisations made, their average duration and that of any subsequent extensions, and the number of searches then conducted. Despite the varied quality of the raw data supplied from forces and reproduced in its report, it also shows considerable variation in the justifications given for authorisations. Many appear to have been made simply because large, public events were due to occur, namely football matches, rather than in anticipation of violence as the law requires. This all suggests that section 60 authorisations have provided little control against the routine use of the power and for unintended purposes, particularly given that a large number of orders were granted without a single search then having taken place to potentially justify its deployment.

Before its repeal, section 44 use represented the worst example of how weak regulatory controls operate in practice. Authorisations were made by chief officers, and subsequently granted by the Home Secretary, to cover vast urban areas and on a 'rolling basis' irrespective of the nature of the threat at the time, particularly across London and the country's railway network (HM Government, 2011; Lennon, 2013). This lasted for a number of years and even where requests to extend orders beyond the initial 48 hours were not granted by the Home Secretary, chief officers had circumvented this by making fresh authorisations before the end of the previous one, thus ensuring the de-facto permanency of the power. Ironically, it was a government review into the historic use of section 44 which exposed the scale of malpractice. The review was initiated soon after the Conservative-Liberal Democrat Coalition government assumed office and in fulfilment of both parties' electoral pledge to curtail some of the greatest restrictions upon civil liberties enacted by the previous Labour government (see HM Government, 2011). Astonishingly, it found a number of erroneous orders confirmed by successive Labour home secretaries lasting beyond the total maximum legal period of 28 days. In other words, police officers were engaged in government-sponsored law breaking and this is particularly revealing of the extent to which successive Labour home secretaries had produced an environment conducive to the flagrant disregard of regulatory controls.

Section 47A has since replaced section 44 and contains far tighter controls over the authorisation period, geographic limit, and requests for extensions. As the power has not yet been used in England and Wales, it remains unclear how well these processes safeguard against the historic failures, although the very fact that it has not been deployed for major public events that section 44 would have almost certainly been used shows that it may be having its intended inhibitory effect. However, this is highly dependent upon how

future home secretaries decide to exercise their right to extend, shorten or cancel a section 47A authorisation and whether they and any requesting chief constable(s) feel that the intense public scrutiny following the first ever deployment of the power is outweighed by any perceived gain from its use.

In sum, the literature shows that the requirement for prior authorisation has provided little safeguard against the routine use of exceptional street powers, particularly with regards to counter-terrorism searches for which it has had absolutely no historical restraint. As this research also indicates, there is huge variation in the scale of authorisations, subsequent use of exceptional powers and quality of recording even between comparatively similar forces. This suggests that the cultural attitudes instilled by chief and senior officers are far more important in shaping how exceptional powers are used rather than any regulatory controls. Further, the lack of external authorisation for section 60 hampers democratic accountability as it denies any external body, whether the Home Secretary or members of the public, a role in deciding whether any intelligence justifies its use. Although section 47A does require the Home Secretary's approval for longer durations, the nature of counter-terrorism policing precludes ethnic minorities or other social groups and PCCs from being consulted on its use or even from offering any kind of retrospective accountability.

#### 4.2.3. Record-keeping and external monitoring

'Record-keeping' is a core means by which most police-initiated encounters are regulated and the law seeks to illuminate this highly discretionary practice hidden away even from supervising and senior officers. Official inquiries in the 1980s (RCCP, 1981; Scarman, 1981) highlighted the lack of police officer accountability to the public and need to

monitor wider trends in stop and search use. This resulted in PACE requiring police officers to record stop and searches, give a copy to persons searched as an immediate form of accountability, and it also placed a duty upon police authorities to ensure chief constables and borough commanders were externally accountable to the public through police-public liaison committees.

Similar to previous versions, Code A currently requires records and identified trends to be monitored internally by the police, with a particular focus on potentially discriminatory practice, but also externally through police-public liaison committees. However, many searches go unrecorded despite the legal requirement to record them (Willis, 1983; Miller et al. 2000; HMIC,2013) and many other types of encounters are not recorded, thus making it impossible for supervisors and senior managers to obtain an accurate picture of officers' discretionary practice. There has also never been a requirement to record encounters where a person is originally detained for the purposes of carrying out a search but none subsequently takes place, for example, because the initial suspicion is allayed after questioning. As Young (2016) argues, the lack of universal recording was primarily the result of successful police lobbying against it during Home Office trials testing the viability of recording the broader range of encounters advocated by Macpherson (1999). This resulted in its scope becoming progressively narrow, notably excluding the significant number of traffic stops carried out (Miller et al., 2000; Young, 2016). Police resistance to recording has continued since with officers exploiting the lack of oversight of their practice to select which searches to record, thus resulting in significant under-recording (Miller et al., 2000; HMIC, 2013). All of this undermines the ability for record-keeping to accurately reflect operational practice and, therefore, the public and police authority's reliance upon this data as the primary source of scrutiny hampers local police accountability.

Public liaison groups are the most intrusive means by which chief officers are required to make themselves and their officers publicly accountable. But as the previous chapter discussed, these groups lack representation from ethnic minorities and other groups most affected by police practices and also lack the power to effect any desired changes to such practices (Scarman, 1981; Morgan, 1987; Brogden et al. 1988; Rowe, 2004). So whilst various legislation have expanded the range of issues for which chief constables and police authorities are required to consult their liaison committees, there is no obligation upon chiefs to make changes to policies or practice in light of any critical feedback. Therefore, Morgan (1987:94) and Scarman's (1981:para5.69) warnings of the dangers of those groups becoming endless "talking shops" have failed to be heeded.

Failures to maintain stop and account recording is the clearest example of how power still resides in the hands of chief constables rather than the public or their police authorities. As Code A states:

> "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. Guidance should be provided locally and efforts made to minimise the bureaucracy involved. Records should be closely monitored and supervised... and *forces can suspend or re-instate recording of these encounters as appropriate*."
>
> Home Office (2014h:20; emphasis added)

As the Codes state, this decision is firmly within the hands of chief constables. While it does leave open the possibility for re-recording stop and accounts, it is practically redundant because neither the local policing bodies responsible for holding chief constables to account nor members of the public most affected by these encounters are given any role in ensuring their chief constable does "re-instate recording" where concerns

do exist to “make it necessary”, as the Codes require. Revealingly, few forces continued to record these encounters once the coalition government revoked the requirement to do so in 2011 and most ceased without even consulting their local communities (Bridges et al., 2011). This is despite stop and account data at the time showing high enough racial disparities to make it as significant an issue locally as stop and search (ibid). This is unsurprising given the scale of police opposition to recording those encounter from its inception (see Shiner, 2010). Further, the lack of recording makes it almost impossible for local policing bodies or ethnic minority groups to evidence systemic, force-wide concerns exist to justify re-introducing records. Therefore, without any external control over this decision, whether by distributing power to local communities or policing bodies, it relies entirely upon the will of chief constables which, as the literature already discussed suggests, will almost certainly not be forthcoming.

Another example of how powerful chief officers have been in deciding what information is publicly available to ensure they are adequately held accountable is their on-going resistance to publishing separate figures on their use of section 43, with the sole exception of the Metropolitan Police. Although section 43 use is recorded by every force, it is published as an aggregate figure combined with other powers requiring reasonable suspicion. Significantly, this is despite the persistent calls for separate figures by the current independent reviewer of counter-terrorism legislation (Anderson, 2011, 2012, 2013, 2014, 2015), a government appointed figure approved by Parliament. Once again, chief constables rather than any external or other institutional actor appear to be in control.

Yet even if recording was extended to cover all police-initiated stops, numerous inspections have found that the supervision and leadership required to address public

concerns surrounding their use has been missing (EHRC, 2010; HMIC, 2013, 2015a, 2016). Also, ironically, the over-reliance upon recorded data to monitor police practice has contributed to pressures upon police officers to overuse their powers and in circumstances where they may not have otherwise done so. Police data has been used by central government to measure police productivity and impose performance targets upon senior and chief officers as most clearly indicated by the Home Office's (2005) stop and search manual which itself followed the notorious Police Reform Act 2002. This Act gave the Home Secretary unprecedented powers to issue a National Policing Plan and set objectives for every police force and police authority to comply with (see chapter 3). As research with police officers has shown, some have admitted to carrying out searches in order to meet these targets rather than for reasons justified by law (Loveday, 2006; Cockcroft, & Beattie, 2009). Whilst these studies focused on general stop and searches, the same pressures are likely to be present for all other types of encounters given how extensively applied the police performance framework has been.

In a somewhat similar vein, and in the words of the former independent reviewer of anti-terrorism legislation, the pressures upon officers to reduce racial disparities in counter-terrorism searches led to "ample anecdotal evidence" to suggest that some were searching white people in order to "balance" the statistics (Carlile, 2009:para140).[30] These seemingly contradictory pressures to show productivity but simultaneously reduce racial disparities have produced the same end result. Rather than seeking to decrease the number of non-white searches and risk facing management action for what would appear to be reduced productivity, searches of whites were increased in the hope that this would produce the balancing effect on the disparities evident in the statistics discussed in the next section of

[30] In another twist of irony, that year the-then government's own security minister, Lord West of Spitfield, admitted to the House of Lords to having been searched under the power for similar reasons (HL Deb (2009-10) 23 Nov 2009).

this chapter. This transformed the primary purpose of monitoring from one that seeks to ensure police officers are accountable to their local communities for exercising their powers, to one where these records have been used to measuring performance and compliance with central government dictates.

To conclude the second part of this chapter, it is clear that the regulatory mechanisms designed to ensure that the police are accountable for exercising their powers has provided little restraint against misuse. As Reiner (2010:210) argues more generally "whatever powers the police have they will exceed by a given margin", and the foregoing analysis suggests that police-initiated stops has been a good example of this. Regulatory controls have contributed to a democratic deficit by excluding members of the public and police authorities from any meaningful role in scrutinising operational practice and narrowed their participation to merely analysing selective data without the necessary powers to effect any desired changes to underlying practices. Unsurprisingly, the use of these coercive powers have increased exponentially despite a series of crises and subsequent attempts at reforming the law and practice, as is analysed in the next and final part of this chapter.

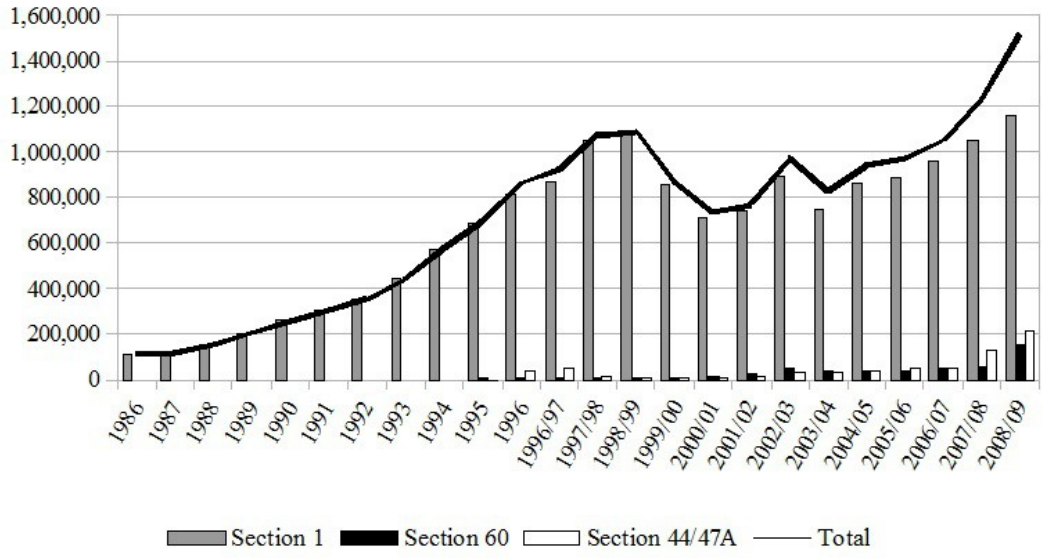
### *4.3. A history of crises and reform*

This section analyses historic trends in stop and search use and their impact upon ethnic minority communities.[31] As Figure 4.1 clearly shows, street-level searches have increased substantially since records were first published in 1986, with any reductions proving to be only a temporary response to specific crises (also table 4.1). Drawing upon a review of the literature, this section explains the exponential growth in stop and search use as largely due to a permissive environment sustained by central government and despite the hugely

[31] Data for 2009/10 onwards is analysed in the findings (chapters 6-7) as it forms the empirical focus of this thesis.

negative impact of those practices were known to have on relations between the police and ethnic minority communities in particular. In doing so, it finds ample evidence to support Delsol & Shiner's (2015:31) assertion that the powers are "intimately bound up with the broader politics of crime control and the functioning of the nation state" (also Murray & Harkin, 2016). Unfortunately, this section can only present a partial analysis of police-initiated stops owing to the selective recording of these encounters, their outcomes and any racial disparities; historic under-recording (Miller et al., 2000; Sanders et al., 2010); and missing data from intelligence databases due to misplaced forms or ineligible records (HMIC, 2013, 2015). Nonetheless, the data does provide an insight into how police officers exercise their powers and, together with the academic literature, questions the ability of regulatory controls to ensure that police powers are used in ways congruent with the expectations of local communities. Before this, this section starts by analysing the use of 'Sus' laws as it was a precursor to the modern powers analysed in this thesis.

**Figure 4.1 - Stops and searches in England and Wales, 1986-2008/09**




Notes: (1) Figures for the British Transport Police are excluded as they were only published since 2009/10.
(2) Section 1 figures include other powers that require reasonable suspicion (see Appendix A).

(3) Section 44/47A figures includes searches under section 13A and 13B of the Prevention of Terrorism (Temporary Provisions) 1989 which preceded section 44 of the Terrorism Act 2000.

Sources: Home Office (1997, 2003, 2012a; 2014b)

**Table 4.1 - Stops and searches in England and Wales and total percentage changes, 1986-2008/09**

| Year | Section 1 | Section 60 | Section 44/47A | Total | Total change (%) |
|---|---|---|---|---|---|
| 1986 | 109,800 | | | 109,800 | |
| 1987 | 118,300 | | | 118,300 | 8 |
| 1988 | 149,600 | | | 149,600 | 26 |
| 1989 | 202,800 | | | 202,800 | 36 |
| 1990 | 256,900 | | | 256,900 | 27 |
| 1991 | 303,800 | | | 303,800 | 18 |
| 1992 | 351,700 | | | 351,700 | 16 |
| 1993 | 442,800 | | | 442,800 | 26 |
| 1994 | 576,000 | | | 576,000 | 30 |
| 1995 | 690,300 | 2,380 | 6 | 692,686 | 20 |
| 1996 | 814,500 | 7,020 | 40,500 | 862,020 | 24 |
| 1996/97 | 871,500 | 7,970 | 43,700 | 923,170 | 7 |
| 1997/98 | 1,050,700 | 7,970 | 15,400 | 1,074,070 | 16 |
| 1998/99 | 1,080,700 | 5,500 | 3,300 | 1,089,500 | 1 |
| 1999/00 | 857,200 | 6,840 | 1,900 | 865,940 | -21 |
| 2000/01 | 714,100 | 11,330 | 6,400 | 731,830 | -15 |
| 2001/02 | 741,000 | 18,900 | 10,200 | 770,100 | 5 |
| 2002/03 | 895,250 | 44,398 | 32,087 | 971,735 | 26 |
| 2003/04 | 749,444 | 40,436 | 33,798 | 823,678 | -15 |
| 2004/05 | 861,494 | 41,611 | 37,013 | 940,118 | 14 |
| 2005/06 | 888,675 | 36,276 | 50,047 | 974,998 | 4 |
| 2006/07 | 962,897 | 44,707 | 42,834 | 1,050,438 | 8 |
| 2007/08 | 1,053,001 | 53,501 | 126,706 | 1,233,208 | 17 |
| 2008/09 | 1,159,374 | 150,174 | 210,013 | 1,519,561 | 23 |

Notes: (1) Figures for the British Transport Police are excluded as they were only published since 2009/10.
(2) Section 1 figures include other powers that require reasonable suspicion (see Appendix A).
(3) Section 44/47A figures includes searches under section 13A and 13B of the Prevention of Terrorism (Temporary Provisions) 1989 which preceded section 44 of the Terrorism Act 2000.

Sources: Home Office (1997, 2003, 2012a; 2014b).

### 4.3.1. ‘Sus’ laws and stop and search up to the 1980s

Prior to the modern stop and search powers analysed in this thesis, police powers to search members of the public varied by region. Additionally, 'Sus' laws under the Vagrancy Act 1824 enabled police officers nationwide to arrest people suspected of loitering with intent to commit crime, mainly thief-taking, or to sanction the 'wandering poor' and bring them before a magistrate for prosecution (Demuth, 1978). The overall lack of national consistency of this 'ad hoc' system meant that it was impossible to monitor how these powers were being used across the country, particularly since statistics on their use were not recorded. However, the limited research that exists on the use of Sus and regional stop and search powers suggests that they were used in racially discriminatory ways and were straining relations between ethnic minorities and the police (Demuth, 1978; Brogden, 1981; Scarman, 1981; Willis, 1983).

In her ground-breaking study of Sus, Demuth (1978) argues that the law had made it easy to arrest and prosecute young black males who were disproportionately affected by the power, and had effectively shifted the burden of proof onto defendants. This, she argued, was because the law enabled officers to arrest people for suspected *intent* to commit a crime rather than based upon actual *proof* of this, thus placing defendants' words against the police. Defendants had limited opportunities to seek trial by jury to ensure independent cross-examination of police testimonies that magistrates were themselves usually hesitant to question. This was despite the obvious limitations and contradictions that Demuth claimed to have plagued police officers' testimonies, such as the poor visibility of the alleged incident and officers' deliberate tendency to exclude alleged victim(s) from testifying in court. Demuth suggests that police officers did this to improve their chances of successful prosecutions by preventing any thorough examination of eye witnesses that

may result in their accounts contracting that of police officers and cases being quashed. Further, her analysis of Sus-related court cases and police data in the selected London boroughs that did record race-related information suggests that the quality of evidence used to support arrests and prosecutions varied substantially but was weak overall. Police officers were also found to be using Sus against the same individuals to reassert their authority over poorer and black communities; and used it as a 'catch-all' power to detain and prosecute people where other laws could not justify an intervention. Despite all of these weaknesses, and occasionally as a result of it, Demuth argued that the outcome of prosecutions depended upon the magistrates' own attitudes towards the police and the defendant rather than the nature of the evidence obtained. Thus, she concluded, Sus was ineffective and was having a deeply negative impact upon ethnic minorities, their future prospects, and provoked hostilities towards the police.

Similarly, Brogden's (1981:49) study of Sus in Liverpool and its interaction with local stop and street powers led to her concluding that the powers were discriminatory and "indicative of... a widening of social control which has blurred the boundaries of guilt and innocence, captivity and freedom", particularly against the urban poor and young black men. Drawing upon 163 interviews with male defendants, Brogden argues that stop and search is a good example of the "quasi-judicial functions of the police" (p.47) as officers had begun moving away from arresting people under Sus as it became subject to greater public scrutiny and magistrates were more "circumspect" towards such cases. Therefore, she argues, police officers resorted to invoking their powers to stop and search people in cases where Sus now proved to be ineffective as a sanction or asserting control over the public. Ultimately, she concluded, "discrimination has shifted backwards from the courts to the streets" (p.49). A Home Office study also found that stop and search recording

across the country was patchy, disproportionately targeted towards black people and was resulting in antagonisms towards the police (Willis, 1983). It also found wide variation in police practices across the country for which it blamed on police policies.

In sum, the literature concerning this early period suggests that relations between the police and ethnic minorities, particularly black people for whom the research almost exclusively focuses upon, were highly antagonistic and because police officers were using Sus laws and their local powers to stop and search in racially discriminatory ways. The low evidential threshold required by Sus law to arrest and prosecute suspects and its lack of transparency alongside the local stop and search powers hampered the ability of ethnic minority communities to hold the police to account for their practices. Such was the concern relating to Sus that Parliament voted to repealed it in 1981. The extent to which police-community relations had broken down was typified by urban riots earlier that year across the country, notably in Brixton, South London (see Scarman, 1981). A Royal Commission on Criminal Procedure (RCCP, 1981) was already underway following an unrelated scandal into police malpractice relating to the questioning and prosecution of suspects. It also chose to examine Sus and proposed its repeal as well as replacing all local powers to stop and/or search people with a single national, search power (Scarman endorsed the Commission's proposals having declined to make any suggestions himself). Following this crisis in 1981, the Conservative government at the time introduced the mandatory recording and publication of data on the main powers to stop and search, figures analysed next. This was at a time when PACE had significantly enhanced police powers and also introduced record-keeping as one of the primary means of regulating practice.

### 4.3.2. Expanding powers: 1986 to 1999

Police-recorded data shows that stop and search volumes and racial disparities have increased sharply, led primarily by section 1 and other powers requiring reasonable suspicion ("PACE searches").[32] This expansion has continued despite those powers having been found to produce the anti-police sentiments that fuelled numerous public disorders from the 1970s to the 1990s (Keith, 1993; also Scarman, 1981). Indeed, Home Office research shows that black people continued to be disproportionately affected with one in five searched compared to one in ten of the general public (Willis, 1981).

By the new millennium, PACE searches increased by almost tenfold from 109,800 in 1986 to 1,080,700 in 1998/99 (table 4.1). Home Office statistics show that as search volumes have increased, the proportion leading to an arrest has fallen from 17% in 1986 to 11% in 1998/99 (Sanders et al., 2010:76), thus pointing to an inverse relationship between search volumes and their effectiveness. Towards the end of that period, the police were also granted exceptional powers under public order and terrorism legislation. Since 1996, the first full year of recording of all street powers, each one shows a different trajectory. Section 60 remained largely stable and even fell in the latter years, primarily due to reductions in the Metropolitan Police area (Home Office, 2000, 2001a). Interestingly, this is despite the Conservative government's loosening of regulations in the Knives Act 1997 which reduced the rank of authorising officer down from superintendent to inspector. Further to the initial twenty-four hour maximum period an authorisation could last, it also lengthened the additional period orders could be extended to from six hours to another twenty-four hours. The relatively low and stable volume of section 60 searches shows that

[32] 'PACE searches' are known as such because they are governed by Code A of PACE 1984 despite falling under a range of other legislation and introduced or amended at various times. These powers include section 1, section 23, section 47 and also section 43, although the latter is now governed under a separate code (see TSO, 2012).

the requirement for prior authorisation may have mitigated against it being used more routinely during this period.

This procedural control, however, appeared to be less effective against suspicion-less counter-terrorism searches. Sections 13A and 13B of Prevention of Terrorism (Temporary Provisions) ("PTA") 1989, a precursor to section 44, was used at far higher levels than section 60, rising from 40,500 searches in 1996 to 43,700 in the following year (figure 4.1; table 4.1). The 'exceptionalisation' of terrorist threats relating to Northern Ireland was likely to have encouraged and justified the use of this power (Hillyard, 1993).[33] However, counter-terrorism searches then fell substantially in 1998/99 to 3,300 and again in 1999/2000 to only 1,900. This coincided with the newly-elected Labour government's achievement of a Northern Ireland political settlement in April 1998 which resulted in organised violence largely subsiding. The government's subsequent review of counter-terrorism legislation resulted in the PTA being phased out and replaced by the Terrorism Act 2000 which introduced permanent powers to stop and search suspected terrorists. Just as PACE had expanded general police powers to stop and search, so too had the Terrorism Act by making permanent what was originally intended to deliberately wide-ranging but only temporary counter-terrorism powers.

Arguably, this period represents a relatively straightforward episode in stop and search use. PACE searches had increased substantially as stop and searches became a routine feature of British policing, joined later by exceptional powers not hamstrung by traditional regulatory controls. The consistently low use of section 60 during this period shows that, despite its weaker regulations, its controls had mitigated against it being used more

[33] The conflict related to whether Northern Ireland should remain part of the United Kingdom or as part of a united Republic of Ireland. Also note that counter-terrorism street searches and at ports were only published from 1995 despite their long existence prior to section 60.

routinely, particularly in comparison to the far higher frequency of counter-terrorism searches. It is this higher volume of counter-terrorism searches before their eventual repeal that is most notable during this period and suggests that the use of police powers is influenced by the wider political environment within which police officers operate.

### 4.3.3. The Macpherson effect: 1999/2000-2000/01

By the turn of the twenty-first century, stop and search had again come under significant public scrutiny but this time revealed a more complicated picture of how regulatory controls operate in practice. Following the publication of Macpherson's (1999) inquiry report into the racist murder of teenager Stephen Lawrence in 1993,[34] section 1 fell immediately for two consecutive years from a peak of 1,080,700 in 1998/99 down to 857,200 and then 714,100 in 1999/2000 and 2000/01 respectively (table 4.1), an overall reduction of 40%. This dip was predominantly confined to the Metropolitan Police area (Home Office, 2000) where the murder took place and was also accompanied by a higher search-to-arrest rate nationally from 11% in 1998/99 to almost 13% in 1999/2000 and then to over 13% in 2000/01 (Home Office, 2001a). This was the highest rate since 1992 and all subsequent years under Labour thus suggesting a more targeted use during this heightened period of public scrutiny.

Macpherson (1999) highlighted a number of failures in the Metropolitan Police's original investigation of the murder and, as with Scarman (1981), had heard from ethnic minority groups across the country who complained about their negative policing experiences, particularly of a range of police-initiated stops. Unlike Scarman, Macpherson concluded that the police were institutionally racist and cited police-initiated stops as a primary

[34] The six-year delay was due to the Conservative government at the time refusing to establish an inquiry until the Labour Government did so following their election in 1997.

example of how this manifests itself into routine police practice. In response, the Home Office initiated a series of studies into these encounters and piloted Macpherson's recommendation to record the broader range of police stops before extending it out nationally. Those studies highlighted the severely negative impact of police-initiated stops on the public, highly discriminatory practices, their marginal role in actually detecting and preventing crime, and substantial police resistance to reforming their practices (e.g. Miller et al., 2000; Quinton et al., 2000; Shiner 2010). Although Macpherson only exposed what was widely suspected at the time, the heightened public scrutiny and government attention made it harder for police officers to continue with the practices that had dominated since at least the 1980s and most likely produced the reductions described above.

Yet beneath the headlines, search rates of ethnic minorities had actually increased. Data at the time shows that whereas black people were searched at over 3.5 times the rate of whites in 1998/99 and dropped to three times in 1999/2000, after the initial shock of Macpherson's findings, it actually rose to four times that rate in 2000/01 (see Delsol & Shiner, 2015:51). Asians were searched at just over the same rate as whites and this rose marginally with more noticeable increases in subsequent years. This suggests that changes to practice following Macpherson were largely presentational and, as Delsol & Shiner (also Shiner, 2010) argue, this shows how successful police officers had been in averting more fundamental reform.

Conversely, both exceptional powers appear to have been unaffected by this enhanced public scrutiny. Section 60 use rose to 6,840 in 1999/2000 and 11,330 in 2000/01 (Home Office, 2001b; 4,000 of searches in 2000/01 was due to a West Midlands police operation). Counter-terrorism searches under the newly introduced Terrorism Act 2000 had also

increased sixfold over this period from 1,900 in 1999/2000 to 6,400 in the following year although it is unclear why it increased so much following the dissipation of British-Irish hostilities. What is certain, however, is that despite reductions in serious and other crimes at the time (Reiner, 2010), exceptional powers had nonetheless become a routine feature of British policing.

In sum, this third period of crisis surrounding stop and search had produced significant reductions in their volumes and a more focussed use at the start of the new millennium. This progress in reigning excessive use can be explained by the heightened public scrutiny and government action in relation to those powers following the Macpherson's (1999) inquiry. However, progress during these two years masked underlying police resistance to more fundamental reform (Shiner, 2010) as they continued to target ethnic minorities and more frequently invoked their exceptional powers neither subject to public scrutiny at the time nor hamstrung by the usual procedural controls. Further, the reductions in search volumes were concentrated in the Metropolitan Police, which accounted for only one-fifth of all searches (Home Office, 2000, 2001b), thus demonstrating a lack of progress outside of London despite Macpherson arguing that stop and search was a universal grievance among ethnic minorities nationwide. Even progress with London proved short-lived as the Labour government began to backtrack on its commitment to improve the policing experiences of ethnic minorities and even started to weaken regulatory controls.

#### 4.3.4. Crime control: 2001/02 to 2008/09

Two years was all it took to reverse the progress made since Macpherson's report. Whilst better recording procedures had contributed to some of the rise in the recorded figures (Sanders et al., 2010; Delsol & Shiner, 2015), it still cannot account for the sheer increase

of recorded use. Therefore, as this section argues, the significant expansion in stop and search use and disproportionality between 2001/02 and 2008/09 is better viewed as an outcome of the Labour government's ruthless pursuit of crime control policies, particularly with the emergence of new terrorist threats, and the impact of its performance regime discussed in chapter 3.

The year 2002/03 in particular marked a turning point in police governance. As chapter 3 argued, the Police Reform Act 2002 gave the Home Secretary substantial powers to establish a National Policing Plan; set targets to measure police performance in meeting those objectives; enforce remedial action against constabularies and police authorities failing to meet those targets; and even dismiss chief constables in the 'public interest'. Stop and searches formed part of this performance framework and the Home Office (2005) gave official credence to a myth that those powers were an effective crime fighting tool, contrary to its own research (e.g. Willis, 1983; Miller et al., 2000). With these pressures, total recorded searches rose sharply by 26% that year and continued throughout Labour's term in office. Within six years, total recorded searches exceeded 1.5 million in 2008/09, an increase of 56% since 2001/02, with PACE searches comprising the bulk of these (table 4.1, figure 4.1). As empirical research suggests, such were the pressures that police officers felt to meet central dictates that many admitted to conducting legally dubious searches to meet national targets (Loveday, 2006; Cockcroft, & Beattie, 2009), thus showing just how weak regulations operate in practice.

This permissive culture for stop and search use resulted in a number of patterns emerging from 2002/03. For the first time, drugs searches accounted for the largest portion of PACE searches (Home Office, 2003) and continued to do so, most likely due to the ease with

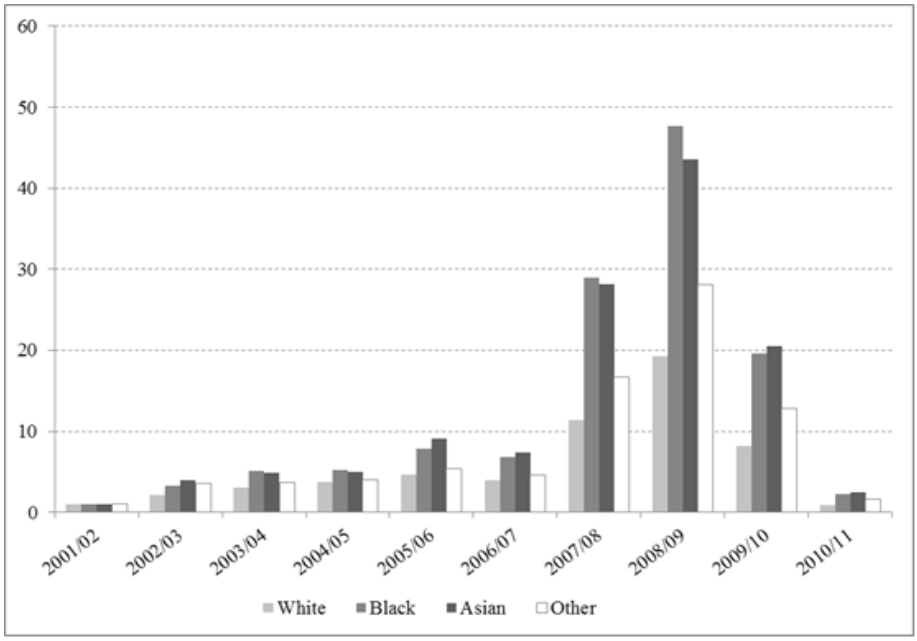
which ‘smell of cannabis’ could ostensibly justify a search. Second, as in the pre-Macpherson era, arrest rates continued to fall alongside increases in search volumes from roughly 13% in 2001/02 and 2002/03 to an unprecedented low of under 10% in 2008/09 (Home Office 2004, MoJ 2010). Third, racial disproportionality also rose during this period: whereas people from black and Asian backgrounds were searched at five and under twice the rate of whites in 2002/03, respectively, it rose to over seven and twice that rate in 2008/09, respectively (ibid).

Further, whilst PACE searches comprised the bulk of these volumes, the proportion of exceptional powers rose as they were more routinely used from 2002/03. Historically, exceptional powers comprised no more than 6% of all recorded searches at their initial height in 1996 and 1996/97. This was largely due to the scale of counter-terrorism searches but shrunk to no more than 3% thereafter. In 2002/03, they comprised 8% of total searches and rose to a staggering 24% at their height in 2008/09. Section 60 rose by over 238% from 44,398 in 2002/03 to 150,174 in 2008/09 with the most significant year-on-year increases occurring during those two specific years (table 4.1). Whilst the 135% rise in 2002/03 was primarily due to increased use outside of London (Home Office, 2003), the 181% increase in 2008/09 took place at a time of significant hysteria concerning so-called ‘black-on-black’ knife-related crime in London. Although studies of hospital records show that knife crime and homicides were already in decline (Crewdson et al., 2009; Melling et al., 2012), the significant media hysteria necessitated government-led action to reassure the public that it was capable of addressing the problem.[35] As section 60 searches increased, arrest rates under this power fell from almost 6% in 2002/03 to under 3% in 2008/09 although the proportion of arrests for carrying weapons or dangerous instruments has

[35] Interestingly, a Home Office review of its anti-knife crime initiative found that homicides and knife-related crimes had reduced in seventeen forces across the country for reasons unrelated to its programme (see Ward et al., 2011).

always been low (Home Office, 2010). Disproportionality has been significantly higher under section 60 compared to PACE thus suggesting that the looser regulations lend themselves to such disparities. In 2008/09, compared to whites, black people were searched at almost 12 times that rate; Asians or Chinese and others at almost five times; and mixed people at just over twice that rate (MoJ, 2010).

**Figure 4.2 - Stop and search under section 44 by ethnic appearance (indexed to 2001/02)**




Notes: Figures are indexed to 2001/02 and represent ethnic appearance of persons searched as judged by the searching officer and so may not reflect people's self-defined ethnicity.

Source: Quinlan & Derfoufi (2015:134).

Counter-terrorism searches in particular had become so routinely used since 2002/03 that it soon eclipsed section 60 as the second most used power from 2005/06 onwards following the London terrorist attacks ("7/7") in July 2005. The most substantial increases have occurred following key incidents, such as in 2001/02 when it rose by 59% after the New York terrorist attacks ("9/11") and then again by 215% in the following year; it rose by a further 35% after 7/7; and 196% in 2007/08 following a failed car bomb attack in central London.

Although there was a temporary fall in 2006/07 (table 4.1), most likely due to the significant community backlash following claims of discriminatory practice against people from Asian and Muslim backgrounds (e.g. MPA, 2007), this was very much the exception. As figure 4.2 shows, the expansion in use since 2001/02 had disproportionately affected ethnic minorities, all of whom experienced the greatest searches rates, particularly after the key incidents just described. Notably, people of South-East Asian appearances- narrowly equated to being Muslim- have generally been subject to the highest search rates since 2001/02 with the tactic agreement of central government. This came in a frank admission in 2005 by the-then security minister Hazel Blears who publicly stated:

> "Some of our counter-terrorist powers will be disproportionately experienced by people in the Muslim community. That is the reality of the situation, we should acknowledge that reality and then try to have as open, as honest and as transparent a debate with the community as we can. There is no getting away from the fact that if you are trying to counter the threat, because the threat at the moment is in a particular place, then your activity is going to be targeted in that way." (HASC, 2005:para167)

As this quote shows, the message from the Home Office, to whom police were more responsive to than police authorities or their local populace, was that searching Muslims was not only inevitable but necessary to prevent terrorism. It also revealed how the government had encouraged greater use of counter-terrorism stops as a reassurance for the wider public (see Home Office, 2005) and at the expense of the ethnic minorities most affected by these coercive powers. Black people had also experienced great increases in searches, particularly in 2007/08 and 2008/09 when they eclipsed Asians in being searched at the highest rates (figure 4.2). Other studies reinforce this finding (Hallsworth, 2011; Parma, 2011) and argue that the lack of suspicion required to use the powers was deliberately exploited by police officers for non-terrorism related purposes, namely for social control that tends to particularly affect young black men. Arguably, the general

disproportionate targeting of black people had become replicated under counter-terrorism policing even if those powers were primarily targeted towards Asians and Muslims.

Examinations and detentions at ports and airports also rose during this period. Schedule 7 data has only been routinely published since 2009/10 but some limited statistics predate this and show that encounters at ports had doubled in just four years from 1,190 in 2004 to 2,473 in 2008 (table 4.2). No data on the ethnic composition of people examined or detained during this period exists but the only figures to have ever been published on the outcomes of schedule 7 have been produced for this period. Between January 2004 and September 2009, 99 arrests arose from a schedule 7 encounter resulting in 43 convictions, figures a later Home Office (2012d:3) review of the power admitted was "not large". The number of people actually convicted is likely to be far lower because this figure counts every charge that person is convicted of rather than the number of people successfully prosecuted. Similar to other powers discussed, this suggests that the over-reliance upon regulatory controls instead of also greater democratic accountability has resulted in examinations and detentions at ports being used at higher volumes and in seemingly ineffective ways.

**Table 4.2 - Examinations under Schedule 7 to the Terrorism Act 2000 lasting over an hour, 2001 to 2008**

| Year | Examinations |
|---|---|
| 2001-2004 | 2,868 |
| 2004 | 1,190 |
| 2005 | 1,430 |
| 2006 | 1,620 |
| 2007 | 1,918 |
| 2008 | 2,473 |

Note: Figures cover the calendar period for each reported year.
Source: ACPO, Freedom of Information Request.

### *4.4. Conclusion*

Having analysed data on police-initiated stops and the related literature, the central findings from this chapter is that the reliance upon regulation as the primary means of police accountability has provided little to no controls against excessive practice. This appears to be consistent across all powers regardless of their intended purpose(s). Therefore, this chapter supports Sanders et al.'s (2000) assertion that regulation is largely 'presentational' and has had an 'enabling' rather than 'inhibitory' effect. It also reinforces Klockar's (1988) claim that the law, police professionalism, internal discipline and community policing are nothing more than circumlocutions to disguise the undemocratic nature of modern police practices. Arguably, this is an inevitable outcome of a system that has relied upon the police to regulate their own extraordinarily broad, discretionary practices and exacerbated by successive government who have produced an environment conducive towards malpractice.

The data analysis in this chapter also supports recent claims that stop and search use is intertwined with the wider socio-political environment that police powers operate within (Delsol & Shiner, 2015; Murray & Harkin, 2016). This chapter suggests that this argument can be extended to all other police-initiated stops. Reductions to stop and search in each of the four periods analysed above arose from government action following significant crises, particularly following major breakdowns in relations with ethnic minorities communities. For ethnic minorities, police stops have served as a daily reminder of their collective subordination despite their immense internal socio-economic and cultural diversity. Having been forced to take action, both Conservative and Labour governments have opted for the short-term strengthening of the regulatory framework rather than introducing more fundamental, structural reform that gives the public and their police authorities more

powers to shape local police practice. Inevitably, this democratic deficit has meant that any progress in addressing public concerns was always going to be temporary as both political parties have vied to appear 'tough on crime' and paid lip-service to the concerns of ethnic minority groups whilst simultaneously precluding them and their local policing bodies from any meaningful influence over police practice.

On the ground, the increased volume of searches has resulted in large numbers of people coming into adversarial contact with the police and this has fallen disproportionately upon ethnic minorities. This is despite research consistently showing that these powers are ineffective and undermine the positive relations necessary to combat crime more effectively. The significance of this is highlighted by a great deal of research reinforcing Skogan's (2006) theory of an 'asymmetric relationship' in police encounters. Skogan suggests that negative encounters with the police have a disproportionately adverse effect upon people's confidence in and perceived legitimacy of the police compared to the largely negligible impact of positive experiences. Research shows that this holds true for all types of powers and encounters. Controlling for a range of factors, these primarily survey-based studies have consistently found a statistically significant relationship with people being searched and a negative view of the police, especially among ethnic minority respondents (e.g. Bradford et al., 2009; Singer et al., 2013; HMIC, 2013; Tyler et al. 2010). Unfortunately, the quantitative nature of these studies cannot explain why police stops produce this effect but qualitative research has provided some answers to this question. Qualitative research suggests that whilst people see some value in these powers, it is the *nature* of the encounters that they are most concerned about i.e. police officers' lack of respect; dubious justifications for the stop; and perceived racial or religious profiling (Miller et al., 2000; Hallsworth, 2006; Sharp & Atherton 2007; Norman, 2009; Choudhury

& Fenwick, 2010; Parmar, 2011; Lewis et al., 2011; Blackwood et al., 2012; Wright et al., 2013). The fact that these findings have remained constant over time reinforces the inadequacies of regulatory controls to resolve local concerns and shows how little has actually changed at the structural level to ensure members of the public have greater powers to shape their own policing experiences.

As chapter 2 argued, equity, responsiveness to the public, and a greater distribution of power are three core elements of what constitutes democratic policing. Chapter 3 applied this to the institutional arrangements governing the police in England and Wales and this chapter has shown that police-initiated stops are a primary example of how these structures have produced undemocratic forms of policing and accountability. It is within this context that directly elected police and crime commissioners were introduced and tasked with reversing the local democratic deficit. The extent to which they have managed to do so, particularly in light of operational independence and central government's historic control-freakery, is an issue that this thesis investigates and is discussed in subsequent chapters.

# 5. Methodology

This chapter evaluates the methodology employed for this study, the many ethical and practical challenges encountered during fieldwork, and their potential impact upon the findings. Therefore, it provides the necessary context to interpret the research findings presented in subsequent chapters. Some of these challenges were typical to police research, but others were unique to this study because no empirical research existed on police and crime commissioners (PCCs) to guide the current study as it is one of the first in the country to investigate these new structures. The literature review (chapter 2 and 3) helped to develop this study's research questions and contributed to the decision to employ a multi-site, mixed-methods approach combining quantitative analysis of police recorded data and population demographics; semi-structured interviews; field observations and documentary analysis.

This chapter starts with a discussion of the applied nature of the research to contextualise the methods adopted and discussed in this chapter. It then discusses what 'mixed-methods' research entails, its challenges and why it was employed, followed by an evaluation of each method adopted. It then outlines the case study research design used to encapsulate the mixed-methods approach and discusses the criteria used to select the three local case study areas, all of which are introduced in the final section.

## *5.1. 'Action research'*

This PhD arose from a collaborative studentship funded by the Economic Social Research Council in partnership with the University of Warwick and StopWatch, an independent charity which campaigns for fair and effective policing. StopWatch is "a coalition of legal

experts, academics, citizens and civil liberties campaigners" who aim "to address excess and disproportionate stop and search, promote best practice and ensure fair, effective policing for all."[36]

The applied nature of the research meant that, at times, the researcher was engaged in 'action research'. Action research is an interdisciplinary approach that recognises the subjectivity and unequal power dynamics of knowledge production, seeks to safeguard the welfare of research subjects, and also promotes social justice (Brydon-Miller et al., 2003; McNiff & Whitehead, 2006). However, the degree of 'action' the researcher engaged in varied by the nature of the specific task and was mediated by a core concern to obtain a truer account of how police accountability operates locally by minimising the researcher's impact upon the research setting. McNiff & Whitehead (2006) argue that action research is best suited to understanding power-relations within research settings rather than the cause-and-effect relationships that this thesis also sought to understand. Yet considerable benefits arose from undertaking such an approach because, as Brydon-Miller et al. (2003) argue, it produces more 'valid' results by interpreting developments through the perspectives of local actors rather than the typically distant academic approaches. Further, this greater proximity to national and local actors provided unparalleled access to the constantly evolving environment that they operate within and helped to understand how national or local stimuli affect the power dynamics in police governance. These nuances would have been misinterpreted or missed entirely by conventional academic approaches.

As part of this collaboration, political hustings with prospective PCC candidates were organised on behalf of StopWatch and community groups in the three local case study

[36] See www.stop-watch.org

areas. These were held during the PCC elections right at the start of PhD and again at the end. These events were chaired by the local groups affiliated to StopWatch and the researcher deliberately refrained from engaging in public discussions on the night. This ensured that the researcher did not distort these proceedings which formed part of the fieldwork and fell purposefully short of what qualifies as action research. Outside of these observations and throughout the research period, partner groups received constant support in monitoring the implementation of PCCs' election pledges, interpreting Home Office data regularly published on police-initiated stops, and receiving advice on wider developments such as the police complaints system. Importantly, it was for these local groups to decide what their policing priorities were and how they wished to be supported. Police-stops was consistently raised as the most important issue affecting ethnic minorities, alongside hate crime.

Additionally, the author also contributed to the highly critical HMIC (2013, 2015a) inspection reports that produced the cross-political party consensus discussed in the findings. This had a significant impact upon the governance and use of stop and searches but would have occurred without the researcher's contribution. This is because the inspection had been commissioned by the Home Secretary and the team responsible for the report were already critical of its use; the author's role was to advise the inspection team on interpreting the data and to develop recommendations. Also, the author was an adviser to the College of Policing which developed standards to guide police forces for their use and monitoring of these powers. This gave the author a deep insight into how police accountability is negotiated which would have otherwise been missed, and the researcher's potential impact on the data analysed for this thesis is noted in the relevant parts of the findings.

### *5.2. Mixing methods for a changing environment*

Reiner (2000, 2010) argues that policing is inherently political, and the subject of this thesis was a prime example of how politicised police practice could become. Soon after fieldwork had started in 2013/14, the second year of this thesis, police-initiated stops came under significant national government attention and resulted in substantial changes to legislation and police practice. The sheer scale of activity meant that it was progressively hard to keep pace with all of the national and local developments and assess how both of these affect local police accountability. It also resulted in difficulties maintaining complete consistency throughout data collection because its parameters had to be constantly revised to capture this changing socio-political environment; data already gathered was revisited for what it may reveal about these new developments.

A mixed-methods approach suited this study because it enabled multiple lines of inquiry to be investigated simultaneously (Bryman, 2007; Morgan, 1998) to reveal common patterns or outliers (Jick, 1979), and across multiple sites (Lamont & Swidler, 2014). Qualitative and quantitative research methods were integrated at every stage but, surprisingly, very little guidance exists on how to fuse them together in light of the fundamentally different assumptions each paradigm holds on the nature of knowledge (Johnson & Onwuegbuzie, 2004; Morgan, 2007). Unfortunately, exemplars from criminology were virtually non-existent (c.f. Miller et al., 2000) because most of the relevant literature were commentaries on the PCC structures, exclusively relied upon qualitative interviews or observations, or only analysed survey data. Bryman's (2007:8) suggestion that methods should only be mixed where they can produce "mutually illuminating" results was a useful guiding philosophy but the current study was essentially experimental.

Quantitative analysis of population demographics and police recorded stops was a good starting point to identify overall trends in stop and search use and potential case study areas. However, it lacked power to explain their underlying causes or how well the arrangements for police accountability were working locally. To complement this, semi-structured interviews were conducted with key stakeholders as it provided the greatest depth for understanding these issues from the perspectives of those directly involved in those arrangements (Barbour, 2007; Bryman, 2008). Field observations of public events were useful for exploring how senior police officers, PCCs and communities made themselves accountable to the public and thus better understand the dynamic social world often presented as static in interviews (Lamont & Swidler, 2014). Each method is discussed below.

### 5.2.1. Stop and search rates and racial disproportionality ratios

Racial disproportionality ratios were used to compare how stop and searches were used against each major ethnic group in England and Wales, and analyse changes over time. Disproportionality ratios help to identify whether any disparities exist in ethnic minority experiences of the police but there is disagreement concerning whether any differences are caused by police prejudice (Bowling & Phillips, 2002; Delsol & Shiner, 2006), reflect differential patterns of offending (Webster, 2007), or is the product of socio-economic factors that make ethnic minorities more likely to reside in areas where the police tend to operate (Waddington et al., 2004).

As a quantitative indicator, it reveals nothing about the quality of the encounter (Delsol & Shiner, 2006) for which interviews and observations are more appropriate, as discussed

below. Also, the results are sensitive to the population criterion used: 'resident population' or 'street availability' (Bowling & Phillips, 2002; Waddington et al., 2004; Delsol & Shiner, 2006). The resident population is the standard criteria adopted and is calculated by dividing the number of searches for each self-defined ethnic group by its respective population size according to decennial census data (i.e. white, black, Asian, mixed, and Chinese and other). However, this does not account for the constantly changing demographic profile of those 'available' in public places to be searched throughout the day and night (Waddington et al., 2004). Street availability does but involves categorising people into broader ethnic groups that may not actually reflect their self-defined identity (e.g. Waddington et al., 2004). It also falsely treats as neutral police officers' decision to patrol public areas more likely to be inhabited by people from lower socio-economic and ethnic minority backgrounds while similar crimes could be occurring in more affluent and less diverse areas. Practically, street availability was impossible to adopt because it requires a tremendously long process of physically observing and recording the ethnic composition of those available to be searched at various times of the day and night for every town and city comprising the case studies. This is because no dataset exists for street availability as the census does for the resident population. Therefore, notwithstanding its limits, the resident population was used to calculate racial disparities as it is still considered by leading academics to be an important indicator of group-level experiences of police stops (Bowling & Phillips, 2002; Delsol & Shiner, 2006). It was also found to hold meaning for the actors interviewed or observed during this thesis, not least because it was a core means by which the police were held accountable in the case studies and nationally.

Data was obtained from Home Office statistical publications and complemented by requests under the Freedom of Information Act 2000. To ensure comparison across police

forces and years, all data was standardised according to the accepted norms of stop and search analysis by aggregating the figures on recorded searches and census data into five broad ethnic categories: white, black, Asian, mixed, and Chinese & other. Unfortunately, this assumed homogeneity of experience within the sub-groups considered to form these broader categories, particularly within the white population against whom all other groups are compared. Although this lost some nuance, standardisation enabled the necessary comparisons to inform case study selection, and also for monitoring national and local trends over time. This standardisation process also required removing the small number of persons below the age of 10 who were searched despite the codes of practice permitting this practice (Home Office, 2014i; APPGC, 2014).[37] Experimental data for this thesis revealed that it only marginally increased disproportionality rates by well under 0.5.

Finally, due to the lack of statutory requirement to record all police-initiated stops, only the main stop and search powers were analysed. Even those recorded by statute suffered from under-recording due to selective recording of encounters; the historic time-lag in digitising physical records; the ineligibility of officers' handwriting affecting accuracy; and search-slips going missing until electronic recording was introduced in 2015/16. This means that the data presented in the findings is likely to have under-estimated the true extent of searches and is therefore only indicative of group-level experiences. Microsoft Office and OpenOffice spreadsheet software were used to explore and analyse population demographics, search rates and disproportionality ratios. Both packages provided all of the necessary functions and, unlike specialist statistical software, allowed tables and results from multiple datasets to be brought together for easier analysis, thus ensuring a "good overview of recorded data all the time" (Niglas, 2007: 298).

[37] Ten years of age is the legal age of criminal responsibility in England and Wales.

### 5.2.2. Documentary analysis

Documents published by PCCs, police forces, community groups and national government were analysed to assess how issues of ethnicity and power were portrayed and what they revealed about police accountability. This included campaign literature, police and crime plans, codes of practices, research reports and material produced by local civic groups claiming to represent the interests of ethnic minorities.

Documents are used to establish a social reality and so are not transparent representations of the actors that produce them (Atkinson & Coffey, 2004; Prior, 2003). This is particularly important because PCCs are political actors and have an interest in placing themselves in the best light, particularly those seeking re-election. Chief constables are also likely to engage in presentation management as PCCs have more intrusive powers than their predecessors to bring attention to issues that may have otherwise escaped public scrutiny. Thus documentary analysis may provide some insight into how actors seek to negotiate their roles in relation to each other, particularly as the boundaries of 'operational independence' is likely to become contested (Lister, 2013). In this sense, Prior (2003) rightly argues that the context within which these documents are situated should also be analysed and their effects, not just what they say. Doing so also helped to test the broader applicability of the research findings to PCCs as a whole.

### 5.2.3. Interviews

A total of 42 semi-structured interviews were conducted with local and national stakeholders who could provide an insight into the research topic (see Appendix B). These lasted between fifty and ninety minutes. Interviews enabled access to participants' sense-

making (Goodwin & Horowitz, 2002; Bryman, 2008) and therefore provided the greatest depth for understanding how police accountability operates from the point of view of those engaged directly within and around those structures. Interviews were audio-recorded, transcribed and then analysed using Nvivo. However, caution was required in interpreting interview data because some interviewees may have engaged in presentation management in order to place themselves in the best light rather than answer questions more honestly (Goffman, 1959; Riach, 2009). Helpfully, analysis of statistical data, documentary analysis and field observations provided ways of verifying some claims made, such as how proactive and transparent police officers were in consulting the public.

Participants were granted anonymity by default unless explicitly opting to be named. Four people wished to remain anonymous (two senior officers, one chief officer, and one public appointee from a national policing body). However, the unique positions occupied by most interviewees meant that they could have been easily identified by a process of elimination. Therefore, a blanket policy of anonymity was applied to all participants. Organisational affiliations and job titles were stripped away and categorised into the following four groups:

- *ChiefOfficer:* all interviewees of at least of the rank of assistant chief constable.
- *Commissioner:* elected PCCs and their appointed deputies.
- *National:* public appointees or staff (included warranted police officers) employed by the following national policing bodies: Her Majesty's Inspectorate of Constabulary, Independent Police Complaints Commission, College of Policing, and the Equality and Human Rights Commission.
- *Public:* a category consisting of members of the public interviewed who were part of local police-community scrutiny groups or community-led groups claiming to

represent the interests of ethnic minorities, and elected councillors on the police and crime panels. This final category of interviewees are attributed to their police force area as doing so helps to reveal important differences and similarities in the case study areas without revealing their identities.

This blanket anonymity also meant that the findings chapters had to be arranged thematically rather than by a case-by-case basis. Whilst losing some ability to contrast findings between each force, it meant that the full range of transcripts could be used to evidence the most significant findings, particularly in relation to how PCCs sought to negotiate their role with their chief constables (chapter 9).

Some difficulty was experienced in negotiating access into police forces to conduct interviews, as is typical of police research more generally (Reiner, 2000). Interview requests were sent to key national and local stakeholders and while most were willing to participate, accessing operational officers or chief officers was more difficult. For example, Leicestershire police required prior authorisation from an internal research committee in order to conduct any interview or observation even with the PCC's office despite the latter's supposed independence of the police and duty to hold it to account. Three months after the request was made, the committee rejected the application. Leicestershire was an ideal contrast to Nottinghamshire and the West Midlands due to its historic policing issues and recent changes to stop and search governance following legal action for potentially discriminatory practice (see EHRC, 2010; 2013). This resulted in a significant amount of time and work lost and the list of reserve cases re-examined for the second most suitable alternative: Suffolk.

The applied nature of the PhD meant that the researcher came into contact with a wide variety of key national actors, all of whom were approached for interviews in addition to local actors encountered during field observations. This familiarity appeared to engender trust to facilitate frank discussions but occasionally required careful management to ensure answers best reflected participants' views rather than any attempt to appease StopWatch, the collaborative partner, whose reputation for intensive scrutiny of police practice preceded it. However, this only appeared to be a problem with some senior officers interviewed rather than all participants, for example:

> "*I get some of the arguments for it [re-recording stop and accounts] but our force has made a decision that we're not going to do it. I think for me- I know you've got a different argument ((laughs))"*
>
> WestMids/Police/01

WestMids/Police/01 was clearly conscious of the researcher's connection with StopWatch which influenced his/her response and some other officers interviewed. To promote open exchanges, interviewees were reminded that their participation would remain anonymous, that the researcher retained full control over the direction and context of the thesis, and that its semi-structured nature gave them the ideal opportunity to present alternative views or challenge the nature of questioning, although no-one actually did this save for two chief officers and a PCC. Interviews with chief officers was the most difficult to manage owing to their tendencies to deflect questions or exaggerate confidentiality concerns to avoid divulging information, particularly in relation to counter-terrorism policing. The aforementioned chief officers and PCC became frustrated after being presented with evidence gathered from other methods that contradicted their rather optimistic assessment of how effective local arrangements were in facilitating public scrutiny. One chief took particular exception by complaining:

> "*I mean, it's a different subject- I'm not sure where we're going today. If you want to talk about where we are with stop and search I'll bring some*

> *people in who can talk you through in some more detail in relation to it. [However] If you're happy to talk about how we engage with the police and crime commissioners and chief constable?"*
>
> ChiefOfficer/02

ChiefOfficer/02's reaction was the most extreme of all chief and senior officers who become frustrated with being asked questions that revealed weaknesses in the local accountability structures that they were keen to present as effective. Stop and search was controversial because chief officers appeared to be used to research interviews on more general issues that they could speculate about their relationship with their PCCs rather than specific areas of contention, as another more friendly chief officer indicated during their interview. Fortunately, questions predicted to spark the most discomfort were left towards the end of interviews and interviewees were also informed that any challenges to the questions were welcomed as it would ensure that the research better reflects their social reality. However, they appeared to be more concerned about the weaknesses that the questions exposed in police accountability rather than the validity of the research focus, particularly since every interviewee had themselves identified stop and search as one of the most pressing local issues before they were asked a single question on it (see Appendix C).

Surprisingly, the most uncomfortable experiences for the researcher arose from interviews with councillors and members of the public or 'community leaders' involved in scrutinising the police. Some interviews took an unexpected turn when local politicians or citizens launched politically motivated attacks against rival individuals or community groups, often trying to solicit a response. In these cases, grievances were allowed to be aired where it related to the research topic and any expectations to join in 'bashing' rivals was met with an awkward, deafening silence used to move the conversation on. These moments were very

revealing of how the lacking unity amongst local leaders and community groups was undermining more effective police accountability, as discussed in subsequent chapters.

A core line of questioning related to the relationship between race/ethnicity and experiences of the police but, unexpectedly, the researcher's own ethnicity became a topic of interest and this may have influenced some participants. Interviewees from ethnic minority backgrounds were pleased to see another person from a minority background research this topic and this appeared to have an endearing effect because they assumed a sense of shared experience. This usually became apparent towards the end of the interview or as part of a rich discussion immediately after audio-recording had stopped. Certainly, these respondents appeared very supportive and forthcoming in their views. This openness was interpreted as a positive sign that enough rapport had been built to facilitate frank discussions about deeply personal issues. Whilst this bias was unavoidable, care was taken to avoid directly influencing participants' answers by suspending discussions about the researcher's ethnicity until the end of the interview. Non-ethnic minority interviewees were to varying degrees also sensitive to this because some of their answers seemed constructed to demonstrate awareness of a variety of ethnic groups beyond the usual discussion of black people's policing experiences. Often, it appeared to be a genuine attempt to avoid excluding the researcher’s presumed heritage from the topic. A typical way this manifested itself was for interviewees to speak predominantly about black people (or Asians in relation to counter-terrorism powers)- perhaps a reflection of how police-recorded data is interpreted- only to then quickly throw in other groups that the researcher might have belonged to but as an after-thought. This made it difficult to judge the extent to which the policing experiences of these other minority groups feature so highly in routine decision-making.

Finally, the changing government rhetoric would have also influenced officers and PCCs interviewed. For example, one senior officer who extended an invitation to meet with StopWatch right at the start of the PhD berated a certain study that had been extremely critical of their force's use of stop and search. However, during an interview a year later, s/he presented an entirely different view having apparently forgotten about this meeting. Ultimately, it was hard to assess whether their later views 'toed-the-party-line' or was the respondents' genuinely held belief, but interviewing a wide range of actors and undertaking field observations and documentary analysis provided some means of verifying whether what interviewees said reflected actual practice.

### 5.2.4. Observations

Observations of a range of events organised by PCCs, the police, and community groups were carried out (see Appendix D). Observations were useful for obtaining an insight into the everyday behaviour and culture of those studied ( Herbert, 2000; Bryman, 2008). Also a means of triangulation (Herbert, 2000) by helping to verify claims made in interviews and documents analysed. However, most police work is 'under-the-radar' (Reiner, 2000) and observations were restricted to public events and how counter-terrorism officers operate at airports.

Police-community consultation groups or events organised by community groups were extremely frustrating to observe because, as the findings chapters discuss, senior officers were highly selective in reporting issues to members of the public, had successfully ‘massaged’ explanations to avoid criticism, and even misrepresented national developments that, unbeknownst to them, the researcher had participated in. Members of

the public were typically unable to understand how to interpret statistical data to then probe officers appropriately or lacked awareness of national developments to then scrutinise their force's progress on these issues, therefore, producing only a shallow degree of accountability. Examples included officers over-exaggerating the limitations of ethnic disproportionality ratios, narrowing the focus of discussion away from the broader range of encounters raised at meetings to those they felt more comfortable discussing, and deliberately misleading scrutiny group members or the general public into thinking that national government had prevented them from instituting the reforms sought by ethnic minority groups, notably re-recording stop and accounts. Despite these frustrations, the temptation to intervene was abated by the desire to obtain the truest account of how police accountability operates locally. However, there were also occasions where officers were self-critical about police practice but the affinity of scrutiny group members towards the police prevented robust debate which would have been challenged elsewhere, such as the low arrest rates or increased disproportionality. Again, to observe a typical meeting, no interventions were made here either.

### *5.3. Case study research and an introduction to the case study areas*

A case study approach was adopted as it enabled the encapsulation of mixed-methods research (Yin, 1994; Hammersley & Gomm, 2000). A case study is “the intensive (qualitative or quantitative) analysis of a single unit or a small number of units (the cases), where the researcher's goal is to understand a larger class of similar units (a population of cases)” (Seawright & Gerring, 2008:296). A case study approach was also useful for its 'expansionist' and 'exploratory' approach which suited this project's aim of developing theories on a new area of social inquiry and one where the researcher could not exercise control over the events studied (Stake, 2000; Yin, 2009).

The biggest dilemma faced in this approach was balancing the number of cases investigated against the depth of study, particularly since organisations rather than individuals were being studied (Yin, 1994; Hammersley & Gomm, 2000). Most researchers investigate very few cases- often just one but in great depth (Hammersley & Gomm, 2000)- and these are usually chosen from a wider sample pool because they represent it best (Hammersley & Gomm, 2000) or the least (Seawright & Gerring, 2008; Stake, 2000). However, this PhD selected the three police force areas that deliberately maximised differences. This was to test rival hypotheses and understand how the broad range of national and local stimuli could impact upon local police accountability and identify common themes.

The following three police force areas were chosen and are introduced in this final section of the chapter 5: the West Midlands, Nottinghamshire and Suffolk. These cases were chosen because they varied on the following key dimensions: historic policing issues; population demographics; the political affiliation of the PCC, the extent to which ethnic minority issues were a priority for commissioners; and any innovative proposals to enhance public scrutiny over police practice either promised by candidates during the election campaign or adopted by the elected person.

### 5.3.1. Nottinghamshire

Nottinghamshire is a mixed urban and rural force with eight policing units: one covering the City of Nottingham and the remaining seven covering each of its rural districts. Historically, the City of Nottingham has suffered extreme deprivation and ethnic minorities have endured negative policing experiences, particularly in the St Ann's district which was

the location of the first ‘race’ riot in England and Wales in August 1958 (Rowe, 2004). This was just days before the infamous ‘Notting Hill Riots’ in West London. Nottingham also experienced rioting more recently during the 2011 national disturbances where police stations were deliberately targeted with firebombs, unlike other cities which saw a combination of vandalism and opportunistic looting (Riots Communities and Victims Panel, 2011). Stop and search and stop and accounts were consistently raised by members of the public as core grievances throughout early observations of PCC hustings where all prospective candidates pledged to re-record these encounters. The successful candidate, Labour’s Paddy Tipping, commissioned a community-led research project into minority ethnic experiences of the police (see Wright et al., 2013) and set up a citizens-led group to monitor the implementation of its recommendations. Nottinghamshire PCC's strong emphasis on civic participation in police accountability made it stand out as a good case study area.

Ethnic minorities comprised 11% of Nottinghamshire's residents in 2011 (see table 5.1) and 71% of these lived in the City of Nottingham (ONS, undated). The bulk of the remaining minority population was concentrated primarily in the districts of Broxtowe, Gedling and Rushcliff.

**Table 5.1- Ethnic composition of Nottinghamshire**

| | White | Black | Asian | Mixed | Other | Total |
|---|---|---|---|---|---|---|
| *Count* | 969,501 | 27,287 | 48,248 | 30,981 | 15,465 | **1,091,482** |
| *Percentage (%)* | 89 | 2 | 4 | 3 | 1 | **100** |
| *Growth since 2001 (N)* | 13,715 | 12,472 | 23,126 | 17,290 | 9,372 | **75,975** |
| *Growth since 2001 (%)* | 1 | 84 | 92 | 126 | 154 | **7** |

Sources: ONS, 2003; ONS (undated)

As table 5.1 shows, Nottinghamshire's population in 2011 showed relatively little variance in the size of each main ethnic minority group, an average of 3%. Also, absolute growth across all ethnic groups was relatively low averaging at an increase of 15,195 since 2001 (a standard deviation of 5,263). Whilst the white population grew by only 1% the combined growth across minority groups was 104%, substantially higher than the other case study areas and partly due to their smaller population size.

In 2012/13, 4 searches were recorded across Nottinghamshire for every 1,000 of its resident population which was far lower than the national average of 20 per capita (Home Office, 2014b). Disparities in searches of minorities was in line with the national average where black people were searched at 5 times the rate of whites, Asians and mixed people searched at twice that rate, and people from Chinese or other backgrounds were slightly under-represented in searches. Nottinghamshire conducted only 10 searches under section 60 that year: three whites, six blacks and one person from a mixed background. This was too few to make any disproportionality calculations meaningful. This was a major reduction on the previous years where 218 searches were conducted in 2011/12 and 270 in 2010/11. Interestingly, whereas search rates fell across most of the country during this study, it rose in Nottingham in response to a highly critical inspection (HMIC, 2013).

### 5.3.2. Suffolk

Suffolk is a largely rural force with a population of under 730,000 and Ipswich as its administrative capital wherein only 20% of the population reside (table 5.2; ONS, undated). It has a diverse economy with its fertile agricultural and livestock industry, the port of Felixstowe which handles over 40% of the country's container imports and exports, and its thriving tourism industry drawn to its historical towns and coasts. A large proportion of residents are retirees, but a sizeable number are aged between 40-49. Ipswich stood out as having the youngest age profile of Suffolk's counties with the largest cohorts being 20-34 years of age; it also contained 42% of the constabulary's ethnic minority residents. Suffolk contained the lowest number of ethnic minorities of all case study areas, with the single largest group being mixed (table 5.2).

**Table 5.2- Ethnic composition of Suffolk**

| | White | Black | Asian | Mixed | Other | Total |
|---|---|---|---|---|---|---|
| *Count* | 693,195 | 6,854 | 10,972 | 12,472 | 4,670 | **728,163** |
| *Percentage (%)* | 95 | 1 | 2 | 2 | 1 | **100** |
| *Growth since 2001 (N)* | 43,092 | 2,551 | 7,051 | 5,423 | 1,539 | **59,656** |
| *Growth since 2001 (%)* | 7 | 59 | 180 | 77 | 208 | **9** |

Sources: ONS, 2003; ONS (undated)

Suffolk is one of the lowest users of recorded stop and search use but has had high rates of ethnic disproportionality. In 2012/13, 6 searches were recorded for every 1,000 of its resident population, well below the national average but, as with Nottinghamshire, figures rose in the immediate years following the HMIC (2013) inspection and contrary to the national trajectory. That year, black people were searched at 4 times the rate of white people and those from mixed backgrounds were searched at almost 3 times that rate.

Asians were searched at marginally higher rates than whites but, curiously, in 2013/14 they replaced black people in experiencing the highest search rate of all groups standing at four times that of whites whilst searches of blacks fell to double the rate of whites.

Despite the comparatively low number of searches, most of these were targeted towards drugs use and the police force had a number of on-going anti-drugs operations, supported by its outspoken Conservative PCC Tim Passmore, which was driving racial disproportionality (Suffolk PCC, 2014a). Suffolk police was the only case study to maintain stop and account recording whereas others had disbanded it in 2011 (Bridges et al. 2011). Since 2008, Suffolk has had a well-established and proactive community-led scrutiny group of police search records which is nationally recognised as best practice (HMIC, 2013). For these reasons, Suffolk was an ideal contrast to Nottinghamshire and the West Midlands.

### 5.3.3. West Midlands

The West Midlands was the final case study area and, with a population of over 2.7 million people, is one of the most populated constabularies in the country (table 5.3). It covers an expansive area consisting of seven metropolitan districts and former industrial heartlands, notably Birmingham, Coventry and Wolverhampton. Each of these cities has experienced major public disturbances and anti-police sentiment, much of which has related to the policing experiences of ethnic minorities (Keith, 1993). Birmingham is split into three separate command units and the remaining six districts have a dedicated command unit. West Midlands Police was one of five forces subject to the EHRC's (2010, 2013) threat of legal action for what was considered to be potentially discriminatory stop and search use and the force was judged to have been the least cooperative with its programme.

Candidates in the PCC 2013 elections pledged to reintroduce stop and account recording[38] and Labour's first elected commissioner, the late Bob Jones, instituted greater opportunities for the public to participate in scrutinising police-stops. These were led by his appointed deputy, Yvonne Mosquito, and were all analysed for this study. Following Jones' death in July 2014, his Labour colleague, David Jamieson, was elected and continued with these initiatives, again led by the deputy.

**Table 5.4- Ethnic composition of the West Midlands**

| | White | Black | Asian | Mixed | Other | Total |
|---|---|---|---|---|---|---|
| *Count* | 1,919,138 | 164,069 | 493,551 | 96,204 | 63,498 | **2,736,460** |
| *Percentage (%)* | 70 | 6 | 18 | 4 | 2 | **100** |
| *Growth since 2001 (N)* | -124,093 | 68,836 | 151,813 | 41,449 | 42,868 | **180,873** |
| *Growth since 2001 (%)* | -6 | 72 | 44 | 76 | 208 | **7** |

Sources: ONS, 2003; ONS (undated)

Of the three local case studies, the West Midlands hosts the largest ethnic minority population with 30% self-identifying as such in 2011 (table 5.4). It also has the greatest variation in population growth and was the only case study where the white population had actually decreased since 2001. Whites reduced by 6% whereas Asians experienced the largest growth comprising 18% of the population in 2011, 55% of whom resided in Birmingham (ONS, undated). Further, it was also the only case study where the minority population was more dispersed across the region rather than concentrated in certain locations, although 55% of the West Midlands' minorities also resided in Birmingham. The single largest minority group self-classified as Pakistani and Indians, 7% each. Pakistanis were concentrated predominantly in Birmingham where 72% resided but Walsall and Sandwell both contained sizeable populations at 7% each. Only 35% of Indians lived in

[38] Observation 2012/10/18.

Birmingham and they were the most dispersed of all ethnic minority groups. Fifty-nine percent of the West Midlands' black population resided in Birmingham, over half of whom were black Caribbean and sizeable numbers resided in Sandwall and Wolverhampton at 14% and 12%, respectively. Therefore, people from Pakistani and black Caribbean backgrounds were the least dispersed of all ethnic groups and were concentrated in Birmingham.

Across the West Midlands in 2012/13, black people were searched at three times the rate of whites, and Asians and mixed people were searched at twice the rate of whites. Chinese and other people were slightly under-represented in searches. At the time, West Midlands police had dramatically reduced its section 60 suspicion-less searches by 90% from 699 in 2011/12 to 70 in 2012/13 against the backdrop of the EHRC's (2010, 2013) threat of legal action and earlier criticisms of malpractice from the IPCC (2007). As a major urban police force with significant policing issues, it was a good contrast to both Nottingham and Suffolk. Subsequent chapters now discuss the findings from these case study areas before concluding on the impact of PCCs on local police accountability and future prospects.

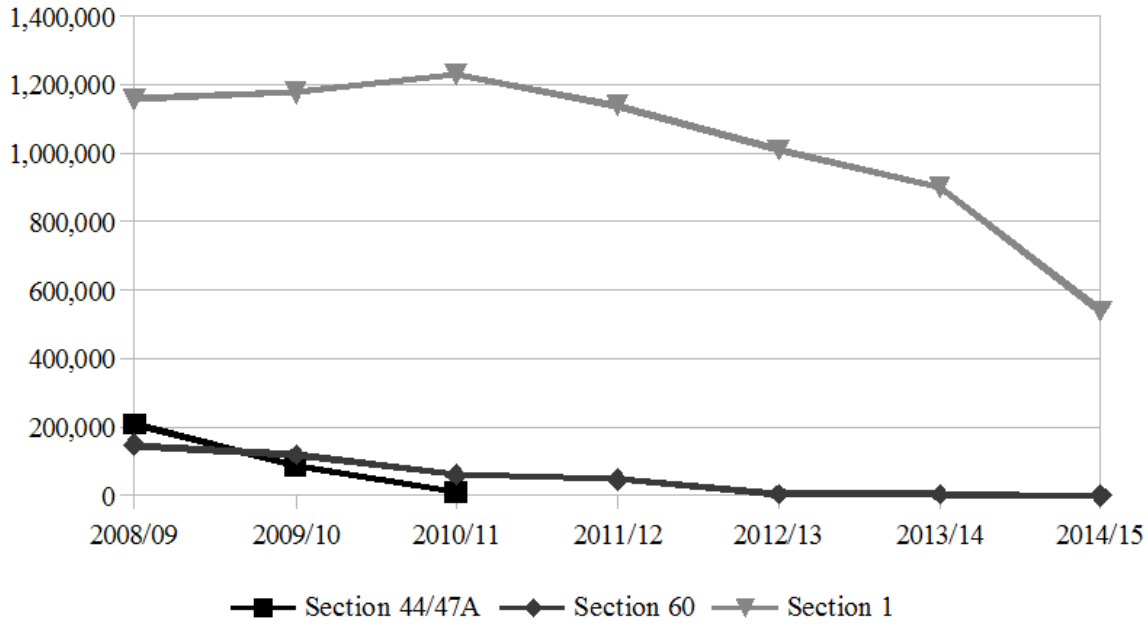
# 6. The Politics of Stop and Search Reform: Before the Commissioners

As this chapter illustrates, recorded stop and search use fell precipitously throughout the period investigated by this thesis (i.e. 2009/10 to 2014/15) and these sustained reductions represented a significant break from its historical trajectory (chapter 4). This new trend was underlined by a significant politicisation of police-initiated stops that preceded the introduction of police and crime commissioners (PCCs), although the greatest reductions occurred throughout their first term in office. This chapter analyses the reductions since 2009/10 and then restricts itself to discussing the developments in police accountability that produced these changes during the initial period 2009/10 to 2012/13 (data for 2008/09 is included for comparison as it marked the zenith of stop and search use). Chapter 7 analyses developments throughout PCCs' first term in office (i.e. 2012/13 to 2014/15) so as to consider separately their potential influences on operational practice. As with the next chapter, this one raises a number of questions about the distribution of power within the arrangements for police accountability and the extent to which it affords local policing bodies and ethnic minority communities meaningful opportunities to ensure a more locally responsive service. Both chapters are important to understand the wider, national context within which PCCs operate and complements chapters 8-9 which assess whether commissioners have filled the democratic deficit in local police accountability.

This chapter begins by first describing the nationwide fall in recorded street searches and port stops, highlighting the most significant developments to be analysed throughout the findings. The latter and greater part of this chapter provides a detailed discussion of the factors underlying those trends in the period leading up to PCCs' introduction, relying upon data from interviews, observations and documentary analysis to illuminate those findings.

## *6.1. Overall use of stop and search from 2009/10 to 2014/15*

**Figure 6.1 – Stop and search use, 2008/09 to 2014/15**




Notes: (1) Figures exclude searches by the British Transport Police.
(2) Section 1 figures include other powers that require reasonable suspicion (see Appendix A).
Sources: Home Office (2015c).

**Table 6.1 – Stop and search use and percentage changes, 2008/09 to 2014/15**

| Year | Section 1 | Section 60 | Section 44/47A | Total | Change to previous year(%) |
|---|---|---|---|---|---|
| 2008/09 | 1,159,374 | 150,174 | 210,013 | 1,519,561 | 23 |
| 2009/10 | 1,177,327 | 119,973 | 91,567 | 1,388,867 | -9 |
| 2010/11 | 1,229,324 | 62,429 | 10,994 | 1,302,747 | -6 |
| 2011/12 | 1,142,909 | 46,973 | - | 1,189,882 | -9 |
| 2012/13 | 1,012,196 | 5,346 | - | 1,017,542 | -14 |
| 2013/14 | 900,129 | 3,960 | - | 904,089 | -11 |
| 2014/15 | 539,788 | 1,082 | - | 540,870 | -40 |

Notes: (1) Figures exclude searches by the British Transport Police.
(2) Section 1 figures include other powers that require reasonable suspicion (see Appendix A).
Sources: Home Office (2015c).

### 6.1.1. Street searches

Stop and searches began to decline in 2009/10 (figure 6.1), initially primarily driven by the curtailing of exceptional powers (table 6.1). Use of section 44 fell by 56% in 2009/10 to just over 90,000 recorded searches from over 210,000 encounters in the previous year 2008/09 (table 6.1). It continued to fall in 2010/11 as it was repealed that year following a European Court of Human Rights judgement ruling that it was too broad to protect against arbitrary detention.[39] Coinciding with this judgement, section 60 use fell moderately in 2009/10 to under 120,000 searches but declined precipitously from 2010/11 following its own legal challenge.[40] From thereon, volumes declined from the tens of thousands in the years 2010/11 and 2011/12 to just over 5,300 in 2012/13, or by 89% on the previous year.

Section 1 and other powers requiring reasonable suspicion ("PACE searches") saw comparatively fewer reductions over this initial period and even increased in 2009/10. It increased again in 2010/11 such that it more than compensated for the reductions in section 60 use that year, or for 78% of the reductions in section 44. This suggests that there may have been a displacement effect as officers resorted to invoking suspicion-based powers where they would have otherwise used an exceptional power. This supports previous research suggesting that the threshold of reasonable suspicion operates as a weak procedural safeguard due to officers' widely divergent interpretations of what it entails (Quinton, 2011; HMIC 2013; also chapter 4). It was only later from 2012/13 that PACE searches fell more substantially following the significant national government scrutiny of those powers discussed throughout the findings. In 2012/13, there were just over a million searches representing a fall of 11% (or 130,000 fewer searches) and use fell by another 11% in 2013/14 to under a million for the first time since 2007/09 (see table 4.1), and

[39] In the case of Gillan & Quinton v United Kingdom (2010); as discussed in the second part of this chapter.
[40] In the case of Roberts v The Commissioner of the Metropolitan Police, also discussed in this chapter.

finally by another 40% in 2014/15 to over half a million searches (over 360,000 fewer searches).

Overall, the total combined volume of recorded street searches fell by 64% from over 1.5 million encounters during the peak year of 2008/09 to 540,870 in 2014/15, or by 58% since the Conservative-Liberal Democrat Coalition government took office in May 2010. Whereas over 30 people were searched per 1,000 of the population under any street power during their peak in 2008/09, this declined from 2009/10 onwards leading to 11 persons searched per 1,000 of the population in 2014/15 (table 6.2(a)).[41] As table 6.2(a) shows, these overall reductions arose from the curtailing of exceptional powers but suspicion-based powers had remained largely stable at around 24 searches per 1,000 of the population until 2012/13, at which point their use fell dramatically to a rate of 11 persons searched per 1,000 of the population in 2014/15.

**Table 6.2 - Rates of searches per 1,000 of the population, 2008/09 to 2014/15**

*(a) England and Wales*

| | 2008/09 | 2009/10 | 2010/11 | 2011/12 | 2012/13 | 2013/14 | 2014/15 |
|---|---|---|---|---|---|---|---|
| Section 1 | 23.4 | 23.8 | 24.9 | 23.1 | 20.5 | 18.2 | 10.9 |
| Section 60 | 3.0 | 2.4 | 1.3 | 1 | 0.1 | 0.1 | 0.02 |
| Section 44/47A | 4.2 | 1.9 | 0.2 | - | - | - | - |
| **Total** | **30.7** | **28.1** | **26.3** | **24.1** | **20.4** | **18.3** | **10.9** |

[41] Searches per 1,000 of the population is a widely used method for estimating the scale of police-initiated contact but caution is required in interpreting those figures. Police data does not disaggregate repeat stops of an individual and census data both overestimates the population size before the census day in 2011 and underestimates it thereafter. For a good discussion of this in relation to arrest rates see Delsol (2015:86).

*(b) England and Wales, excluding London*

| | 2008/09 | 2009/10 | 2010/11 | 2011/12 | 2012/13 | 2013/14 | 2014/15 |
|---|---|---|---|---|---|---|---|
| Section 1 | 15.8 | 16.1 | 16.3 | 15.6 | 15.2 | 14.3 | 8.7 |
| Section 60 | 0.8 | 0.7 | 0.2 | 0.2 | 0.1 | 0.05 | 0.02 |
| Section 44/47A | 0.2 | 0.5 | 0.03 | - | - | - | - |
| **Total** | **16.9** | **17.2** | **16.5** | **15.8** | **15.3** | **14.3** | **8.7** |

Notes: (1) Figures include searches by the British Transport Police.
(2) Section 1 figures include other powers that require reasonable suspicion (see Appendix A).
Sources: Home Office (2011a, 2012a, 2013a, 2014b) and ONS (undated).

Since these are national figures, they mask the significant regional differences between forces in how these powers are used even amongst comparatively similar forces (see: Willis, 1981; EHRC, 2010; HMIC, 2013). London accounts for a considerable portion of searches to the extent that any changes in use within the capital distorts national trends. Between the years analysed, London accounted for between 42% and 32% of total PACE searches and also 76% and 22% of section 60 use. Once excluded, the data reveals that whilst searches elsewhere were lower, they are still high and have remained remarkably stable since 2008/09, particularly under PACE which only fell more substantively in 2013/14 and again in 2014/15 following an intensification of government scrutiny (table 6.2b). A number of police officers interviewed argued that stop and search was essentially a 'London problem'. Staff from national policing bodies criticised this perception, for example:

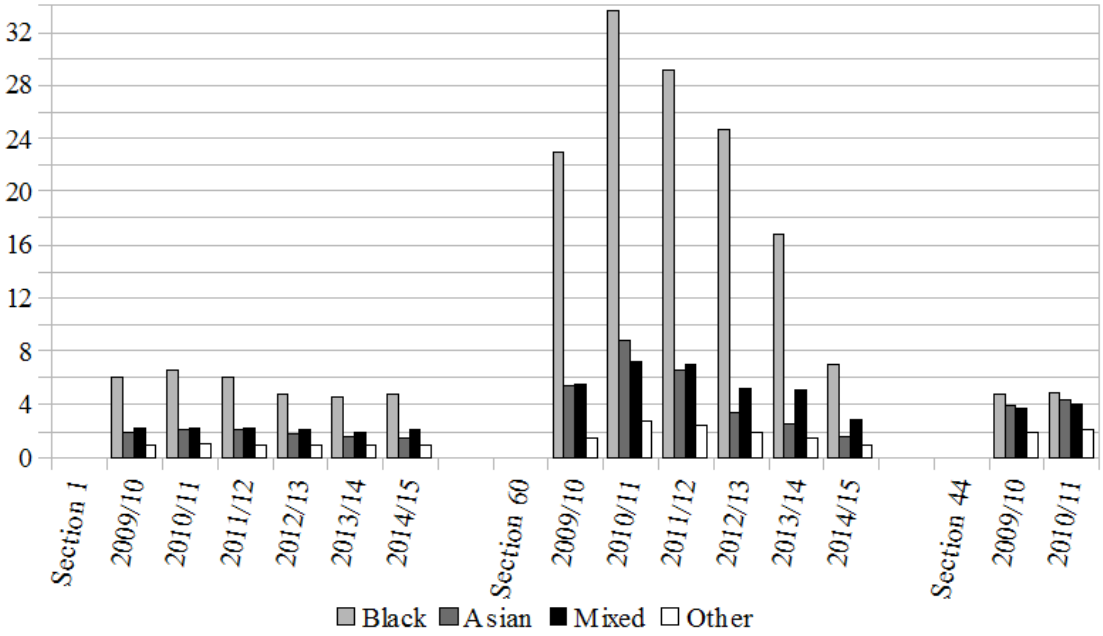
> "*Because one of the problems you get around stop and search is that this belief is that it's a London issue because some of the forces are like 'well if the Met get it right, you know, the problem goes away'. They don't recognise that it's a national or even global issue around how these are used. So that conversation isn't always well accepted elsewhere outside of London. It's mixed, I mean, some people accept it and have made big progress in terms of how they use it others less so. It depends how attentive or how important it is to the chief officer group if I'm honest."*
>
> National/06

National/06's view suggests that this perception may explain why search rates nationwide are still consistently high outside of London. As s/he highlights, the organisational values instilled by chief officers can shape the operational practice of their officers and, as discussed throughout the findings, may account for the regional differences found between comparatively similar forces. Until very recently, exceptional powers do, however, appear to be a predominantly 'London problem' due to the significantly higher search rates when data from the capital is incorporated into the national figures compared to their exclusion (tables 6.(a) and 6.2(b), respectively). Section 44 is a case in point whereby the capital- and large swathes of British Transport Police's jurisdiction- were placed under a blanket authorisation since the power was first introduced, irrespective of the threat assessment at the time (HM Government, 2011; Lennon, 2013).

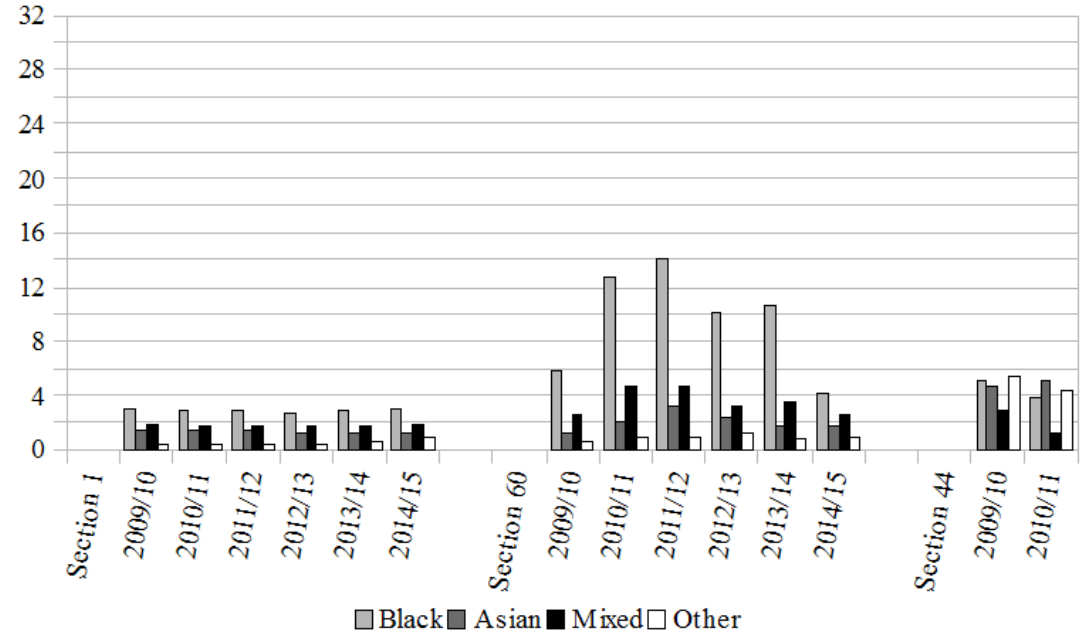
Levels of ethnic disproportionality, a key focus of academic research on police-initiated stops (Bradford, 2015), increased initially but then declined during the research period although ethnic minorities were still searched at comparatively higher rates to whites (figures 6.2(a)-(b)). Nationally, under section 1, people from black backgrounds have been consistently searched at approximately 4.5 to 6 times the rate of whites, Asians were searched at 1.5 to just over twice the rate of whites, and those from mixed backgrounds at twice the rate of whites. Excluding London, where an estimated 34% of all ethnic minorities reside (ONS, undated), the rates of disproportionality under section 1 were much lower for all ethnic groups particularly blacks and Asians (table 6.2(b)). Outside of the capital, black people were searched at approximately three times the rate of whites with only marginal changes year-on-year. These differences were less pronounced for Asians and people from mixed backgrounds who have been searched at around twice the rate of whites since 2009/10.

**Figure 6.2 – Racial disproportionality of street searches, 2009/10 to 2014/15**

*(a) England and Wales*




*(b) England and Wales, excluding London*




Notes: (1) The figures for whites stand at 1.0 and is excluded from the graph because racial disproportionality is calculated by dividing the search rate of all groups against that of whites.
(2) Section 1 figures include other powers that require reasonable suspicion (see Appendix A).

Sources: Home Office (2011a, 2012a, 2013a, 2014b) and ONS (undated).

Disproportionality under the exceptional powers, however, was far greater than under section 1 despite the recent reductions in overall use (figure 6.2(a)) and again search rates were lower outside of London (figure 6.2(b)). However, as with section 1, the volume of searches fell alongside the greater scrutiny of those powers from 2012/13 onwards, particularly in 2014/15 after the Home Office (2014f) introduced a best practice scheme discussed in chapter 7. Nationally, black people were searched at significantly higher rates under section 60 compared to any other group. After initially increasing from 23 times that of whites in 2009/10 to 34 in 2010/11, it fell thereafter until it stood at 7 times that of whites in 2014/15. Outside the capital, search rates for black people also rose from 6 times the rate of whites in 2009/10 to 13 in 2010/11 and then 14 in 2011/12 before then declining until it stood at 4 times the rate of whites in 2014/15. Nationally, the section 60 rates for mixed people fluctuated throughout this period from over 5 times that of whites in 2009/10, rising to 7 in the following two years and then falling to 3 in 2014/15. Outside of the capital, search rates of mixed people were far lower, rising initially from 2.5 times that of whites in 2008/09 to over 4.5 times in the following two years, before declining to less than 3 in 2014/15. Nationally, Asians were searched under section 60 at over 5 times the rate of whites in 2009/10 rising to nearly 9 in 2010/11 before falling to twice the rate of whites in 2014/15. Excluding London, Asians were searched at roughly the same rate as whites in 2009/10 but this rose alongside rises in searches of all other groups reaching 3 times the rate of whites in 2011/12 before falling to twice the rate of whites in 2014/15. The greater racial disparities under section 60 was raised by some interviewees, particularly national police leaders and staff who gave the following explanations for it:

> "*Now I think officers are probably understanding of their powers at a basic level but I think introducing powers where there were fewer regulatory mechanisms in place meant that it gave the impression that doing more was okay and that it might have blurred the boundaries of where their threshold of suspicion needed to sit, or they had other tools to use if section 1 wasn't*

> *an appropriate power to use they could use section 44 powers- certainly in London."*
>
> National/02

> "*It used to be overused on football [supporters]: there was a section 60 [authorisation] for every higher category football match and now there's much more governance around authorisations to whether them takes place or not but, yeah, I'll be honest and say I'm not a fan of section 60. I think it's a without grounds powers that we can do without."*
>
> National/04

These quotes reinforce the arguments in chapter 4 that the weak regulations governing the use of exceptional powers has resulted in them being used far more frequently than originally intended and for routine crime problems. Such use is likely to have led to the racial disparities indicated by figures 6(a) and 6(b) by exacerbating rather than inhibiting the kinds of police practices that disproportionately affect ethnic minorities.

### 6.1.2. Searches at ports

Examinations and detentions at ports under schedule 7 also fell during the research period as illustrated by table 6.3, although these figures do not capture the "substantial number of people who are asked only 'screening questions'" (Anderson, 2011:para9.9; also 2012, 2013, 2014). Schedule 7 is, essentially, a national power due to it being exercised in accordance with the Home Office's national assessment of terrorism and security threats[42] and is governed by a dedicated code of practice separate from all other stop and search powers (Home Office, 2014e).

[42] Observation 2014/06/02.

**Table 6.3 – Examinations and detentions under Schedule 7 to the Terrorism Act 2000, 2009/10 to 2014/15**

| | Examinations | | | |
|---|---|---|---|---|
| | Under the hour | Over the hour | Total | Total detentions |
| 2009/10 | *82,870* | *2,687* | **85,557** | **486** |
| 2010/11 | *63,396* | *2,288* | **65,684** | **913** |
| 2011/12 | *61,662* | *2,240* | **63,902** | **680** |
| 2012/13 | *53,992* | *2,265* | **56,257** | **667** |
| 2013/14 | *42,231* | *1,887* | **44,118** | **517** |
| 2014/15 | *29,871* | *1,898* | **31,769** | **1311** |

Sources: Home Office (2015b); Anderson (2015)

**Table 6.4 – Percentage of people examined and detained under Schedule 7 to the Terrorism Act 2000 by ethnicity, 2009/10 to 2014/15**

*(a) Examinations*

| | White | Black | Asian | Mixed | Other |
|---|---|---|---|---|---|
| 2009/10 | 44 | 7 | 25 | 2 | 20 |
| 2010/11 | 41 | 9 | 30 | 3 | 17 |
| 2011/12 | 43 | 9 | 28 | 3 | 18 |
| 2012/13 | 42 | 10 | 25 | 4 | 19 |
| 2013/14 | 45 | 9 | 22 | 5 | 18 |
| 2014/15 | 36 | 9 | 27 | 7 | 22 |

*(b) Detentions*

| | White | Black | Asian | Mixed | Other |
|---|---|---|---|---|---|
| 2009/10 | 8 | 9 | 44 | 3 | 35 |
| 2010/11 | 8 | 22 | 46 | 2 | 21 |
| 2011/12 | 9 | 25 | 38 | 4 | 25 |
| 2012/13 | 10 | 26 | 36 | 3 | 25 |
| 2013/14 | 12 | 19 | 37 | 8 | 24 |
| 2014/15 | 12 | 13 | 39 | 7 | 29 |

Notes: (1) Figures exclude examinations where the ethnicity was recorded as 'not stated'.
(2) Figures are based upon self-defined ethnicity besides 2009/10 which uses officer-defined ethnicity.
Sources: Home Office (2015b).

Nonetheless, use of the powers fell in every year since records were first made public in 2009/10 and by 63% over this period (or 52% during the Coalition government) against the backdrop of increased scrutiny of this power, discussed later. This decline was led primarily by reductions in the number of examinations lasting under an hour which continued to decline throughout the research period. The sudden rise in detentions in 2014/15 is likely to be due to legislative changes coming into effect which now requires ports officers to detain a person should they wish to continue questioning and/or searching them beyond the first hour.[43]

Despite the scaling back of schedule 7, ethnic minorities constituted the majority of those detained and, therefore, subjected to its more intrusive provisions. Whilst people from white backgrounds have consistently been the single largest group to be *examined* under the powers, followed closely by Asians (table 6.4(a)), most of these would have lasted for no longer than 15 minutes (Home Office, 2012c:14). But Asians were far more likely to be *detained* for up to nine hours in every year, followed by black people or those from Chinese and other ethnic backgrounds (table 6.4(b)). According to Hurrell (2013), these figures represent a racial bias in port stops, particularly against Pakistanis and Black Africans, even when differences in the ethnic composition of the travelling population is taken into account. Anderson (2014, 2015), however, disagrees and argues that those figures reflect the composition of convicted terrorists. However, most terrorism convictions do not arise from a port stop and since data on arrests and convictions from ports is not routinely published, it is difficult to ascertain the extent to which port stops reflect ethnic profiling or an intelligence-led approach.

[43] As amended by paragraph 2 of Schedule 9 to the Anti-Social Behaviour, Crime and Police Act 2014, given effect by section 148 of the Act.

Some limited data does exist on historic arrests and convictions from these encounters. As table 6.5 shows, of the 11,499 examinations carried out between January 2004 and September 2009, 99 resulted in an arrest, leading to 43 convictions. Furthermore, according to Anderson (2015:26), of the 31,769 total examinations and 1,311 resultant detentions in 2014/15, 39 led to an arrest which was "more numerous... than in 2009/10". This shows a more focused use of the power since the increased public scrutiny but still equates to a low arrest rate of only 0.12% of examinations and 3% of detentions. As the number of people convicted remains unknown, it is impossible to judge how effective the current targeting of these powers are in countering terrorism. However, the large number of ethnic minorities detained, particularly Asians, and the historic low number of convictions suggest that the perceived ethnicity and religious affiliation does feature as part of examining officers' decision to subject a person to those powers, particularly a detention. Either way, qualitative research shows that use of these powers have undermined confidence in counter-terrorism policing among people examined or detained, particularly those from Muslim and/or south-east Asian backgrounds who feel discriminated against (Choudhury & Fenwick, 2011; Blackwood et al., 2012; also Anderson, 2012).

**Table 6.5 – Examinations under Schedule 7 and resultant arrests, charges and convictions, 1st January 2004 to 30th September 2009**

| | |
|---|---|
| **Examinations** | 11,499 |
| **Arrests** | 99 |
| **Charges (Terrorism Act 2000)** | 17 |
| **Charges (other terrorism legislation)** | 31 |
| **Convictions** | 43 |

Notes: The data on charges and convictions reflect the total actions taken against individuals and so do not represent the actual number of people charged or convicted. This is because people can be charged and subsequently convicted for multiple offences.
Sources: Home Office (freedom of information request no. 15293)

To conclude the first part of this chapter, street stop and searches and examinations at ports fell substantially over the research period (figure 6.1, tables 6.1 & 6.3). Initially, from 2008/09 to 2011/12, this was primarily due to the curtailing of exceptional powers as the rest of this chapter explores. This initial period was also one where police-initiated stops became significantly politicised and was the immediate context that PCCs were introduced to; some PCCs even made pledges to reform these powers in recognition of its impact upon their electorate (see chapters 8-9). Further substantial reductions in stop and search use coincided with PCCs' first term in office- the second half of the research period. Unlike the first period, PCCs could have influenced these developments and so chapter 7 discusses them separately in order to assess the potential impact of commissioners in producing this environment more conducive to reform.

### *6.2. Stop and search reform*

Having illustrated the dramatic reductions in stop and search use over the research period, this latter section draws upon the fieldwork to analyse the range of inter-related factors underlying those trends before PCCs were introduced. It opens with a discussion of actions undertaken by members of the public which, arguably, provided the impetus behind the reforms witnessed throughout the study. Following this, the analysis turns to the strong role of national policing bodies and national government in enhancing police accountability in ways that served to discourage stop and searches. As will be noted throughout, this reinforced the role of central actors in police governance whilst providing scant opportunities for the public or police authorities to participate in this despite those national actors purporting to seek policing styles more responsive to local populations.

### 6.2.1. Litigation and national advocacy groups

Arguably, litigation, and the threat of legal action has provided one of the greatest impetus to stop and search reform by raising the prospect of more fundamental restrictions to the scope of police powers and discretion. This section outlines the main challenges to these powers, both successful and unsuccessful, and their implications for police-initiated stops more broadly. Surprisingly, the role of litigation in shaping operational practice rarely featured in interviews, probably because these proceedings were too far removed from the more immediate pressures applied by national government and national policing bodies to change practice. Litigation was initiated by individual members of the public dissatisfied with their experience and supported by two national pressure groups: *Liberty*, the leading civil liberties and human rights campaign group, and *StopWatch*, the leading campaign group for stop and search reform. The Equality and Human Rights Commission (EHRC), the U.K.'s equalities watchdog, was also a key party to those cases. As this section focuses on civic action, legal proceedings initiated by EHRC against a small number of police forces is discussed later in this chapter; legal action initiated by Independent Police Complaints Commission's action is discussed in chapter 7.

Section 44 was repealed in 2010/11 following a successful challenge brought by *Liberty* in the European Court of Human Rights (ECtHR) in the case of *Gillan and Quinton v. The United Kingdom* ("*Gillan"*).[44] Gillan, a protester, and Quinton, a journalist, were searched at an arms fair in 2003 and sought a judicial review of the powers claiming that it had been used beyond its intended scope. However, their case failed at every stage of the British judicial system: in the High Court,[45] the Court of Appeal,[46] and the House of Lords[47] (now

[44] [2010] 50 E.H.R.R. 45 (ECHR) (case 4158/05).
[45] [2003] EWHC 2545 (Admin).
[46] [2004] EWCA Civ 1067.
[47] [2006] UKHL 12.

Supreme Court). With no restraints from the judiciary or national government, use of the powers rose by over 550% from over 30,000 in 2002/03 to over 210,000 in 2008/09 (an increase of almost 178,000 searches; table 4.1). As the tide began to turn during the ECtHR hearing, use of the power fell by 59% to over 91,000 in 2009/10. The ECtHR upheld the complainants' assertion that the powers contravened the right to private life under the European Convention on Human Rights (ECHR) and that it was also a deprivation of liberty. This resulted the power's repeal and demonstrates how powerful litigation can be in providing determined members of the public with redress. Following a government initiated review into the use of counter-terrorism powers (HM Government, 2011), the power was replaced with section 47A, a more strictly regulated power that has never been used in England and Wales even during occasions where section 44 would have almost certainly been used, such as a royal wedding in 2011 and the London Olympics in 2012.[48] But the judgement also had implications for section 60.

Following *Gillan*, the future of section 60 became uncertain in the case of *Roberts v Commissioner of Police for the Metropolis* ("*Roberts"*). Although it was also dismissed at every stage of the British judicial system, it still contributed to significant reductions in use. The case arose from a search of Ms. Roberts for a dangerous weapon within a section 60 authorised area after a police officer was called to the scene by a ticket inspector who suspected her of evading a bus fare and she refused to give proof of her identity when issued with a fine. The officer suspected Roberts of carrying a weapon in her handbag, resulting in her being forcefully restrained by a number of officers as she attempted to walk away from the search. Roberts later explained that she was a special needs assistant and did not wish to be seen being searched by the children and young adults with whom

[48] Section 47A has only ever been used once and in Northern Ireland (See: Anderson, 2014).

she worked. No weapons were discovered but Roberts was arrested for handling stolen goods after she was found to possess credit cards not under her name (these were later found to be under her son's name and her maiden name and no further action was taken).

Roberts' claim that the powers did not contain sufficient safeguards to protect against arbitrary use and were discriminatory (Articles 5 and 8 under the ECHR, respectively) was dismissed by the High Court,[49] the Court of Appeal,[50] and, ultimately, by the Supreme Court.[51] In its sweeping judgement, the latter declared that the power was compatible with human rights laws because, unlike section 44, sufficient safeguards were found in the suspicion required to authorise its use, the accompanying codes of practice and the additional operating procedures produced by the Metropolitan Police. Oddly, it claimed "the law itself is not to blame for individual shortcomings which it does its best to prevent" (para47), thus ignoring the research evidence on just how weak the law and regulations operate in practice (chapter 4). StopWatch unsuccessfully intervened in this case whilst it was being heard by the Court of Appeal by providing an analysis of ethnic disproportionality and its causes (Shiner, 2012). However, this was dismissed by the Court of Appeal and the Supreme Court both of whom deemed the statistics too controversial to rely upon. Also contrary to the research evidence, the Court argued that "It is the randomness and therefore the unpredictability of the search which has the deterrent effect and also increases the chance that weapons will be detected" (para47). This, it continued without citing evidence to support its claim, was particularly important in relation to anti-gangs activity which it argued:

> "are largely composed of young people from black and minority ethnic groups... Put bluntly, it is mostly young black lives that will be saved if there is less gang violence in London and some other cities" (para41).

[49] [2012] EWHC 1977 (Admin).
[50] [2014] EWCA Civ 69.
[51] [2015] UKSC 79.

However, the fact that the challenge to section 60 had been brought in the first instance resulted in dramatic changes to its use. Fearing the same fate as section 44, the ACPO lead for stop and search warned chief constables in 2012 when the case was first heard that "the potential for a similar scrutiny of Section 60 powers has always been anticipated" and reassured them that he was "working with colleagues from the MPS to ensure that the challenge is appropriately addressed" (cited in The Guardian, 2012). The Metropolitan Police and the West Midlands Police, the country's largest forces, had also introduced changes to the regulation of the power. In particular, they increased the level of authorising officer to that of at least assistant chief constable and introduced more intrusive internal monitoring which may have influenced the Court's judgement. It is within this context that section 60 saw its greatest fall in use: down by 49% in the year of the *Gillan* judgement 2010/11, and another 89% in the year that *Roberts* was heard in the High Court 2012/13 (see table 6.1; the intermittent year, 2011/12, saw a much smaller reduction of 24%). Arguably, it is also this challenge that produced the restrictions later placed upon the power by a Home Office (2014f) best practice scheme, discussed in the next chapter, which increased the threshold required for section 60 authorisations and imposed greater limits on its duration and geographical extent. (Some of these changes were based upon those already made by the Metropolitan Police.) Explaining these requirements, the Home Secretary stated to Parliament:

> "Forces participating in the scheme will make it clear that they will respect the case law established in Roberts by using no-suspicion stop-and-search when it is 'necessary to prevent incidents involving serious violence', rather than just 'expedient' to do so. They will raise the level of authorisation to a chief officer and that officer must reasonably believe that violence 'will' take place, rather than 'may', as things stand now" (HC Deb (2013-14) 30 April 2014).

The Home Secretary's introduction of stronger regulatory control in line with the *Gillan* judgement and scrutiny from *Roberts* despite its overall failure shows the significance of litigation in providing the impetus to reform and citizens with considerable opportunities to change operational practice. Yet, litigation has not provided all claimants with their desired outcome. Challenges to the cessation of stop and account recording and to the use of schedule 7 examinations at ports have failed to produce any major changes to those powers.

*StopWatch* unsuccessfully sought a judicial review against the decision of the Home Secretary and three chief constables to cease stop and account recording in 2011 in the case of *Diedrick vs Chief Constable of Hampshire Constabulary, Chief Constable of Thames Valley Police, Chief Constable of Hertfordshire Constabulary and the Secretary of State.*[52] The High Court rejected the appeal on the grounds that it deemed both the Home Secretary and chief constables to be exercising their lawful discretion under PACE Code A; neither were failing to adhere to their duty to eliminate racial discrimination; and that such recording unnecessarily inconvenienced both the police and the public. It dismissed StopWatch's evidence of racial disparities in stop and account (see Bridges et al., 2011), claiming that those statistics were unreliable. The Court also rejected StopWatch's compromise of recording only the ethnicity of persons accounted to ensure some basic degree of public monitoring. Instead, the Court strongly supported devolving this decision to chief constables on the grounds that they, rather than central government, better understood their communities needs and wrongly assumed that they would keep it under constant review. Surprisingly, although the Court noted that most forces continued to keep fuller records despite the Labour government substantially reducing the level of

[52] [2012] EWHC 2144 (Admin).

information required to be recorded since 2009 (also Bridges 2015; Young, 2016), it absolved them from any blame in wilfully perpetuating the very bureaucracy that they claimed to be hampered by. The Court also failed to appreciate the lack of power enjoyed by members of the public to ensure their chief constables do record stop and account where concerns justify doing so, as Code A requires (Home Office, 2014h:20). Essentially, what *Diedrick* illustrates most clearly is the unpredictability of litigation in providing remedies against the awesome discretionary powers of the Home Secretary and chief constables, particularly in the domestic courts.

Schedule 7 has proven to be particularly resilient against legal challenges. This is despite a wide number of challenges[53] and the Supreme Court's initial concerns over the "possibility of serious invasions of personal liberty" owing to what it considered to be a power "not subject to any controls."[54] In the case of *Beghal v Director of Public Prosecutions*[55] ("*Beghal"*), the Supreme Court dismissed her claim that the powers infringed her right to liberty, right against self-incrimination and her right to private life (Articles 5, 6, and 8 of ECHR, respectively) as it judged the powers necessary for countering terrorism and proportionate to achieving those aims. However, its non-binding judgement still prompted some constraints to police discretion although, as Anderson (2015:para6.36) observes, her case was "less than ideal" because she was the wife of a convicted terrorist and she did not challenge the more intrusive aspects of those powers. The Court agreed with Anderson's repeated criticisms that detaining individuals for longer periods or downloading and retaining data from electronic items may only be lawful if some degree of suspicion was introduced to invoke these provisions. It also argued that the codes of practice was "potentially confusing" (para50) in its advice against discriminatory practice. It suggested

[53] For a good summary, see Anderson (2014, 2015).
[54] R v Gul [2013] UKSC 64 (para64; p.22).
[55] [2015] UKSC 49.

amending the codes to state that ethnicity or religion *could* actually be justified but only if used in connection with other factors present in a terrorist profile. In response, the Home Office issued a circular[56] to ports officers abrogating the relevant paragraphs in the schedule 7 code of practice to give effect to the Court's advice. However, it also warned officers that the decision to detain a person should not be "arbitrary" and, therefore, despite Beghal's failure to introduce fundamental changes to the law, the case may serve to narrow police officers' discretion in so far as it relates to who can be examined or detained under the power.

In the case of *Miranda v Secretary of State for the Home Department* ("*Miranda*"), the lawfulness and proportionality of schedule 7 was also reaffirmed by the High Court[57] and the Court of Appeal.[58] David Miranda, the partner of the journalist who exposed the extent of the U.S. mass surveillance programme, challenged the lawfulness of his nine hour detention in 2013. He alleged the power was used beyond its intended purpose to obtain top secret files that he was transporting to his partner; that it contravened the right to freedom of expression (Article 10 of the ECHR); and that the ECHR protected journalistic material from such infringements. Whilst both courts dismissed the first two grounds, the Court of Appeal ruled that exercising schedule 7 in relation to journalistic material was incompatible with the ECHR as it risked being used arbitrarily and without an explicit exemption by U.K laws. Although, *Miranda* produced some restriction to the scope of port officers' discretion, this narrowly relates to journalists affects rather than the general public and schedule 7 remains fundamentally intact.

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[56] Home Office Circular 001/2016; see: https://www.gov.uk/government/publications/circular-0012016-schedule-7-to-the-terrorism-act-2000

[57] [2014] EWHC 255 (Admin).

[58] [2016] EWCA Civ 6.

As these cases show, litigation since *Gillan* has made it increasingly difficult for the police to operate their legal powers as they have done so historically by narrowing their scope of discretion or raising the prospect of more substantial changes. With little meaningful opportunities to influence operational practice at the local level, including the lack of trust in the police complaints system (Waters & Brown, 2000; Smith, 2013), it is perhaps not surprising that members of the public and civic groups have sought redress through litigation. However, as demonstrated by most of the cases analysed, litigation is unpredictable and the domestic courts have more often than not ruled against claimants, thus also limiting the prospects of future challenges. Litigation also involves substantial time and costs which limits access to it and disincentivises claims.

As the rest of this chapter and the next one argues, litigation alone cannot fully account for other changes to operational practice illustrated by the first section of this chapter, namely the reduction in PACE searches; the greater scrutiny of strip-searches, traffic stops and searches of young people; and also the introduction of greater procedural controls surrounding schedule 7.

### 6.2.2. Large scale public disorder

As police officers and national interviewees pointed out, the public disorders of 2011 brought to their attention long-standing and neglected frustrations of ethnic minorities' everyday policing experiences. As this section argues, the riots were a second key impetus behind the various reforms introduced by national government and analysed throughout the findings. The disturbances occurred over five days in August 2011 and were triggered by the fatal police shooting of Mark Duggan in Tottenham, North London, a place no stranger to police fatalities or anti-police disorders. As news channels presented live coverage of a

violent breakaway protest from an initially peaceful vigil held by Duggan's family and friends aggrieved at perceived failures in the police investigation, at least 15,000 people across the country engaged in their own anti-police violence or opportunistic looting as the police appeared unable to maintain control (Riots Communities and Victims Panel, 2012).

Apart from chief officers, all other interviewees drew parallels with historic unrest to interpret the 2011 disorders as a form of public restitution against excessive police practices. This was particularly the case with members of the public interviewed, many of whom knew rioters or worked with the same socially alienated groups associated with the disturbances. Scarman (1981:para3.110) argues that the 1981 riots was essentially an "outburst of anger and resentment by young black people against the police", although he acknowledged rioters were not exclusively black, and cited stop and search experiences as a key motivating factor. Thirty years later, the official inquiry into the 2011 disorders argued that the underlying causes are "strikingly similar [to 1981]" and explicitly highlighted public grievances with stop and search as producing the anti-police sentiment fuelling the riots (Riots Communities and Victims Panel, 2011). Similarly, Lewis et al.'s (2011:19) large-scale study of 270 young rioters cited stop and search as a key motivating factor having found "73% of people interviewed in the study had been stopped and searched at least once in the past year" and highlighted "the frequent complaint of a sense of harassment by those interviewees on the receiving end of stop and search was made in every city the research took place and by interviewees from different racial groups and ages." As these reports and interviewees argued, stop and searches was a daily reminder of the subordinate position of young people, particularly for ethnic minorities, and was essential in explaining the sheer scale of the 2011 disorders, the violence directed towards police property and personnel, and the underlying mistrust in the police.

However, official acknowledgement of the role of such encounters in producing anti-police sentiment only came years later as the Coalition government's attitudes towards the police underwent a dramatic shift and the Labour Party also started back-tracking from its related policies when in government. Whilst the immediate shock of the 2011 disturbances provoked a cross-party unity strongly supporting harsh sentences for rioters, in the longer term it led to a dramatic shift in this consensus. This followed mounting evidence suggesting that police practices, particularly stop and searches, were responsible for producing the underlying anti-police and anti-government attitudes that fuelled the disorders (see: Riots Communities and Victims Panel, 2011, 2013; Lewis et al., 2011; HMIC, 2013). By July 2013, the Conservative Home Secretary began to reverse her government's prior determination to weaken regulatory controls over stop and search in the name of reducing 'unnecessary bureaucracy' (see Bridges, 2015; Young, 2016) towards one which sought enhanced controls of these and other types of police-initiated stops previously ignored.

Just how drastically the cross-party consensus had changed can be seen from contrasting it with the immediate reaction to the disorders during which the police gained sympathy and unconditional support in managing the riots and the (somewhat confused) denial of any root causes. Prime Minister David Cameron characterised the riots as “criminality, pure and simple”, “mindless violence and thuggery”, an “excuse by opportunist thugs in gangs” and that “it is completely wrong to say there is any justifiable causal link” to Mark Duggan's shooting (HC Deb (2010-11) 11 Aug 2011). Threatening to do “whatever it takes to restore law and order and to rebuild our communities”, including bolstering police numbers in the capital and potentially authorising the deployment of baton rounds, water

cannons and army personnel, he warned “the lawless minority, the criminals who have taken what they can get, I say: we will track you down, we will find you, we will charge you, we will punish you. You will pay for what you have done.” Rt Hon Edward Miliband, then leader of the opposition, stood “shoulder to shoulder, united against the vandalism and violence we have seen on our streets” and agreed there was “no excuses, no justification” for the disturbances. He called for “swift progress” in prosecuting the “horrendous criminal acts” and “tough sentences” for “those found guilty of such disgraceful behaviour.” Whilst agreeing with the Prime Minister's assessment that “crime has a context, and we must not shy away from it”, he disagreed with the government's refusal to commission a public inquiry into the causes of the riots, arguing it was necessary to seek “to explain” and “to ask ourselves why there are people who feel they have nothing to lose and everything to gain from wanton vandalism and looting”, a position supported by many parliamentarians across the political spectrum. What this debate shows is just how strongly supportive political parties were of the police at the time who were seen to be under huge strain and almost the victims of the riots. By labelling all rioters as opportunistic 'thugs', 'vandals' and 'criminals', the legitimacy of any underlying grievances were denied and this had a suppressing effect on attempts to understand why relations with the police had deteriorated so much.

Within weeks, the government's initial refusal to establish an inquiry gave way to a cross-party inquiry established by the prime minister, deputy prime minister and leader of the opposition (each leaders of Britain's three main political parties). The Riots Communities and Victims Panel (2011:10, also 2012:24) report found a number of causes but cited stop and search “as a major source of discontent with the police. This concern was widely felt by young Black and Asian men who felt it was not always carried out with appropriate

respect. We were told that, in at least some instances, this was a motivating factor in the riots, including some of the attacks on the police." Henceforth, and with mounting evidence since, political parties could no longer deny that there were in fact legitimate grievances with certain police practices, particularly from July 2013 following the publication of a damning national inspection report which highlighted the lack of governance surrounding stop and search (HMIC, 2013), discussed later.

As this section has argued, the 2011 disturbances had forced a new cross-parliamentary consensus to emerge, unprecedented since the immediate post-Macpherson era (see chapter 4). Wright (2002:155) argues that "levels of crime and disorder are widely regarded by the public and politicians alike as an important measure of the competence of an administration" and the growing recognition of how excessive policing styles, typified by stop and search, can produce such disorders contributed to a new political agreement that appeared to break away from the 'crime control' consensus described in chapter 4. In 2011/12, the year of the riots, overall stop and search use fell by 9% (table 6.1). Significantly, PACE searches fell for the first time since 2003/04 and by 7% to almost 1,143,000, representing 86,000 fewer searches. Section 60 use also fell by 25% to just under 47,000 which resulted in 15,000 fewer searches and the lowest absolute reduction in the three years since the immediate year before the *Gillan* judgement in 2009/10. This suggests that the immediate police response to the riots, supported by a favourable cross-party consensus, had prevented greater reductions from occurring that year. Far greater reductions occurred in the following years as the Conservative Home Secretary began reversing her government's policies of weakening regulatory controls following the results of the aforementioned inquiries into the riots and the Labour Party also started distancing itself from its twenty-year history of doing so whilst in government (chapter 3-4). The

sheer scale of ensuing reforms analysed in the findings suggest that the disturbances had played a crucial role in prompting an environment more critical of stop and search practices and conducive to the later reductions in use, particularly following a damning national inspection of these powers.

### 6.2.3. Her Majesty's Inspectorate of Constabulary (HMIC)

No national policing body has played a greater role in producing the political consensus favouring stop and search reform than the HMIC (2013) and its first highly critical inspection report into the use of those powers.[59] Commissioned by the Home Secretary six months after the 2011 riots, it has been definitive in providing her with an evidence-base to introduce greater regulation and scrutiny of those powers. For chief officers, senior officers and staff from national policing bodies interviewed, this inspection and its recommendations has been instrumental in guiding their work, although this thesis also uncovered evidence to suggest that this has been overstated.

The inspection focused on three particular issues, all of which it judged forces to be failing on: using their powers fairly and in ways that promote police legitimacy; adequate leadership and front-line supervision; and an evidence-based approach to targeting crime. Drawing upon its statistically representative survey of over 19,000 members of the public, the inspection found strong public support for those powers. However, this diminished in areas where respondents felt the powers were used most. A quarter of all respondents believed that it was used more often on young people and ethnic minorities- a third of

[59] For transparency, the author declares involvement in both HMIC (2013, 2015) inspections as an external advisor to the core inspection team. Although the report was published in July 2013, eight months after PCCs were elected, the inspection had started well before the election. Once elected in November 2012, PCCs were primarily occupied with consulting on and drafting their first police and crime plans which they were legally required to publish by April 2013. As they had little scope to input into the main inspection activities, it is discussed in this chapter whilst the next one discusses the ensuing political fallout and later follow up inspections, both of which were open to PCCs' influence by then.

whom blamed discriminatory police practice. Ethnic minorities were far more likely to cite discriminatory practice and, together with urban populations more generally, feel that those powers were overused. The HMIC (2013:47) found "worrying gaps" in front-line supervision and a lack of effectiveness in its use. It concluded that there was "notable slippage" in leadership and supervision since the Macpherson (1999) report, pointing to the varied "levels of attention" afforded to it by police leaders. Drawing on discussions with chief constables, they challenged the dominant perception that stop and search was not a priority merely because of high overall public satisfaction in the police and the low number of complaints. On effectiveness, they argued "with a few exceptions, forces were not able to demonstrate an approach to using stop and search powers that was based upon a foundation of evidence of what works best to fight crime" and found "little evidence that police leaders were focusing stop and search activity towards priority crimes in their areas" (p.47). This finding supported the conclusions of previous Home Office funded research (Willis, 1983; Miller et al., 2000; also EHRC, 2013) and shows the lack of progress over the decades in ensuring that those powers were used efficiently and effectively- two criteria that police authorities (now PCCs) have a legal duty to hold their chief constables to account for.

The HMIC made ten recommendations aimed at remedying the problems identified but their sole mention of PCCs was made in relation to improving public transparency and scrutiny by proposing the following narrow role for commissioners:

> "Chief Constables should, in consultation with elected local 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." (p.34)

This emerged from its finding of "an alarming 27% (2,338) of [over 8,700] stop and search records examined by HMIC did not contain reasonable grounds to search people, even though many of these records had been endorsed by supervisors" and so, they argued, were potentially illegal (p.6). But this limited participatory role is unlikely to introduce stronger local democratic controls over practice because it relies upon what Marshall (1978) describes as 'explanatory and cooperative' forms of accountability, particularly in *explaining* practice rather than introducing more robust scrutiny. It also still relies upon police officers to incorporate any recommendations into practice rather than giving PCCs or the public a stronger role to ensure changes occur. Essentially, despite the inspection having been commissioned in response to the concerns of people from minority ethnic backgrounds, it only provided them and their commissioners with a narrow, retrospective role in accountability by reaffirming an activity already required under the codes of practice. It did not propose any more robust processes that could empower the public or PCCs to ensure more fundamental changes to police culture and discretion could arise as Brogden et al. (1988) and Shiner (2015b) argue is necessary to ensure more democratically accountable police service.

Finally, the HMIC also criticised the inadequacies in data recording standards by arguing:

> "Rather than improved processes and better use of technology, forces had simply stopped recording some of the data which we believe is necessary to allow a good assessment of the effectiveness of the power. For instance, too many forces did not record whether a stolen or prohibited item was found– perhaps one of the fundamental factors in testing whether the grounds for suspicion were reasonable." (p.47)

The example given was significant, for it was one element of data recording previously required but removed by the Conservative Home Secretary and the HMIC criticised for the "unintended consequences" of hampering adequate accountability. The government's later

endorsement of the HMIC's recommendation to re-record this and other data signalled a significant change in Conservative policy because it reversed their key manifesto pledge of reducing 'police bureaucracy', continuing on from the previous Labour government. The Labour government had commissioned a review to modernise the police (Flanagan, 2011) and fully endorsed its recommendations to 'free up' police time by introducing a reduced and streamlined process of stop and search and stop and account recording. The Conservative government, however, went much further than Flanagan suggested by scrapping the recording of stop and accounts entirely and it substantially reduced the amount of data required from stop and searches, including whether the item was found. This ignored Flanagan's appeal for any enhancement of police discretion to be accompanied by a concomitant increase in accountability. Following the damning inspection, the Home Secretary cleverly adapted the report's concerns to suit her own reform agenda by complaining:

> "Since the election, I have made it a priority to cut red tape and free up police time... There is no point in making all those changes if police officers then spend their time conducting pointless stops and searches, with all the bureaucracy that goes with them." (HC Deb (2013-14) 2 July 2013)

This occurred during her first Parliamentary statement on stop and search, pre-empting the publication of the HMIC inspection. For the first time since the crime control period (see Reiner, 2010), a Home Secretary had publicly acknowledged that the concerns raised by police officers about bureaucracy hampering their work, to which successive governments had been so obliging, was essentially a false pretext. Such was the HMIC's impact that the Home Secretary used this same parliamentary statement to announce a public consultation into the use of those powers aimed at addressing the deficiencies that the inspection had identified (see chapter 7).

As this section has argued, the HMIC played an important role in encouraging a new cross-party political consensus to emerge that favoured stop and search reform. It also provided the government with an evidence base to justify its strong challenge towards police practice in addition to prompting the Labour Party to rethink its policies that had led to these practices when it was in government. However, as the next chapter argues, there was ample evidence to suggest that the HMIC's influence was far more limited than initially appears to be the case, contrary to interviewees' suggestions.

### 6.2.4. Equality and Human Rights Commission (EHRC)

Rarely acknowledged within the documents analysed and people interviewed, was the impact of the EHRC's (2013; also 2010) eighteen month programme of action in producing reductions to stop and search volumes and disproportionality in five forces. At a time when the overall volume of searches nationally had reached its peak in 2009/10, the EHRC threatened the following five constabularies with legal action against what it considered to be potentially discriminatory stop and search practices: Dorset, Leicestershire, Thames Valley, the Metropolitan Police and the West Midlands. This resulted in major reductions in volumes and disproportionality within those constabularies without reversing the trend of declining crime. Therefore, as one interviewee closely involved in the project stated when reflecting on the programme's significance, it was the first “social experiment” to undermine the conventional wisdom that stop and search was an effective crime fighting tool (National/03). The EHRC concluded that disproportionality and search volumes were both the product of police policies rather than patterns of crime, thus suggesting that the use of the powers is determined by chief officers' own attitudes rather than other factors.

The EHRC (2013) also reported finding the greatest improvements made by the forces it was more intrusively involved in monitoring, thus highlighting the potential of external oversight bodies to influence operational practice. This raises the prospects of greater involvement of local policing bodies such as PCCs. Leicestershire & Rutland and Thames Valley constabularies proposed a package of measures, for which the EHRC was most actively involved, and included a formal aim to reduce disproportionality; the removal of quantitative performance targets encouraging unnecessary searches; the greater involvement of community groups to provide a critical view on its use; and assigning a chief officer the responsibility for implementing and assessing these changes. Dorset and the Metropolitan Police were already engaged with the National Policing Improvement Agency (now College of Policing) and the EHRC undertook to monitor these activities rather than being directly involved. The West Midlands, however, proposed its own measures including the abolition of quantitative targets but, as the EHRC highlighted, was the most distant and least cooperative. Although the EHRC had intended to take legal action against the West Midlands, this threat did not materialise and, according to National/03 this had enabled the force to "call our bluff" and successfully resist the externally imposed reform. As already discussed earlier, credible threats of legal action appear to provide a powerful means for external actors to negotiate changes to the kind of operational practice that usually excludes them from any meaningful influence. Certainly in relation to the five forces, this appears to be the case.

### *6.3. Conclusion*

This chapter analysed a relatively straightforward period of police accountability with regards to stop and search, even as other types of encounters were ignored. As this chapter argued, public action arising from litigation and large scale disorder provided the impetus

for stop and search reform and a heightened public scrutiny that produced the inhibitory effect on those powers that regulation alone has historically failed to ensure (chapter 4). This suggests that the political environment within which police officers operate plays an important role in shaping police practice and how well officers abide by regulatory controls. It also validates Jefferson & Grimshaw's (1982) argument that democratic accountability is complementary to chief officers' legal accountability as it can set police priorities without impinging upon their operational independence, although this chapter shows the two are more interdependent than the authors suggest.

National policing bodies, namely the EHRC and particularly the HMIC, have played a key role in promoting a new socio-political environment that has discouraged inequitable practices and favoured greater accountability, albeit not unproblematically. Their influence reinforces Jones et al.'s (1994) finding that power is more dispersed within the institutional arrangements for police accountability than is usually suggested, and the Home Secretary and her office appeared to exercise the greatest influence during this period. This also means that PCCs may have considerable influence over stop and search, and indeed other practices, by virtue of their public profile and priority setting duties. Yet despite these national bodies purporting to act in the public interest and seeking to enhance police responsiveness to local populations, particularly towards ethnic minorities backgrounds, their activities reinforced the primacy of regulatory controls and the role of central actors in governing the police. They provided scant opportunities for the public or police authorities/PCCs to participate in police accountability.

Whilst this chapter shows how strongly influential the politics of police powers has been in promoting greater police accountability during this first period, the next chapter

significantly complicates this by discussing the second phase of stop and search reform coinciding with the introduction of PCCs. This next period saw an enhanced cross-political party consensus favouring more fundamental reform to stop and search and provoked increasing resistance from chief constables. This was more revealing of the power dynamics concerning how police accountability is negotiated and the next chapter also discusses the potential role PCCs had in influencing this environment to ensure that police officers were also accountable to their local population.

# 7. The Politics of Stop and Search Reform: After the Commissioners

As the previous chapter argued, the period immediately before the introduction of PCCs was one where the institutional arrangements governing the police had produced significant changes to stop and search practice, particularly in response to the concerns of people from ethnic minority groups. However, the period analysed in this chapter was one in which the expanding political consensus that encouraged further reform was met with substantial resistance from chief officers, thus frustrating their implementation. It therefore shows how incredibly complicated changes to operational practice are negotiated within the structures governing the police in Britain and also challenges the assumption underlying most police studies that suggest the Home Secretary is more powerful than may be the case (e.g. Jones et al. 1994; Millen & Stephens, 2011). This chapter starts by discussing the expanding political consensus that underlined this period and gave rise to the developments subsequently analysed.

Unlike the previous chapter, all of the developments discussed here coincided with PCCs' first term in office and so represent a range of activities that they could have influenced or participated in. As will be argued, PCCs and their electorate were given little opportunities to participate in this enhanced scrutiny, thus questioning the extent to which the institutional arrangements in Britain is conducive to local police accountability. Subsequent chapters analyse how PCCs sought to negotiate their own role in what remains a highly centralised governance structure.

### *7.1. A new political consensus*

In July 2013, a week before the HMIC (2013) was due to publish its damning inspection report on stop and search, the Home Secretary convened a Parliamentary debate where she announced a public review of those powers aimed at addressing the deficiencies the report highlighted. The details and results of the review, public response and ensuing second Parliamentary debate in April 2014, where the Home Secretary proposed a series of reforms, are discussed later. This section analyses the announcement and first Parliamentary debate which signalled a new cross-party agreement conducive to greater public scrutiny of stop and search and later resisted by chief constables.

During the first Parliamentary debate, Theresa May became the first Home Secretary to characterise the policing practices that dominated the previous two decades and tacitly encouraged by successive governments (see chapter 4) as a "dreadful waste of police time", and blamed officers for "conducting pointless stops and searches, with all the bureaucracy that goes with them" (HC Deb (2013-14) 2 July 2013). Questioning "whether stop and search is always used appropriately", she also adopted language typically associated with the Labour Party by expressing concern over the disproportionate searches of black people warning "if anybody thinks it is sustainable to allow that to continue, with all its consequences for public confidence in the police, they need to think again." She ended by outlining her clear expectation to see the powers "used only when it is needed... higher search-to-arrest ratios... better community engagement; and... more efficient recording practices across the country." Labour expressed similar sentiments as its then Shadow Home Secretary, Yvette Cooper, and key proponent of its crime control agenda, sought to distance herself and her party from their policies when in government. Welcoming the consultation, she raised similar "concerns about... the scale of use [of stop

and search], the lack of intelligence-led approaches and the disproportionate use against ethnic minorities and the potential waste of money", thus projecting denial about her government's role in encouraging these very practices. The rest of the debate saw various members of parliament welcome the consultation. A sign of how sentiment within the Conservative party was beginning to change came in the words of its MP for Croydon Central, one of the worst hit constituencies during the August 2011 disorders, when he argued "In the past my party has not taken seriously enough the concerns of London's black and minority ethnic communities about the way in which they are policed. It reflects huge credit on the Home Secretary that she is addressing this ongoing concern".

As these quotes suggest, a new cross-party political consensus had begun to emerge. Both the Conservative-Liberal Democrat coalition government and Labour opposition were now in agreement that stop and search use was excessive, particularly in relation to ethnic minorities, and that the police were to blame for these ineffective and provocative practices. This contrasted with the decades beforehand where both the Conservative and Labour parties had pursued 'crime control' policies designed to enhance police powers and discretion whilst also weakening the regulatory mechanisms intended to prevent misuse (Reiner, 2010; Sanders et al., 2010), including in relation to stop and searches and other types of stops (chapter 4; Bridges, 2015; Delsol & Shiner, 2015). It is within this consensus that the first sustained reduction in use had occurred since the immediate post-Macpherson period, falling by 11% in 2013/14 to under a million searches for the first time since 2006/07 (see figures 4.1 & 6.1, and tables 4.1 & 6.1). It is within this context that PCCs were newly introduced and their first collective act was to strengthen this cross-party consensus by endorsing the HMIC's dedicated inspection report into their constabulary and

indicate that they would ensure their chief constable complied with its recommendations (see Appendix E for the list of PCCs who responded).

### *7.2. A deepened political consensus and 'comprehensive package of measures'*

Later that day, the Home Office (2013c:3) published the details of its public review on stop and search seeking "to understand how the use of these powers is viewed by the public and by those involved in policing." The consultation only covered the main powers to stop and search having excluded those under counter-terrorism legislation as they had already undergone an earlier review (see: HM Government, 2011), and also excluded road and traffic stops. However, since section 43, the with-suspicion counter-terrorism street power, was excluded from either consultation, this power has never been subject to any public review.

Within a matter of weeks, the consultation deadline was extended from an initial six weeks to twelve following intense lobbying by local community and national pressure groups to facilitate more time for people to respond, including *StopWatch*. This appears to have worked because over 5,000 responses were received, 69% of which were from members of the public (Home Office, 2014c). The heavily framed questionnaire solicited views on whether the powers were perceived to be effective, applied fairly, and achieved the right balance between tackling crime but also protecting civil liberties. It also sought agreement for its proposals to "reduce bureaucracy" by requiring police officers to replace paper forms with the electronic recording of the basic details arising from a search. PCCs were only mentioned in passing as one mechanism for holding chief constables to account but there were no proposals made in relation to enhancing their role.

In April 2014, the government published its response to the feedback on the same day the Home Secretary convened a second parliamentary debate on stop and search, eight months after the consultation was first announced. According to a front-page article in the Times Newspaper and also Newsnight, the BBC's (2014) flagship current affairs discussion show, the delay was blamed on “regressive attitudes” in the Prime Minister's Office concerned about how the Home Secretary's reforms would make the Conservative Party appear 'soft on crime', particularly as its main rival, the United Kingdom Independence Party (UKIP), was making significant gains in a number of local council, UK Parliamentary, and European Parliamentary elections. Nonetheless, the consultation response highlighted extremely divergent views among participants, particularly when the age and ethnicity of respondents were taken into account. People from younger age groups and ethnic minority backgrounds were the least likely to believe that the powers were effective, used fairly, or correctly balanced fighting crime against protecting civil liberties. According to the document a “substantial number” of people had also made use of an optional, open-text field to elaborate their answers by arguing that they felt the police were using their powers in discriminatory ways. These groups were also less likely to feel that the explanation given to them by searching officers was justified and far more likely than whites to agree with the government's proposals to strengthen the public's role in “deciding” how stop and search is used (older participants were the least likely to agree with the latter).

The consultation was important for the government to ensure that its proposals appeared to be responsive to public demands. A good example of this was the later inclusion of recommendations concerning the use of strip-searches and road and traffic stops following appeals from consultees and despite these being outside of the original scope of the consultation. This also shows the potential influence of coordinated civic action in pressing

the government to make changes without resorting to the lengthy and costly types of litigation discussed in chapter 6. However, given that previous Labour and Conservative governments had previously ignored long-standing concerns on these very issues, the electoral uncertainties in the looming 2016 general election may have played a significant role in producing this political environment conducive to reform. This was given added importance by an influential report which estimated that ethnic minority voters "could easily decide over 160" out of the total 573 parliamentary seats and that in "168 marginal seats the BME [black and minority ethnic] electorate is larger than the majority in which the seat was won" (OBV, 2013:3). Although this report wrongly assumes that ethnic minorities vote as a unified block, it still ignited considerable debate amongst the political elite concerning how to win those seats and it was soon after this publication that the Conservative party began talking more explicitly about race and the broader range of issues affecting ethnic minorities.

This second parliamentary debate saw another extraordinary performance by the Home Secretary who levelled even harsher criticisms of police practices, particularly in relation to racial disproportionality (HC Deb (2013-14) 30 Apr 2014). She also announced the following 'comprehensive package of measures' analysed in the remainder of this chapter and, at the time of writing this thesis, most of these proposals are still ongoing:

a) Revise the codes of practice to "make it clear what constitutes reasonable grounds for suspicion" and also introduce "formal performance or disciplinary proceedings" where officers were found to not use "their powers properly".
b) Commission the College of Policing to design new national training for officers in exercising their powers, including "unconscious bias awareness training to reduce the possibility of prejudice informing officers' decisions" and undergo biannual

accreditation to carry on using their powers. This, she explained, would “send the clearest possible message: if officers do not pass this assessment, if they do not understand the law, or if they do not show they know how to use stop-and-search powers appropriately, they will not be allowed to use them.”

c) Commission the HMIC to conduct annual inspections into police force's use and governance of stop and searches as a means of ensuring constabularies were regularly scrutinised for these practices. Also, in response to public concerns raised during the consultation, the Home Secretary would commission an additional thematic inspection into the use of strip-searches and road and traffic stops “with a view to eliminating any unfair or inappropriate use of those powers.”

d) Ensure police forces regularly publish stop and search data onto online crime maps, including the broader range of outcomes beyond an arrest, to enable public scrutiny.

e) Ensure chief constables and PCCs provide the public with opportunities to scrutinise the quality of search records otherwise, so threatened the Home Secretary, she would impose this upon them as a legislative requirement.

f) Finally, all police forces in England and Wales were invited to join a 'Best Use of Stop and Search Scheme' (BUSSS) which would ensure better recording of searches, give members of the public opportunities to scrutinise stop and search practice, and place greater restrictions on the use of section 60 (see Home Office, 2014f).

Three themes are apparent from these proposals. First, the sheer breadth of the proposals demonstrated that the government 'meant business' for, as the Home Secretary warned:

> “if the numbers do not come down, if stop-and-search does not become more targeted, if those stop-to-arrest ratios do not improve considerably, the

> Government will return with primary legislation to make those things happen, because nobody wins when stop-and-search is misapplied. It is a waste of police time. It is unfair, especially to young, black men. It is bad for public confidence in the police" (HC Deb (2013-14) 30 Apr 2014).

As this shows, the Home Secretary had become more brazen in criticising police practices and adopting language typically associated with the Labour Party. In response, Labour's Yvette Cooper characterised the measures as "limited", perhaps in her attempt to maintain her party's appeal to its traditional voters now sought after by the Conservatives.[60] It was this debate that more than any other demonstrated how politicised stop and search had become since the 2011 riots as the country's main political parties were now competing to show their competence to govern ahead of the 2016 general election. One conservative MP even declared that the government's proposals made "the Conservative party, and not Labour, the real party of the reform of stop-and-search". Cooper argued that these proposals could have gone further and introduced much earlier than had been the case, also blaming "regressive attitudes" in the prime minister's office for not only forestalling the Home Secretary's announcement but also weakening them.[61] Using her right of reply, the Home Secretary launched an extensive attack on Cooper for "playing party politics" and criticised Labour's record on stop and search, pointing to how they had "extended" those powers and "weakened" regulations when in government. Clearly, the Home Secretary had forgotten about her own role in scrapping stop and account recording and reducing the amount of information required to be recorded from searches (chapter 4). Nonetheless, this debate had deepened the political consensus and placed even greater pressures upon police officers and their chief constables to change their operational practices, thus contributing to the reductions in stop and search use in 2014/15 (table 6.1).

[60] The Home Secretary also developed a reputation for dealing with a range of other issues that disproportionality affect ethnic minorities, such as deaths in police custody and hate crime.

[61] The Home Secretary was widely expected to introduce legislative changes although the specifics were never known. This is a personal observation arising from the many committees, conferences and meetings attended as part of the applied aspect of the PhD, as well as some interviews with national policing staff.

Unfortunately, the proposals largely ignored the role of the public and PCCs. In relation to the public, only BUSSS had granted them any opportunity to participate in the new accountability arrangements, albeit limited, a development discussed separately in this chapter due to its importance to the case studies. For PCCs, whilst the consultation response had envisaged them a role (Home Office, 2014c), this did not feature in the Home Secretary's agenda going forward- nor in the response of the Labour party which remained opposed to their introduction in the first place. The consultation response proposed that they would be involved in supporting the College of Policing, the national body responsible for setting police standards, in developing training for police officers. But it envisaged PCCs' main role to be a more general one of developing local solutions to stop and search recording and to also ensure that these records were scrutinised by the public, an activity already required by the code of practice (Home Office, 2014h).

Aside from this, it is clear that the Home Secretary had failed to incorporate PCCs into the enhanced governance arrangements for stop and search which remained centralised throughout this study. Perhaps one reason for this was the growing scepticism directed towards PCCs and their ability to hold chief constables to account, including from the Home Secretary herself who appeared to have cooled towards her flagship police reform model. In an earlier speech marking their first anniversary, the Home Secretary admitted that the introduction of PCCs was “messy” and that the election turnout was too “disappointingly low” to ensure PCCs enjoyed democratic legitimacy (May, 2013). More importantly, she judged PCCs' overall ability to hold chief officers to account as “mixed”, having also criticised a number of commissioners for establishing performance targets

against her advice and others for rushing to defend their chief constables in moments of crisis.

Finally, the proposals failed to progress police accountability beyond the explanatory and retrospective forms criticised by police scholars as unlikely to address the local democratic deficit (Marshall, 1978; Brogden et al., 1988; Jefferson & Grimshaw, 1984). Much of it involves enhancing regulation which itself relies upon police officers to change their own practices, including the supposedly clearer definition of what constitutes reasonable suspicion, the lessons learned from unconscious bias training, and supervising officers being more proactive in ensuring their officers are not misusing their powers. Other proposals relate to providing the public, particularly for those on police-public consultation groups, with more information on how stop and search is used but denies them the power to effect any desired changes. Therefore, despite the Home Office (2014c:29-32, emphasis added) consultation response proposing that "local communities should have *direct* involvement in *deciding* how the police use their stop and search powers", the Home Secretary's package of measures fell considerably short of this. At best, it appears only to reproduce the explanatory and retrospective forms of accountability that has dominated since at least the 1960s (chapter 3).

In sum, despite the breadth of reform the Home Secretary proposed in her 'comprehensive package of measures' and the deepened cross-political party consensus conducive to more fundamental reforms, the government appeared reluctant to devolve greater responsibilities for police accountability towards local actors. The package of measures are still ongoing and serve to reinforce the primacy of central actors in holding the police to account. Even the threat of making the public scrutiny groups that PCCs are responsible for organising a

legislative requirement fails to address the more fundamental issue of ensuring that these groups are representative of people impacted by stop and search and that they can exercise enough influence to ensure that operational practice is more responsive to their demands (Morgan, 1987; Brogden et al. 1988; Rowe, 2004). Finally, the voluntary nature of most of these measures also means that they are dependent upon the whims of future Home Secretaries who can either support or revoke any of these measures at will.

### *7.3. 'Best Use of Stop and Search Scheme' (BUSSS)*

Of all of these reforms, BUSSS stands out as being the only mechanism to introduce additional opportunities for the public to participate in police accountability, as this section discusses. Issues around its implementation were also extremely revealing of the politics of police powers and the still powerful role of chief constables in resisting pressures from the very governance arrangements that they are supposedly accountable to.

In operation since summer 2014, BUSSS aims to "improve public confidence and trust" through ensuring "greater transparency, 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" (Home Office, 2014:2). The scheme is voluntary, but as one interviewee stated capturing the view amongst other officials and police officers interviewed:

> "*I really like this line, look, on its own: 'I invite all forces to join the scheme'. And I've written after it: 'this isn't an invitation, it's an instruction'. I'm sure it is an instruction.... she's given some impetus to [police officers] to get your act together otherwise you're gonna be in trouble and she's really, like, pointed the figure in their faces and said sort it out or else."*
>
> National/04

As National/04 states, despite forces being permitted to depart from its requirements under exceptional circumstances, the expectation is that they would be fully compliant with the scheme. To reinforce this, BUSSS asserts the Home Secretary's right to exclude non-complying forces from the scheme as a way of building public pressure upon them in addition to her previous threat of introducing legislation to enforce compliance.

BUSSS requires constabularies to record and publish data on the broader range of outcomes arising from a stop and search; provide the public with opportunities to accompany officers out on patrols to witness how they conduct searches; introduce a 'community trigger' whereby a higher than usual number of complaints would necessitate an explanation to police-public consultation groups about their use of those powers; introduce better monitoring of the impact of searches upon ethnic minorities; and placing greater restrictions on section 60 authorisations and use. Following BUSSS's introduction in 2014/15, recorded stop and search usage fell by a staggering 40% that year to under half a million and the lowest since 1993 (tables 6.1 and 4.1, respectively). As National/04 indicates, this signifies how important the Home Secretary has been in providing the "impetus" to reforming operational practice and, as the last chapter argued, the significance of credible threats of legal action in stimulating changes.

However, a later HMIC (2016) inspection revealed that only 11 of 43 police forces were fully compliant with BUSSS and 13 had failed to abide by at least three of its 5 main requirements. Astonishingly, this was eighteen months after all forces had 'voluntarily' joined the scheme and demonstrates how powerful chief officers are in shaping the extent to which government reforms translate into operational practice, just as they had previously done so with adapting stop and account recording to their own purposes

(Shiner, 2010; Young, 2016) and increasing drugs searches despite a temporary declassification of cannabis (Shiner 2015a). Further, the uneven compliance with the five main requirements across forces (HMIC, 2016) shows how chief officers could 'cherry pick' what reforms to implement to suit their own purposes, similar to their response to the HMIC's first inspection (see HMIC, 2015a). In response, the Home Secretary adopted the HMIC's recommendation to suspend the 13 non-compliant forces from the scheme and re-inspect them within three months to assess compliance; she also issued a warning to the other 19 non-fully compliant forces. Unfortunately, the details of any permitted departures from BUSSS for operational reasons, rather than the flagrant disregard just described, are not published to enable this study to assess daily compliance with the scheme.[62]

Only the requirement to reduce section 60 volumes fared well, with 41 of 43 constabularies compliant.[63] BUSSS singles this power out for substantially greater restrictions and most likely in recognition of the potentially serious threat to the power by the-then impending Supreme Court hearing on *Roberts*. Participating forces are required to raise the level of authorising officer to at least assistant chief constable, following the precedent already set by the West Midlands and Metropolitan police forces; reduce the initial maximum authorisation period down from 24 hours to 15 hours, but with a possible extension to an additional 9 (i.e. up to the initial upper legal limit of 24 hours) and then a further extension of 15 hours; and raise the threshold required so that an authorisation is made only when the power is deemed *necessary* to prevent violence rather than *expedient* and there is a 'reasonable belief' that serious violence *will* rather than *may* take place. Finally, where practicable, forces must ensure that the public is given advanced notice of a section 60

[62] All attempts to obtain this information were unsuccessful owing to a lack of clarity among the Home Office, College of Policing and HMIC concerning who should be responsible for collating this information and whether it should then be published.

[63] The two non-compliant forces were Gloucestershire and Greater Manchester.

authorisation, but certainly afterwards, to enable them to judge the purpose and success of the operation. As the last chapter explained, references were made to the *Gillan* and *Roberts* cases with regards to raising the authorisation threshold, thus showing the influence of litigation in providing the public with opportunities to shape police practice.

Yet private misgivings about the depth of reform became public throughout 2015 when the Commissioner of the Metropolitan Police became a spokesperson for other disgruntled chief and senior officers. In a series of media interviews ahead of the Supreme Court hearing on *Roberts*, he claimed that increases in knife crime were partly due to those reforms and indicated he would advise his officers to scale up its use, contrary to the Home Secretary's demands. In October 2015, after the hearing but before the court's judgement, the Home Secretary used a speech to the National Black Police Association, an association of ethnic minority police officers and staff, to fight back. She criticised the Commissioner for his "knee-jerk reaction on the back of a false link" and indicated that the government would be continuing its reforms because "there is still a long way to go" (May, 2015). However, the police did receive a small compromise when the Home Secretary stated: "The message from this Government is clear: we want the police to use stop and search properly, not to stop using it altogether" once again showing how successful chief officers have been in slowing the pace of reforms and obtaining concessions.

Coincidentally that afternoon, the Greater London Assembly's Police and Crime Committee[64] held its monthly public meeting where the Metropolitan Police's Deputy Commissioner, who is also the former ACPO lead for stop and search, was answering questions (GLA, 2015). When questioned about the exchanges between the Commissioner

[64] The capital's equivalent of a Police and Crime Panel.

and the Home Secretary, he presented a more critical view of the supposed link between knife crime and stop and search activities. One senior officer and two chief officers interviewed for this study made similar comments, for example:

> "*Knife crime is one manifestation of violence and violence itself is a wicked problem. There's so many variables that influence levels of violence that to pick on stop and search I don't think is a very intelligent way of analysing it.*"
>
> WestMids/Police/03

Altogether, the exchanges above show how incredibly politicised stop and search reform had become. Whilst the Metropolitan Police Commissioner may have represented some of his colleagues around in the country in challenging the validity of being forced to change their practices, his own deputy and also WestMidsPolice/03 appeared to capture a more widespread view amongst officers interviewed for this study acknowledging the "many [other] variables that influence levels of violence" beyond police interventions. This suggests that chief officers' own values and leadership style continues to be important in determining the extent to which stop and search and national reforms are incorporated into operational practice, an issue pursued further in the case study findings (chapter 9).

Another area of significant progress made in implementing BUSSS was the recording and publishing of the broader range of outcomes arising from a search. All police officers interviewed particularly welcomed this development:

> "*Obviously the Best Use of Stop and Search requires us to measure more broader outcomes now which is a good thing 'cause whether you arrest someone or not is a rubbish measure 'cause as you know when you find a bit of cannabis you can give them a fixed penalty notice and avoid the need to arrest them. So actually our conversion rate- positive outcomes rate- is no different from anyone else's including the Met's.*"
>
> Suffolk/Police/01

> "*The whole definition of a positive outcome is [good] in our thinking because people are very narrow on it aren't they? I mean, the Home Office*

> *only used to say an arrest is the only positive outcome so, you know, that's evolved."*
>
> ChiefOfficer/04

As these quotes indicate, recording 'positive outcomes' has been very well received by forces as they had long been campaigning for it. This is most likely because it enables them to demonstrate the greater effectiveness of their powers when compared the more narrow criteria of arrests. Because of this obvious benefit, the bureaucracy involved in recording, monitoring and publishing this wider data was deemed worthwhile whilst other additional processes were met with resistance. This is similar to police force's stagnation over the HMIC's (2013) ten recommendations aside from the electronic recording of encounters with its obvious benefits of reducing paperwork and better linkage with police intelligence databases. An impressive 37 forces had recorded positive outcomes although the HMIC (2016) judged only 16 to be *fully* compliant because the rest were not submitting this data to public scrutiny; and it is on public engagement that forces generally fared worst on.

Unlike all the other national developments analysed in this thesis, BUSSS is the only initiative to date to provide members of the public with opportunities to scrutinise police practice. The public may accompany officers on patrol to observe how stop and searches are conducted and forces are also required to introduce a 'complaints trigger' which would necessitate police-public consultation groups to receive an explanation if an unusually high number of complaints is received (for most rural forces, this would occur even after a single complaint is made). Perhaps unsurprisingly, 14 forces had not sufficiently implemented the observation scheme (HMIC, 2016) which is, arguably, the most intrusive measure of all as it is most able to subject officers' decision-making to immediate, external scrutiny. The HMIC also expressed concerns over the lack of understanding among

consultation group members to ensure stop and search forms are properly scrutinised, an issue returned to in the case studies (chapter 9).

Overall, what BUSSS shows is the potential for the Home Office to apply significant pressures upon police forces to change their operational practice. It also highlights how powerful chief officers are in light of their selective adherence to a scheme championed by the Home Secretary herself and supported by a cross-party consensus. Finally, it emphasises the Home Office's ability to inject greater civic participation in police accountability by offering the public with structured opportunities to be involved in its reforms, albeit one that can only produce additional explanations from police officers rather than more fundamental reform sought by ethnic minority groups. Curiously, BUSSS has completely neglected the role of PCCs in ensuring chief officers comply with the scheme and that they are scrutinised for any departures from it. As the next and final two sections discuss, this neglect of PCCs has been replicated by other important central actors.

### *7.4. Her Majesty's Inspectorate of Constabulary*

Thus far, the findings suggests that the HMIC has played a key role in producing the information necessary for cross-parliamentary scrutiny of stop and search and prompting a political consensus favouring the greater accountability of those powers. Senior officers and chief officers interviewed argued that the HMIC had in fact directly effected changes to operational practice. However as one interviewee from a national policing body stated:

> "*It's mixed, I mean, some people [chief and senior officers] accept it and have made big progress in terms of how they use it others less so. It depends how attentive or how important it is to the chief officer group if I'm honest."*
>
> National/06

As National/06 indicates, the mixed implementation of the HMIC's recommendations suggests that the Inspectorate's role in changing police practice has been overstated, particularly since subsequent inspections have revealed that most chief officers were ignoring most of its recommendations (HMIC, 2015a, 2016).

Along with a further commission by the Home Secretary to look at the use, governance and impact of traffic stops and also strip-searches,[65] the HMIC (2015b) found forces were making "disappointingly slow progress" in adopting its original ten recommendations because chief officers were "failing to understand the impact of stop and search." It also reinforced the need to "to comply fully with the Best Use of Stop and Search Scheme" thus showing how interdependent the activities of the national actors have been, again, largely to the exclusion of PCCs and local communities. Interestingly, all of the HMIC's (2015a) additional ten proposals to remedy chief constables' failures to implement their original recommendations and to rectify the problems identified in relation to traffic stops and strip-searches were aimed at chief constables or other central actors, namely the Home Office and the College of Policing.

With no powers to sanction non-compliant forces, the HMIC has had to rely upon both its moral voice to incentivise changes and upon other central actors with direct powers over the police to push for such measures, notably, the Home Secretary who endorsed its recommendation to suspend the worst offenders from BUSSS and re-inspect their compliance. Surprisingly, no recommendations were directed towards PCCs despite their statutory obligation to hold chief constables to account and their better grasp of their

[65] A strip-search is where police officers require a person to remove their clothes to enable a search for illegal items. As the codes of practice state, this can range from removing outer layers of clothing, such as a jacket or shoe, to exposing skin or intimate parts of a person's body, such as removing a t-shirt or underwear (Home Office, 2014h).

force's day-to-day progress in complying with the Home Office and HMIC's proposals. Whereas 22 PCCs responded to the first inspection report, only 9 had done so for this follow-up inspection which suggests a lack of connectivity between the national actors involved in police accountability and local PCCs (see Appendix E for list of responding PCCs).

### *7.5. Other influences*

A range of other actors also demonstrated varying degrees of influence in holding the police to account as this final section discusses. Following the HMIC's (2015a) recommendation that every police force in the country should published an action plan detailing how they intend to incorporate its recommendations into practice, each one has done so using a template produced by the **Police-Public Encounters Board** (PPEB).[66] The PPEB is a collection of police force leads on stop and search who share best practice, chaired by the National Police Chiefs' Council (NPCC, formerly ACPO [Association of Chief Police Officers]) national lead for stop and search and deputy chief constable of the British Transport Police Adrian Hanstock. This template also includes what steps forces will take to introduce greater procedural safeguards for searches of children and young people after this was thrust into the spotlight by an inquiry of the **All Party Parliamentary Group for Children** (APPGC, 2014) into young people's experiences of the police. Together with the specific references to BUSSS, this shows how interdependent and mutual reinforcing activities from a wider range of national bodies and actors has been, and beyond those whose statutory role it is to govern the police.

[66] For transparency, the author declares membership of this group. The original statement is based upon observations of this group which also publishes its minutes to the public, and the plans are available on each police force's website.

As a cross-party scrutiny group, the APPGC has no legal responsibility or powers in relation to government, parliament or the police. As with other parliamentary committees and groups, it can act as a moral voice by raising attention to various issues and shape the wider socio-political environment within which police officers operate by proposing legislative changes to their fellow lawmakers, in this case with regards to children and young people's policing experiences. As argued earlier, the threat of legislative changes in constraining police powers and discretion has operated as a key motif for police officers to take heed of directives and may partly explain why the APPGC's recommendations were incorporated into police force's action plans. Another likely reason is due to the proactivity of the PPEB's chair in devising a national template that included the APPGC's recommendations, thus supporting suggestions that ACPO (now NPCC) has come to play an important role in coordinating policing issues nation-wide (e.g. Loveday, 1986; Reiner, 2000; Rawlings, 2002).

The **Independent Police Complaints Commission** (IPCC) successfully undertook legal remedies to ensure that all police forces were complying with its investigations, having won a judicial review against the Metropolitan Police (see High Court, 2015). Initially, between 2009 and 2015, the commission used its ‘calling in' power to legally oblige all police forces to refer onto it any complaint made in relation to examinations and detentions at ports under schedule 7. This itself arose from the IPCC sharing concerns over potentially discriminatory practice after it was approached by a group of young Muslim men supported by the pressure group *Cage*.[67] However, the Metropolitan Police had refused to give the IPCC access to the classified material that it required to properly investigate whether complainants were stopped on the basis of intelligence or unlawfully

[67] According to its website, Cage (formerly known as CagePrisonsers) is an independent advocacy organisation working to empower communities impacted by the global 'War on Terror'.

discriminated against. Ultimately, the High Court (2015) ruled in the IPCC's favour, resulting in an agreement reached whereby the commission would be granted access to classified material, including the background information used by port officers to inform their decision to examine or detain people, although the police could appeal to the Court against any disclosures. Once again, litigation appears to have produced a better result than voluntary compliance, particularly in relation to counter-terrorism powers.

Despite the reductions in schedule 7 use over this period (table 6.3), it is unclear what influence this intervention may have had upon port encounters, particularly as the proportion of ethnic minorities detained remained high (table 6.4) and the complaints process can only provide an individual-level, retrospective form of redress. Further, the IPCC's lack of enforcement powers means that forces are not obliged to incorporate any of its recommendations into practice, as interviewees from the IPCC conceded. Nonetheless, this development had introduced an additional layer of scrutiny surrounding a highly secretive power and may ensure that complainants have better access to redress or confidence in externally managed investigations, although broader public concerns about the IPCC's overall independence from the police still exist (e.g. Waters & Brown, 2000; Smith, 2003).

Finally, the **College of Policing** was commissioned by the Home Secretary to design training intended to be delivered to every police officer country-wide on the role of unconscious biases in producing discriminatory practice. More immediately, the College set up a stop and search scrutiny group to oversee its work and consists of key stakeholders from national policing bodies, civic groups and members of the public. It also established a definition of what constitutes a 'fair and effective stop and search encounter' in consultation

with these key stakeholders and in response to a HMIC (2013) recommendation, but not before being criticised for taking a whole eighteen months to do so (HMIC, 2015a). This definition is reproduced in table 7.1, which also highlights its probable influences and ahead of a discussion of its subsequent revision.[68]

**Table 7.1 – College of Policing (2015) definition of a 'fair and effective stop and search', and probable influences**

| Definition | Primary influence |
|---|---|
| "*A stop and search is most likely to be fair and effective when*<br><br>1. *the search was a justified and lawful use of the power*[A] *that stands up to public scrutiny;*[B]<br>2. *the officer genuinely believes the person has an item in their possession;*[A]<br>3. *the member of the public understands why they have been searched and feels that they have been treated with respect;*[C D E]<br>4. *the search was necessary and was the least intrusive method a police officer could use*[F] *to establish whether a member of the public has a prohibited article or an item for use in crime with them and*<br>5. *more often than not the item is found"*[F] | [A] Home Office (2014h)<br>[B] NPCC<br>[C] IPCC (2009)<br>[D] EHRC (2010)<br>[E] HMIC (2013)<br>[F] StopWatch |

Source: College of Policing (2015)

As table 7.1 shows, this definition drew upon a wide range of central influences and reinforced the primacy of these national bodies in holding police officers to account for their use of stop and search. For members of the public and their PCCs, only the first standard on ensuring that searches "stand up to public scrutiny" could provide them with possible opportunities to interrogate police practice albeit indirectly through scrutinising stop and search records and soliciting retrospective explanations. Further hampering this was the failure of many forces to even establish the necessary scrutiny groups throughout

[68] For transparency, the author declares membership of the College of Policing's Strategic Stop and Search Scrutiny Group and involvement in the creation of the definition analysed and subsequent revision.

most of this study (HMIC 2015a, 2016). Whilst the third criteria introduces some degree of immediate, individualised accountability by encouraging officers to explain to individuals why they had searched them, the mere provision of such an explanation is unlikely to facilitate more robust forms of accountability given that many individuals searched do not agree with the justifications given (HMIC, 2013; Home Office, 2014c), and also without an effective means to seek redress for any perceived injustice, an important dimension of democratic police accountability (chapter 2).

Ultimately, these standards were short-lived as this definition was watered down only six months later to secure the voluntary compliance of all police forces. This serves as another example of how successful some chief and senior officers are in loosening the standards by which they are held accountable. The current definition is:

> "*A stop and search is most likely to be fair and effective when:*
> 1. *the search is justified, lawful and stands up to public scrutiny;*
> 2. *the officer has genuine and objectively reasonable suspicion they will find a prohibited article or item for use in crime;*
> 3. *the person understands why they have been searched and feels that they have been treated with respect;*
> 4. *the search was necessary and was the most proportionate method the police officer could use to establish whether the person has such an item."*
>
> (College of Policing, 2016)

As the revision shows, there was considerable discomfort in the original expectation that the item searched for would be found "more often than not", resulting in its retraction. Related to this, the measure of a successful outcome reverted back to the traditional standard of finding *any* "prohibited article or item for use in crime" rather than the formerly higher standard of linking this directly to whether or not the *original object* of the search was found. Notably, these revisions concerned issues not proscribed by legislation or the codes of practice and shows how constrained more robust police accountability may

become when narrowly reduced to legal compliance rather than also attending to the organisational policies and environment that grant police officers their wide discretion.

As the work of the College relates to better decision making of police officers and its training was being trialled during the course of this research, it was difficult to identify what their influence may have been on the use of police-initiated stops without interviewing and monitoring the constables who took part in the pilots. Its work was, however, revealing of some of the tensions between national statutory organisations who sought to change police practice and improve the quality of the encounters, and some police forces who successfully resisted the more demanding aspects of those reforms. There were also more practical concerns preventing the implementation of training. These issues became apparent during a public, national conference observed near at the end of this research:

> A police force lead questioned the ability to deliver two day training in his force where he said stop and search is not perceived to be a problem- although he distanced himself from that view- and his force only has five allotted days of training a year. A chief officer from another force interrupted to say that this is an issue concerning leadership because "leadership will define what gets seen as a priority". He acknowledged that the issues are "more germane to the Big Six, you know, London, Greater Manchester and Birmingham [etcetera]" but the chief officers who do not perceive this to be an issue must be reminded that stop and search is a "flash-point in community relations." A stop and search lead from another police force welcomed the training but expressed disappointment that it fell short of the Home Secretary's proposal of ensuring that only accredited officers could use the power, thus showing differences between officers and forces across the country in how the reforms are received. Later, a lead from another force welcomed the training but said his force would struggle to fit a two day training into a police force which only has three days allocated to training, and requested a "light version".
>
> Observation 2016/01/26'

As can be seen, despite some best intentions from the College and some stop and search leads country-wide, the varied police organisational policies hampered the ability to ensure

that unconscious bias training would be incorporated across the country without a mandatory requirement to do so. Whereas some forces had volunteered to participate in the pilot, others refused to do so and exploited the College's lack of enforcement powers to resist incorporating the final training package into their own programme. As another officer suggested, the Home Secretary had backtracked on her threat to remove police officers' right to conduct searches due to malpractice, despite its already successful implementation in Northamptonshire Police. These issues are exemplary of how successful some chief and senior officers have been in limiting the scope of reform even in the face of intense pressures by those they are supposedly accountable to.

### *7.6. Conclusion*

In conclusion, police governance had remained strongly centralised throughout the entire research period and despite the introduction of PCCs. Compared to the relatively straightforward period discussed in chapter 6, the events outlined here shows how incredibly complex and difficult police accountability is negotiated in practice. As with the previous chapter, a whole range of actors had produced an environment favourable towards greater police accountability and resulted in significant reductions to the operational use of stop and search. This shows how operational practice remains open to external influences but also how powerful chief constables are in resisting these pressures and deciding which reforms are implemented locally and to what extent.

This chapter also supports Shiner & Delsol's (2015) argument that the politics surrounding the use of police powers is key to understanding the developments to stop and search governance and use. Successful litigation and large-scale disorders (chapter 6) made it seem that the police had lost control and necessitated the government intervening to prove

its competence to govern. Electoral uncertainties surrounding the impending 2016 general election and the large number of ethnic minority voters residing in parliamentary constituencies considered crucial in deciding which party formed the next government (OBV, 2013) produced a political environment amenable towards greater police accountability. It necessitated the Conservative-led coalition government pay better attention to issues affecting ethnic minorities, and this also applied to the Labour Party which was no longer able to take those votes for granted. For the Conservatives, now occupying a space traditionally associated with Labour and becoming increasingly confident in discussing issues of 'race', stop and search became an important example to demonstrate their willingness to listen to ethnic minorities and ensure better outcomes than a discredited Labour Party. Needless to say, the government was not shy in not only frequently reminding voters of its achievements in rectifying Labour's mistakes on stop and search as the general election drew closer, but to also then capitalise upon its subsequent electoral success to declare, in the words of the Prime Minister of the first majority Conservative government in 25 years, that “The Conservatives have become the party of equality” (Cameron, 2015).

The Home Secretary and her department has played the greatest role in shaping operational practice during both periods (chapter 6 and 7) but, as this chapter has argued and contrary to the suggestion underling police research, national government's influence was not as determinant in shaping policing as previously thought. While national government has proven 'virtuous' by using its unique access to state resources to make police practice more responsive to communities' expectations (Loader & Walker, 2007), chief constables retained a determinant role in deciding the extent to which any stop and search reforms translated into operational practice. What makes this extraordinary is that chief officers

have collectively managed to successfully frustrate these reforms despite the sheer scale of pressures applied by the various institutions that they are supposedly accountable to: national government, Parliament, national policing bodies and concerned members of the public whose consent is essential to ensure policing in Britain remains democratic. This suggests that chief officers remain the most powerful actor within the structures for police governance, even if the potential to influence that practice is dispersed across a wider set of actors than is usually considered.

Ironically, despite central actors claiming to seek a police service more responsive to ethnic minority communities, they have collectively failed to provide these groups, the public or PCCs any meaningful opportunity to participate in their programme of enhanced police accountability. Whilst BUSSS appears to provide some role for the public, it appears only likely to reproduce the explanatory and retrospective form of accountability that has dominated police governance and been criticised for failing to introduce more robust local democratic controls (Marshall, 1978; Jefferson & Grimshaw, 1984; Brogden, 1988). This is because it fails to give the public a greater say over operational practice and relies upon chief constables to adopt the more intrusive forms of scrutiny which they have largely resisted (HMIC, 2016), namely the opportunity for citizens to accompany the police out on patrol. But the greatest irony belongs to the government itself for failing to enhance the role of its flagship PCC reform in introducing the greater local democratic accountability that it purportedly seeks to achieve. Therefore, Reiner (2010), Newburn (2012) and Lister (2013) were right to predict that the government would refrain from devolving greater powers to PCCs, at least in relation to the governance of police powers.

Although PCCs were largely ignored, some still sought to carve out their own role and in response to concerns by their electorate. The next two chapters discuss their role in enhancing local police accountability. This is followed by the overall conclusion for this thesis which summarises the main research findings and considers the potential of additional measures proposed by the government towards the end of this study in improving local police accountability.

# 8. Police and Crime Commissioners and Stop and Search in the Case Study Areas

Thus far, the findings have argued that the enhanced scrutiny concerning stop and search use and governance remained heavily centralised throughout this research and precluded a stronger role for the public and PCCs. As this chapter discusses, some PCCs also took interest in enhancing their police's accountability to their ethnic minority electorate, albeit to varying extents. As such, this chapter acts as a bridge between the previous two which analysed the wider political environment that PCCs operate within, and the next one which analyses the local context for which they have significant powers to shape.

First, the police and crime plans of all PCCs country-wide are analysed to assess the extent to which police-initiated encounters have featured as a priority and, therefore, places the three case studies into their broader context. These plans are important because they set out the policing activities that chief constables are legally required to have regard to and so act as a primary vehicle for PCCs to ensure that the police are more responsive to their electorate. The second half of this chapter then analyses the use of stop and search in the three case study areas and what it reveals about the ongoing influence of central actors in shaping police priorities and practice. The next chapter complements this by analysing how three PCCs sought to negotiate their role in what appears to remain a highly centralised structure for police governance.

## *8.1. Police and crime plans*

PCCs demonstrated a general lack of interest in scrutinising police-initiated stops and instituting greater accountability of these encounters, despite the substantial national government attention it received (chapters 6-7). PCCs played a marginal role in relation to

these developments and were only able to respond to major reports, although this was as individuals rather than through collective action (see Appendix E). As argued previously, it may have been the politics surrounding the use of those powers that prompted individual PCCs to respond so as to appear authoritative in dealing with what was perceived to be major historic failures within their force. Even then, fewer commissioners responded to each follow-up inspection (Appendix E).

**Table 8.1 - PCCs who prioritised police-initiated stops in their crime plans, 2013/14-2015/16**

| PCC area (and affiliation) | 2013/14 | 2014/15 | 2015/16 |
|---|---|---|---|
| Nottinghamshire (Labour) | ✔ | ✔ | ✔ |
| West Midlands[1] (Labour) | ✔ | - | ✔ |
| Suffolk (Conservative) | ✔ | - | ✔ |
| Dyfed-Powys (Conservative) | ✔ | | |
| Greater Manchester (Labour) | ✔ | | ✔ |
| Mayor's Office for Policing and Crime[1] (Conservative) | ✔ | - | - |
| Thames Valley[1](Conservative) | ✔ | | |
| South Wales (Labour) | ✔ | | |
| West Yorkshire (Labour) | ✔ | ✔ | |
| Leicestershire (Conservative) | ✔ | ✔ | |
| Derbyshire (Labour) | | ✔ | |
| Cumbria (Conservative) | | ✔ | |
| Northamptonshire (Conservative) | | ✔ | |
| Dorset[2] (Independent) | | | ✔ |
| Hertfordshire (Conservative) | | | ✔ |

Notes: (1) Forces subject to the EHRC (2010, 2013) programme of action to address disproportionality.
(2) No commitments made but a substantive reference was made to stop and search.

Only 10 of the 42 total PCCs[69] were proactive in featuring police-initiated encounters as a priority in their first police and crime plans in 2013 (table 8.1). As table 8.1 shows, they represent the full political spectrum and their number rose marginally to 15 alongside the increased national scrutiny, representing a third of all commissioners. The most common association between them is that they preside over the country's most populous areas with large enough ethnic minority populations to impact upon who wins the PCC election. The overall lack of interest is inevitable given that the formulation of policing priorities is now defined by a singly-elected individual, thus amplifying regional differences. As PCCs argued:

> "*rather than having a one-size fits-all from Whitehall you are as I say would accustomise policing to reflect the needs of your own particular communities and I think that is a huge change from where we were before. We tended to have Whitehall deciding everything that was done in policing and I think it's a lot better- oh, well, I would say that wouldn't I? But it is!"*
>
> Commissioner/04

> "*I think they're all different anyway. So every office of police and crime commissioner seems to work slightly differently. There are similarities but there are differences and that's why they were elected so that there would be local differences."*
>
> Commissioner/02

Clearly, commissioners welcomed this localism and saw it as a strength as these local differences would ensure that they could better reflect the needs of their electorate. However, interviewees from national policing bodies held a different view. These interviewees were keenly aware of PCCs lack of gender and racial diversity and felt it resulted in the under-appreciation of issues affecting ethnic minorities. For example:

> *"Cos it's [stop and search] seen as being an individual officer activity, at the aggregate they don't see it as representing a significant organisational risk and so I don't think it necessarily gets fair hearing against some of those more pressing and perhaps issues that often get a lot more media attention, unless something goes wrong like a riot and people start taking notice."*

[69] Forty-one, plus the Mayor of London who appoints a deputy to act as the capital's PCC.

Given National/02 and other national interviewees' level of interest in stop and search, it is inevitable they cited it as an example of PCCs incapacity to appreciate minority issues. They nonetheless felt that it did serve as the best example due to its societal impact and scale of use. In fact, a documentary analysis of police and crime plans revealed that broader issues affecting ethnic minorities were also missing from those plans. This supports predictions that electoral reform could promote less equitable policing experiences by incentivising PCCs to prioritise populist demands at the expense of minority groups (Millen & Stephens, 2011; Lister & Rowe, 2015), contrary to what constitutes as democratic policing (chapter 2).

Interestingly, four of the five PCCs whose forces were subject to the EHRC (2010; 2013) programme of action to tackle racial disproportionality had prioritised this as an issue: Leicestershire, Metropolitan Police, Thames Valley, and the West Midlands (table 8.1). Dorset PCC (2015), on the other hand, only made reference to stop and search in the more recent police and crime plan. However, it features more substantively within the constabulary's 'equalities objectives' whereby a force lead on stop and search is responsible for ensuring “activity is intelligence led”, “is legal and proportionate” and, more concretely, is responsible for “monitoring the number of stop / searches and stop / accounts carried out to identify any adverse trends and identify preventative / remedial action” (Dorset Police, 2015). This highlights the strong two-fold influence that national bodies can have in not only shaping the priorities of some PCCs but, where unsuccessful, their on-going pressures upon chief officers.

Revealingly, 37 constabularies responded to the Home Office (2013c) public consultation on stop and search compared to only 19 PCCs despite the HMIC (2013) inspection which inspired that exercise finding significant failings in every force (Appendix E). Leicestershire PCC (2013:19) also provided another good example of the ongoing relevance of national policing bodies in shaping local activities:

> "Stop and Search continues to be a useful tool used by the police in the prevention and detection of crime and terrorism. However, I recognise it can have a detrimental impact on confidence if it is used in an unfair and ineffective way. Leicestershire Police *continue to work closely with the Equality and Human Rights Commission* to ensure stop and search is used fairly. It is my intention to continue to hold the Chief Constable to account for the use of stop and search and to make sure it is used both fairly and effectively to keep the people of Leicester, Leicestershire and Rutland safe."
> (Leicestershire PCC, 2013:19, 2014:32; emphasis added)

As this shows, the EHRC continued to provide an important oversight role in Leicestershire and present the PCC with some sort of standards to assess his chief constable by. As with most other PCCs, stop and search was referred to only briefly and in relation to their expectation to see the powers used 'lawfully', 'fairly' and 'transparently' (emphases added):

> "We will also ensure that this age group continues to be *informed about their rights*, as those aged 18-25 are statistically most likely to be stopped and searched. Young men in this age group are also at the greatest risk of becoming the victims of violence. We will seek to increase mutual respect and understanding between the police and this age group."
> (South Wales PCC, 2013:23)

> "To maintain a focus on the appropriate and effective use of Stop & Search, to *ensure its use is understood & communicated to the communities* of Thames Valley [...] Maximise the effectiveness of the use of stop and search whilst minimising its negative impacts."
> (Thames Valley PCC, 2013:24&40)

> "As such it should only be applied where it is operationally necessary, within due process and used appropriately. With the police I will ensure stop and search activity is used appropriately, proportionately and when necessary to do so, *working with communities to assess the impact this activity has had on them and better explain why*."
> (West Yorkshire, 2013 18-19)

> "Ensure that stop and search is carried out lawfully, and is not disproportionate, discriminatory, or damaging to relations within and between our communities"
>
> (Dyfed Powys PCC, 2013:08).

> "Ensure that policing services are accessible and responsive to the needs of service users, police powers (such as stop and search) are used fairly and proportionately and people are treated with dignity and respect"
>
> (Greater Manchester PCC, 2013:10).

As can be seen from these excerpts, some PCCs were keen to show their electorate that they understood the impact of those powers upon their electorate, particularly on ethnic minorities. However, the lack of detail surrounding how they would achieve those aims and their lack of reference to the potential role of their electorate in scrutinising operational practices suggests that commissioners lacked the expertise to do so unless supported by a national programme such as the EHRC in Leicestershire. Instead, PCCs sought to provide this accountability themselves primarily through the traditional means of analysing police-recorded data. Even where PCCs indicated involvement of the public, this was constrained to raising awareness of people's legal rights if searched and to understanding how those powers are used. Essentially, these limited public engagement activities show just how narrow PCCs have interpreted their role and their reproduction of explanatory forms of accountability rather than stronger opportunities for members of the public to influence operational practice. Whilst this may have been inevitable in the initial year of PCCs, particularly given the pressures they faced to consult and produce their first police and crime plans within six months of assuming their role, their overall reactionary activities and lack of participatory opportunities for ethnic minority groups remained constant throughout this research.

Initially, only Labour's PCCs for Nottinghamshire, West Midlands and West Yorkshire made substantive commitments to provide their electorate with opportunities to scrutinise the police and enhance their responsiveness to ethnic minorities concerns. Doubting whether recent reductions in use and disproportionality had led to better quality encounters, West Yorkshire's PCC (2014:33) pledged to "undertake a programme of consultation with the public to assess the current impact this activity has had on them and assess whether the perceptions around stop and search of all kinds reflect the changing figures." They were later joined by their Conservative peers: the Northamptonshire PCC (2015a), who commissioned a public attitudes survey to help devise a new policy on stop and search use, and the Leicestershire PCC who established a youth commission from which stop and search emerged as a key concern which he agreed to address (Leicestershire YCUK, 2015). These activities are discussed in more detail in chapter 9 which analyses their potential impact upon local police accountability.

Scrutiny of counter-terrorism searches remained as just elusive as in the national activities with the exceptions of, once again, the West Midlands PCC (2015; also 2014b) and West Yorkshire's PCC (2014:33) who demonstrated a rare understanding of the various legal powers amongst his peers by calling for greater scrutiny "where the powers used have no safeguard of reasonable suspicion such as those available under the relevant counter-terrorism legislation." Both of these commissioners preside over cities with huge South-East Asian populations and so suggests that the size of the minority electorate and the politics of how those powers impact upon those communities can influence how PCCs formulate their priorities.

Despite police-initiated stops not featuring in his crime plan, Gloucestershire PCC (2014b:8) focussed primarily on the retraining of officers on stop and search "where the emphasis is placed on the ethical use of [the] powers and understanding of reasonable suspicion. Officers are given an increased understanding of, and the ability to explain, the use of their powers to people affected." This contrasted with his earlier reports where stop and search was used as a benchmark to evidence successful police operations (Gloucestershire PCC, 2013, 2014a). It followed the HMIC's (2013) damning inspection report which, amongst other things, criticised front-line officers' lack of understanding of their legal powers and what constitutes reasonable suspicion. Once again this shows the capacity of central actors to influence local priorities. Once complete, his focus on stop and search had reverted back to evidencing how, under his watch, the police had successfully met his strategic priorities, particularly road and traffic operations (Gloucestershire PCC, 2014c, 2014d). Notably, Gloucestershire Police was one of the thirteen forces later suspended from the Home Office (2014f) best practice scheme for its non-compliance and this seemingly permissive culture towards police stops may have contributed to this (see: HMIC, 2016).

#### 8.1.1. Summary

In summary, a documentary analysis of PCCs' plans and other key documents since 2013, shows their collective disinterest in police-initiated stops despite the long-standing inter-generational concerns surrounding their use and the increased national scrutiny over the research period. This shows how disjointed the local and national structures for police accountability are and the competing influences upon chief constables. Overall, PCCs appeared to be too unresponsive to the needs of their ethnic minority communities to ensure that their police force's priorities better reflected their concerns. Those who did

prioritise stop and search undertook a narrow range of similar activities which aimed to provide the public with better information rather than a stronger participatory role in redefining their policing experiences. Further, their activities excluded the wider range of police-initiated encounters such as those under counter-terrorism and traffic legislation; enhanced opportunities for redress was also missing. This all reinforces Lister & Rowe's (2015) broader assessment of PCCs as having a narrow interpretation of their role.

Just as the HMIC (2016) found a lack of leadership among chief officers on police encounters and their failure to understand its impact upon the public, so too can this be said of PCCs overall. For example, according to South Wales PCC (2015:22; emphasis added), “The inspection on 'Stop and Search' appears likely to result in positive comments for South Wales but those involved in the inspection acknowledged that while there are problems in some parts of England and Wales *they have not detected specific issues in our area*". The PCC even went as far as criticising the HMIC's inspections for taking an “enormous amount of time for operational officers and sometimes pull against the grain of local priorities.” Ironically, similar to Gloucestershire, the HMIC (2016) found South Wales to be one of thirteen forces least compliant with the Home Office's best practice scheme, resulting in its suspension from the programme by the Home Secretary and reinspection. This contrasted to the generally positive inspections of those forces whose commissioners held a more critical stance towards their force's use of stop and search, including this research's three case study areas (see chapter 9). Whilst it was difficult to link better operational practices with greater scrutiny from PCCs, particularly given the strong national influences previously discussed, commissioners do enjoy significant powers to enhance local police accountability (chapter 3). However, only a small proportion attempted to did this in relation to police-initiated stops. As is discussed next,

an analysis of stop and search trends in three different forces shows how important the political environment within which police and chief officers operate can influence their use of those powers locally, the limitations of national stimuli, and the potential for PCCs to play a key role in facilitating greater public accountability should they choose to do so.

### *8.2. The case studies*

Nottinghamshire, Suffolk and the West Midlands were three of the most proactive PCCs on stop and search. This section analyses data on stop and search trends in those forces to understand how the national and local influences interacted to produce changes to operational practice. Whilst many of the themes identified show the strong ongoing influence of central actors, the role of PCCs is less clear. For analytical advantages, cases were chosen to maximise differences between them so as to identify any consistent themes from the varied contexts that PCCs operate in locally (see methodology). Differences between cases shed light on the broader range of influences upon police practice but also their limitations and, therefore, shows the complicated nature of how democratic police accountability is negotiated locally. The West Midlands police is discussed first because its stop and search data showed a relatively simple trajectory whereas Nottinghamshire and Suffolk were both more complicated and revealed limitations in the influence of central actors.

**Table 8.2 – Stop and search use and percentage change, 2009/10-2014/15**

*(a) West Midlands*

| Year | Section 1 | Section 60 | Section 44/47A | Total | Change (%) |
|---|---|---|---|---|---|
| 2009/10 | 19,407 | 815 | 0 | 20,222 | |
| 2010/11 | 20,149 | 319 | 0 | 20,468 | 1 |
| 2011/12 | 36,763 | 699 | 0 | 37,462 | 83 |
| 2012/13 | 33,265 | 70 | 0 | 33,335 | -11 |
| 2013/14 | 23,940 | 21 | 0 | 23,961 | -28 |
| 2014/15 | 15,579 | 10 | 0 | 15,589 | -35 |

*(b) Nottinghamshire*

| Year | Section 1 | Section 60 | Section 44/47A | Total | Change (%) |
|---|---|---|---|---|---|
| 2009/10 | 5,856 | 366 | 0 | 6,222 | |
| 2010/11 | 4,811 | 270 | 0 | 5,081 | -18 |
| 2011/12 | 3,158 | 218 | 0 | 3,376 | -34 |
| 2012/13 | 3,657 | 10 | 0 | 3,667 | 9 |
| 2013/14 | 5,604 | 65 | 0 | 5,669 | 55 |
| 2014/15 | 4,166 | 0 | 0 | 4,166 | -27 |

*(c) Suffolk*

| Year | Section 1 | Section 60 | Section 44/47A | Total | Change (%) | Stop and account |
|---|---|---|---|---|---|---|
| 2009/10 | 4,530 | 13 | 0 | 4,543 | | - |
| 2010/11 | 3,529 | 0 | 0 | 3,529 | -22 | - |
| 2011/12 | 3,440 | 4 | 0 | 3,444 | -2 | 7,663 |
| 2012/13 | 3,721 | 8 | 0 | 3,729 | 8 | 6,182 |
| 2013/14 | 5,327 | 0 | 0 | 5,327 | 43 | 8,406 |
| 2014/15 | 4,414 | 1 | 0 | 4,415 | -17 | - |

Notes: Section 1 figures include other powers that require reasonable suspicion (see Appendix A).
Sources: Home Office (2011a, 2012a, 2013a, 2014b, 2015a, 2015b, 2015c).

West Midlands Police is comprised of seven metropolitan districts and conducted more searches than Nottinghamshire and Suffolk combined. The city of Birmingham, the

region's administrative capital, typically accounts for at least half of those searches (EHRC, 2013). Section 1 and other powers requiring reasonable suspicion rose during the initial period investigated by this thesis. Over 19,000 searches were conducted in 2009/10 rising to over 20,000 in 2010/11 and then to nearly 37,000 during its peak in 2011/12 (table 8.2(a)). Following the government scrutiny (chapter 6-7), section 1 volumes fell in each subsequent year down to over 33,000 in 2012/13 during the HMIC (2013) inspection, less than 24,000 during the subsequent fallout in 2013/14, and then again to under 16,000 in 2014/15 as the Home Office (2014f) introduced its best use scheme (BUSSS). Overall, this represents a fall of 58% since the start of government scrutiny. Section 60 use generally fell during this period, from over 800 searches in 2009/10 to over 300 in 2010/11 but then rose sharply by approximately 120% to almost 700 in 2011/12, the year of the 2011 riots. However, use declined substantially from 2012/13 onwards until only 10 searches were recorded in 2014/15. Interestingly, the latter reductions took place a year after it had done so nationally (table 6.1 & figure 6.1). Therefore, 2011/12 may have been a temporary change in response to the riots since the general trend in West Midlands was one of longer-term decline in section 60 use since 2007/08 (table 8.2(a), also Home Office, 2009, 2010).

The declining trends in stop and search use across the West Midlands pre-date both the government's reforms and the introduction of PCCs and can be explained by a number of factors. In relation to section 60, an IPCC (2007) investigation severely criticised the force for misusing the power after it uncovered evidence that officers were using it for routine crime problems rather than serious violence, similar to a previous investigation. This may have accounted for the reductions in its use since 2007/08 and at a time when it had increased in other major urban areas. Also, from 2011/12, the EHRC (2010, 2013) threatened the force with legal action if it did not address what it deemed to be the

excessive and disproportionate use of its searches under section 1 and other such legislation. This resulted in the retraining of front-line officers, the introduction of better supervision and monitoring of the powers and also a more explicit aim of decreasing volumes. As the EHRC argued, this had produced reductions during the course of the programme seen from 2011/12, although it conceded that disproportionality, the primary target of its activities, had remained largely unchanged. However, the more substantial reductions from 2012/13, particularly 2013/14, occurred at a time when the accountability of those powers were at its height following the results of the damning HMIC (2013) inspection, the introduction of BUSSS in 2014, and pressures from national government to reduce search volumes during this period, particularly in relation to section 60 which was threatened by the *Roberts* litigation. Ultimately, the changes in stop and search use across the West Midlands during the research period could be explained by national developments irrespective of the introduction of PCCs.

Nottinghamshire and Suffolk demonstrated a more complicated picture of how operational practice is negotiated locally. Both are a mixed rural/urban police force with a similar volume of recorded searches (tables 8.2(b) and 8.2(c), respectively). These relatively low volumes have made them consistently amongst the lowest searching forces nationally (HMIC, 2013), although Nottinghamshire used section 60 at far higher levels compared to Suffolk's rare use. After an initial fall in section 1 during the first three years of the research 2009/10 to 2011/12, use rose in both forces in 2012/13 and 2013/14 alongside the greater national scrutiny. Significantly, these increases contradicted the national trend and their comparatively similar forces, and only declined in the last year 2014/15. Suffolk's use of stop and account appeared to have an inverse relationship to recorded searches where it

reduced as officers conducted more searches and increased as searches were curtailed (table 8.2(c)).

The year 2014/15 was significant because that was when the Home Secretary placed significant pressures upon all constabularies through BUSSS to reduce their searches. Senior officers from both forces blamed their staggered use on 'mixed messages' from national government concerning whether to increase or curtail those encounters:

> "*It's come back down this year. So in 2013 the HMIC came along and said 'Suffolk you're not using stop and search enough' so we went 'well, we better use stop and search more' so we did a lot of stop and search which was then bled into the 2013-14 figures .... So by the time we got the message through to the workforce- so 2014 we did loads of stops and searches right up until probably Christmas time when they brought in the Best Use of Stop and Search [Scheme] when they said 'oh, you're doing too many stop-searches'. And that's half the problem: the message is so disjoined from the government and I'm not criticising them cos it's coming from the HMIC but if you have a HMIC inspection in 2013 saying do loads more right before you have one in 2014 that says you're doing too many the workforce is gonna go 'I'm confused here, what is it you want me to do?"*
>
> Suffolk/Police/01

> "*I think the view has been nationally that we need to increase the volume of stop and search in Nottinghamshire because I'm not sure we're the lowest searching but we're one of the lowest searching"*
>
> Nottinghamshire/Police/01

As both officers indicated, the messages received from national government can play an important role in shaping operational practice by influencing police officers' levels of confidence in using their powers. However, the mid-term increases just described occurred against the backdrop of a growing cross-party consensus that discouraged use in other forces, including the West Midlands, and suggests that there were other factors that could explain the changes in Nottinghamshire and Suffolk. As some interviewees stated:

> "*You can put a lot of the rise up to one chief officer who's not around here any more who did think it was a really effective tool to use and promoted it a lot and we sat there saying actually you're not getting that much out of it so why would you, you know."*

ChiefOfficer/03

> "*It's mixed, I mean, some people accept it and have made big progress in terms of how they use it others less so. It depends how attentive or how important it is to the chief officer group if I'm honest."*
>
> National/06

As these interviewees suggest, some chief officers were more amenable to external reform than others. They highlight just how powerful chief officers' own values are in determining the extent to which external reform translates into operational practice. Suffolk provided another good example of this at a public meeting held by the PCC where the assistant chief constable explicitly stated "that he was encouraging greater use of the power and indeed in the new financial year numbers had increased" (Suffolk PCC, 2013d:para3.2). But this goes beyond Suffolk as successive HMIC (2013, 2015a, 2016) inspections have criticised most chief constables countrywide for failing to implement reforms, thus suggesting that national government has less power than previously thought. Despite the major reductions in stop and search use in 2014/15, the year of BUSSS, a HMIC (2016) inspection found that only 11 of the 43 Home Office sponsored forces were fully compliant with that scheme almost two years after it was first announced. Nottinghamshire and Suffolk were judged to be fully compliant whereas the West Midlands faltered on the requirement of publishing the broader outcomes of searches (ibid:47).

What was missing from most interviews was the impact of PCCs on stop and search use. Whilst operational independence presents them with the same legal barriers that the Home Office faces in actually determining the exercise of those powers, commissioners' priority setting and budgetary duties gives them considerable influence over the overall direction of policing and its responsiveness to local priorities. However, police records show that searches for drugs rather than any other priorities set by case study PCCs accounted for

greatest use of the powers and this proportion rose during the research period even as absolute numbers eventually fell by 2014/15 (tables 8.3(a)-(c)). This is as an unintended consequence of the Home Secretary's pressures on police officer to increase the outcomes from searches (HC Deb (2013-14) 30 April 2014), and an example of how national priorities can still override those set by local policing bodies. Across the West Midlands, the proportion of searches for drugs had reduced by the end of the EHRC programme from 49% in 2010/11 to 44% in 2012/13, although the absolute number had risen by then. However, this returned to 49% in 2013/14 as national pressures mounted and rose to a further 56% in 2014/15 despite the lower absolute volume of searches overall (table 8.3(a)). Nottinghamshire's drugs searches had been in decline from almost 3,000 in 2009/10, half of all recorded encounters, to over 1,400 in 2012/13 (table 8.3(b)). This rose as Nottinghamshire police increased searches in response to its HMIC inspection report to over 1,700 searches in the following year (48%) and 2,421 in 2014/15 equating to 58% of all searches. Finally, in Suffolk, drugs searches were particularly high and rose in almost every year from over 1,800 in 2010/11 equating to 53% of all searches (a 24% reduction on the previous year) to under 3,400 in 2013/14 or 64% of all searches (table 8.3(c)). It rose again in the year of BUSSS to 69% although absolute numbers fell to over 3,000 alongside searches more generally. Throughout this period, Suffolk Constabulary was engaged in a number of anti-drugs operations against London originating gangs, a priority of Suffolk PCC (2013e & 2015:06) who encouraged a “pro-active programme of drug operations,” which the force acknowledged was a key driver of its ethnic disproportionality (Suffolk PCC, 2014a). The PCC did not appear to challenge these operations and may have provided the constabulary with some political counterweight to the Home Secretary's demands.

**Table 8.3 – Stop and search by reason, 2009/10-2014/15**

*(a) West Midlands*

| | Stolen property | Drugs | Firearms | Offensive weapons | Going equipped | Criminal damage | Other |
|---|---|---|---|---|---|---|---|
| 2009/10 | 2,596 | 8,570 | 128 | 1,891 | 6,203 | - | 19 |
| 2010/11 | 3,168 | 9,833 | 248 | 2,204 | 4,692 | - | 4 |
| 2011/12 | 6,821 | 15,625 | 434 | 4,043 | 9,840 | - | - |
| 2012/13 | 5,661 | 14,748 | 339 | 3,380 | 9,056 | 5 | 76 |
| 2013/14 | 4,402 | 11,611 | 335 | 2,381 | 5,062 | 23 | 126 |
| 2014/15 | 2,699 | 8,790 | 276 | 1,405 | 2,256 | 85 | 68 |

*(b) Nottinghamshire*

| | Stolen property | Drugs | Firearms | Offensive weapons | Going equipped | Criminal damage | Other |
|---|---|---|---|---|---|---|---|
| 2009/10 | 864 | 2,914 | 55 | 311 | 971 | - | 741 |
| 2010/11 | 851 | 2,174 | 66 | 204 | 837 | - | 679 |
| 2011/12 | 584 | 1,413 | 35 | 139 | 510 | - | 477 |
| 2012/13 | 624 | 1,756 | 28 | 260 | 629 | 41 | 319 |
| 2013/14 | 564 | 3,145 | 32 | 394 | 1,255 | 55 | 159 |
| 2014/15 | 387 | 2,421 | 34 | 271 | 915 | 46 | 92 |

*(c) Suffolk*

| | Stolen property | Drugs | Firearms | Offensive weapons | Going equipped | Criminal damage | Other |
|---|---|---|---|---|---|---|---|
| 2009/10 | 921 | 2,457 | 78 | 318 | 464 | 80 | 212 |
| 2010/11 | 831 | 1,861 | 77 | 219 | 376 | 63 | 102 |
| 2011/12 | 751 | 1,999 | 48 | 213 | 282 | 31 | 116 |
| 2012/13 | 780 | 2,291 | 49 | 188 | 281 | 38 | 94 |
| 2013/14 | 1,105 | 3,384 | 33 | 248 | 477 | 38 | 42 |
| 2014/15 | 761 | 3,057 | 34 | 232 | 255 | 47 | 28 |

Sources: Home Office (2011a, 2012a, 2013a, 2014b, 2015a, 2015b, 2015c).

**Table 8.4– Searches by ethnicity per 1,000 of their population size, 2009/10-2014/15**

*(a) West Midlands*

| | White | Black | Asian | Mixed | Other | total |
|---|---|---|---|---|---|---|
| 2009/10 | 5 | 18 | 14 | 15 | 3 | 8 |
| 2010/11 | 6 | 19 | 12 | 13 | 4 | 9 |
| 2011/12 | 11 | 38 | 23 | 23 | 9 | 16 |
| 2012/13 | 10 | 31 | 20 | 21 | 8 | 14 |
| 2013/14 | 7 | 20 | 15 | 17 | 7 | 10 |
| 2014/15 | 5 | 14 | 9 | 12 | 1 | 7 |

*(b) Nottinghamshire*

| | White | Black | Asian | Mixed | Other | total |
|---|---|---|---|---|---|---|
| 2009/10 | 5 | 19 | 8 | 13 | 3 | 6 |
| 2010/11 | 4 | 19 | 6 | 10 | 1 | 5 |
| 2011/12 | 3 | 12 | 5 | 7 | 2 | 3 |
| 2012/13 | 3 | 14 | 6 | 6 | 2 | 4 |
| 2013/14 | 5 | 21 | 7 | 9 | 3 | 6 |
| 2014/15 | 4 | 15 | 5 | 6 | 3 | 4 |

*(c) Suffolk*

| | White | Black | Asian | Mixed | Other | Total |
|---|---|---|---|---|---|---|
| 2009-10 | 6 | 29 | 8 | 16 | 13 | 7 |
| 2010-11 | 5 | 21 | 5 | 13 | 2 | 5 |
| 2011-12 | 5 | 23 | 7 | 11 | 2 | 5 |
| 2012-13 | 5 | 22 | 7 | 13 | 0.5 | 6 |
| 2013-14 | 7 | 13 | 27 | 19 | 17 | 8 |
| 2014-15 | 6 | 51 | 6 | 22 | 3 | 7 |

Notes: (1) 'Total' column provides an overall search rate per 1,000 of the population residing within the police force area
(2) 'Other' ethnic category includes searches of Chinese people
(3) Disproportionality figures are calculated by dividing the rates per 1,000 of each group by the figure for whites.
Sources: Home Office (2011a, 2012a, 2013a, 2014b, 2015a, 2015b, 2015c); Nomis (2011)

Racial disproportionality of searches, a key focus of case study PCCs, is another area they could have potentially influenced by representing the views of their minority populations

and providing them with meaningful opportunities to shape their group-level experiences. Ethnic minority groups were searched at higher rates per 1,000 of their respective population sizes across all three case study areas but data for each force showed a different pattern (tables 8.4(a)-(c)).

West Midlands showed an overall reduction in disproportionality following mid-term increases (table 8.4(a)). At the start of the research period, total search rates across the West Midlands had increased in 2009/10 from 8 searches per 1,000 of its general population to 16 p/1,000 in 2011/12. At this point, there were 11 searches p/1,000 of the white population and 9 p/1,000 of Chinese or other ethnicities, meaning that both of these groups were under-represented in searches. By contrast, per 1,000 of their population sizes, there were 38 searches of black people, 23 of Asians and 23 of mixed people. This equated to black people being searched at four times the rate of whites and people from Asian or mixed backgrounds were both searched at twice the rate of whites. However, following the national scrutiny the overall search rate and rates for each major ethnic group had declined such that, by 2014/15 there were 7 p/1,000 searches of West Midlands' resident population. In 2014/15, there were 5 white people and one person from a Chinese or other ethnic group searched p/1,000 meaning they were again under-represented in searches. However, people from black, Asian or mixed ethnicities were searched at higher rates at 14, 9 and 12 searches p/1,000 thus equating to a disproportionality rate of three, twice and again twice the rate of whites, respectively.

Nottinghamshire's search rates recorded a general decline interrupted by a short-term two-year increase between 2012/13 and 2013/14 (table 8.4(b)). This coincided with the HMIC inspection but fell in 2014/15 as BUSSS was introduced. During the initial period, searches

declined from 6 per 1,000 of Nottinghamshire's total resident population in 2009/10 to 3 p/1,000 in 2011/12. With the exception of 'Chinese and other' ethnicities, ethnic minorities were searched at higher rates than whites throughout the research period. By 2011/12, search rates had fallen to 3 p/1,000 for whites; 12 p/1,000 for blacks (4 times the rate of whites); 5 p/1,000 for Asians (twice the rate of whites) and 7 p/1,000 for mixed people (3 times the rate of whites). As already noted, the constabulary sought to raise their volume of searches in response to the HMIC inspection and, unsurprisingly, their overall search rates returned to 6 per 1,000 of the total population by 2013/14, with increases across all ethnic groups, particularly of blacks. Following BUSSS in 2014/15, the longer term decline in search rates had resumed such that there were 4 searches p/1,000 of Nottinghamshire's residents. Asians and people from Chinese or other backgrounds were searched at approximately the same rate as whites at 5 and 3 times p/1,000 of their respective population sizes compared to 4 for whites. However blacks and mixed were searched at 15 and 6 p/1,000 of their populations, equating to a disproportionality rate of four and twice the rate of whites, respectively. In sum, ethnic disproportionality over the research period fluctuated and correlated to national pressures faced by the constabulary.

Suffolk stood out from all of the case studies in that its disproportionality rate was extremely erratic, particularly in the final years 2013/14 and 2014/15. Suffolk started in 2009/10 with 7 searches conducted per 1,000 of its entire population size and this fell to 5 in the following two years, led primarily by reduced searches of whites (table 8.4(c)). By the end of the research period, the figure returned to 7 p/1,000 and disproportionality for blacks and mixed people remained high throughout.[70] Initially in 2009/10, people from black or mixed backgrounds were searched at a rate of 29 and 16 p/1,000 of their

[70] Searches of 'other' ethnicities, including Chinese, are excluded from this analysis as the figures were so small that no meaningful comparisons could be made.

population size, equating to a disproportionality rate of 5 and 3 times the rate of whites, respectively. By 2014/15, this had risen significantly to 51 p/1,000 for blacks and 22 p/1,000 for mixed people resulting in a disproportionality rate of 9 and 4 times the rate of whites, respectively. Asians were searched at an average of 7 p/1,000 meaning that they were searched at a marginally higher rate than whites. However, in 2013/14 Asians replaced black people in being searched at the highest rate of 27 p/1,000 (or almost 4 times the rate of whites) while black people were searched at 13 p/1,000 (or double the rate of whites). This coincided with heightened scrutiny by the Home Office but also the appointment of a new (then temporary) chief constable. Disproportionality was also a key focus of Suffolk PCC's scrutiny of stop and search and data from the fieldwork, including interviews with police officers, showed a lack of understanding concerning what caused these dramatic shifts in disparities. As discussed earlier, anti-drugs operations had a major impact upon search volumes and was a key crime-reduction priority of the PCC and the constabulary. This can explain some of the disparities, particularly the on-going 'Operation Volcanic' across Ipswich where, according to the force, "it is recognised from the start of this operation that a significant proportion of individuals from these London [based drugs] businesses are predominantly from non-white ethnic backgrounds which have impacted on proportionality rates with stop search" (Suffolk PCC, 2014b:para1.13; also 2014c:para1.11 and 2015:para3.1). However, as these operations have been targeted towards what is believed to be predominantly 'black gangs' originating from London, it remained unclear why searches for mixed people were high, and what led to the surge in recorded searches of Asians in 2013/14, particularly as senior and chief officers interviewed could not explain these disparities.

In conclusion, an analysis of police-recorded searches and targeting within each case study area reveals similar findings despite different trajectories. Each force had produced dramatic changes to their search volumes following intense pressures from national government, particularly in 2013/14. These changes in volumes and targeting appeared to coincide with, rather than be caused by, the introduction of PCCs. Police recorded data, supported by interview data, reveals that national scrutiny on police-initiated stops was negotiated on a case-by-case basis, but also highlights some organisational resistance towards external pressures. Suffolk was a primary example of this where it took the appointment of a new chief constable for the force to be more responsive to the Home Secretary's demands and local concerns. West Midlands Police had produced reductions in their use of stop and search since the IPCC's (2007) complaint and the EHRC's (2010, 2013) threat of legal action, and accelerated following the Home Secretary's reforms. As Nottinghamshire and Suffolk were lower using forces, their volumes of searches had increased in response to their assessment of the HMIC inspection even as national government had begun its programme of reforms. Volumes fell once the Home Secretary had dispelled any 'mixed messages' after introducing BUSSS. However, as Nottinghamshire and particularly Suffolk illustrate, there is no simple cause-and-effect between government-led reform and changes to police practice as chief constables appeared to retain considerable powers to resist these pressures and determine how they were implemented locally.

### *8.3. Conclusion*

Despite PCCs being introduced to inject greater local police accountability, this chapter has shown that a democratic deficit continues to exist at the local level, certainly in relation to police-initiated stops. The previous chapter argued that PCCs' potential to strengthen

local accountability in relation to such operational practices was ignored by the central actors that also govern the police. As the first part of this chapter suggests, this ongoing local deficit is one that PCCs appear to have largely acquiesced to. Although stop and search became increasingly politicised throughout their first term in office, PCCs were largely disinterested in these encounters and this reflects their wider neglect of issues concerning the policing experiences of ethnic minorities (Lister & Rowe, 2015). This supports the existing literature which warns that electoral reform does not automatically lead to greater democratic controls of the police, particularly for ethnic minorities (Jones et al., 2008; Millen & Stephens, 2011; Lister & Rowe, 2015).

However, a small number of PCCs went against this grain and sought to address the wider use of police-initiated stops than the national activities focused on. The PCCs for Nottinghamshire, Suffolk and the West Midlands are three such commissioners and an analysis of data from their police forces shows that stop and search volumes and most ethnic disproportionality declined by the end of the research period, albeit with some mid-term increases. However, the end result appears to have been produced through a highly complex and inter-related set of negotiations with senior and chief officers that involved a wider range of actors than just the Home Secretary. For example, changes in the West Midlands had already been underway following the IPCC's (2007) earlier criticisms and the EHRC's (2010, 2013) threat of legal action, although reductions accelerated during the national reforms. Nottinghamshire and Suffolk's staggered use demonstrates a more complicated picture of how changes to operational practice is negotiated in the face of conflicting views between the wider range of national actors that the police are accountable to: namely, the HMIC and the Home Office. This suggests that power is dispersed more widely within the structures of police governance (Jones et al., 1994) but nonetheless

remains centralised. However, as Suffolk most graphically shows, the extent to which stop and search reform translates into operational practice is determined by chief officers, thus highlighting how powerful they remain. Yet commissioners are far from powerless and the three case study PCCs initiated their own activities intended to enhance local police accountability. The next and final chapter analyses how they sought to negotiate changes to police-initiated stops before this thesis ends with a conclusion of its key findings.

# 9. Pivot or a Spare Wheel? How Commissioners Negotiate Operational Practice.

Previous chapters have argued that national government and other central actors have retained a strong influence over stop and search practice. Police and crime commissioners (PCCs) have largely acquiesced to this despite being introduced to ensure that the police is more responsive to their electorate, including ethnic minority communities. This chapter analyses the activities of three of the most proactive PCCs in attempting to enhance local police accountability. Drawing upon these findings, this chapter analyses how they sought to negotiate their role vis-a-vis their chief constables, but also how the latter have successfully resisted any fundamental reforms promised by commissioners just as they have done so with other central actors. The related activities of other PCCs across the country are also discussed for analytical comparisons and to test the broader applicability of these findings. This chapter concludes by assessing the extent to which PCCs have improved local police accountability.

PCCs and their deputies, chief and senior officers, staff from national policing bodies, and members of the public involved in scrutinising the police were interviewed. They were unanimous in believing that PCCs have an important role in monitoring and governing the use of police-initiated stops due to its significant societal impact. However, an analysis of data from interviews, official documents and observations of public events revealed a number of constraints facing their ability to do this, plus it also provided a means of assessing the depth of accountability introduced by PCCs. These can be grouped into two dimensions and both of which help to explain why PCCs were found to exercise little influence over police-initiated stops. This chapter starts with discussing the first: operational independence. It then discusses the more significant finding that

commissioners were constraining their own influence by narrowly interpreting their wide range of responsibilities and legal powers, each discussed separately.

### *9.1. Operational independence*

What constitutes operational independence became a fascinating discussion during interviews because it concerned legal constraints to how far PCCs could exercise their powers to ensure operational practice is more responsive to their electorate. As this section argues, stop and account was particularly revealing of how chief constables remained powerful and could resist pressures from their PCC and electorate to change their practices.

Lister (2013:7) argues that PCCs' governance and executive duties would inevitably result in them interfering into operational matters. On the contrary, this study found that PCCs were not "too powerful" for their chief constables, at least in relation to police-initiated stops. Both PCCs and chief officers were well aware of the potential for conflict to arise concerning what constitutes operational independence but minimised its prospects locally:

> "*Well, there's the point I was making earlier on that …, what's operational and what's policy? And sure the day-to-day use on the streets of stop and search is an operational matter; relationships with the black and Asian community is a policy matter. The two overlap and fortunately we've got a pragmatic and sensible chief constable here who is prepared to discuss these things with us, so we've never got into a fundamental row about 'you can't say that because that's my bag'.*"
>
> Commissioner/01

> "*[Stop and search is] both: it's a strategic issue in that it's about if PCCs are about putting the voice of the people across to the police then it's a strategic issue: 'we need this to change, we need it to stop'. The police have then got to think how they manage that. And I think in this area that's happened.*"
>
> Commissioner/02

> "*Well, of course there's always a bit of give-and-take... and obviously we've both got a certain amount of leverage... There's areas which I think are crucial to our community which I believe I should have a significant say on… the acts of stop and search is a case in point: whilst it is an*

> *operational decision as to how you do it, it clearly has a major influence on our communities. So I've said … we do need to respond to that and the chief constable has acknowledged that and sought to get his officers to respond."*
>
> *Commissioner/05*

> "*...of course operationally they [PCCs] cannot interfere. So politicians cannot interfere with operational incidents but you define operational... I can tell you that my PCC will have a different view to the XXXXX PCC about what's operational, will have a different view to the YYYYY PCC, will have a different view to the ZZZZZ PCC and all will have different definitions as to what is operational."*
>
> ChiefOfficer/03

> "*Stop and search is an operational police power, the impact of the use of those powers on minority communities where that is shown to be potentially discriminatory, certainly disproportionate, is very much the PCC issue. And, actually, isn't it a bit of an artificial separation that thing around anything that's operational is the chief's?"*
>
> National/04

As these excerpts show, the role of PCCs vis-a-vis chief officers on police-initiated encounters is one negotiated locally between the two actors (Lister, 2013). Most interviewees emphasised the highly ambiguous nature of operational independence, with stop and search serving as a good example of how highly interdependent the roles of PCCs and chief constables have become. Commissioners were keen to suggest that they had successfully achieved changes to stop and search use or scrutiny, particularly through their pragmatism. However, National/04 reflected the views of national policing staff interviewed by agreeing that any separation of operational and policy issues were "artificial" but also their criticism of PCCs inability to robustly scrutinise chief constables. As s/he continues: *"it's not a working together thing because the PCC's job is not to work together it's to hold to account so maybe [stop and search] crosses the line there but you can't not cross that line and hold the chief to account can they?"* PCCs were perceived to be 'too cosy' to their chief constables on these issues rather than being more forceful in asserting their role in holding their chiefs to account. Despite the positive image presented by PCCs, it was clear that they were facing tremendous difficulties in fulfilling the

demands of their local communities, as national policing staff were keen to highlight. Only one commissioner was forthcoming in acknowledging this:

> "*I want to know what's going from a personal context but I want to know the justification, the rationale as to why you take the actions that you do. Now I actually don't care whether people think that's interfering in operational issues or not, because it's very much in the public interest, and I think if you have certain constabularies that don't agree with that, well they're wrong. But you do need to be quite resilient for some of this stuff. Sometimes getting changes implemented will take months because of their … inward looking culture. So you have to be persistent and resilient but that's how the role of the PCC fits in."*
>
> Commissioner/04

Commissioner/04's frustration at the pace of change was something echoed by other PCCs, although only s/he was as open in discussing the amount of internal resistance they received from the police. The quote also suggests that not only does the boundaries of operational independence limit their reach but also requires greater resilience from PCCs to ensure that any desired changes are implemented into practice. The recording of stop and accounts was the most fascinating example of this.

Stop and account emerged as a long-standing issue concerning ethnic minority experiences of the police in all three case study areas. Therefore, it was deliberately raised with interviewees to understand how far PCCs' could exert their powers and this contrasted with discussions on stop and search which interviewees raised themselves before any questions were asked on it (see Appendix C for interview questions). Indeed, all three PCCs and their fellow candidates pledged to reintroduce its recording, or maintaining it in the case of Suffolk.[71] Throughout the research period, Suffolk Police maintained recording these encounters but it remained unrecorded in Nottinghamshire and the West Midlands.

[71] Observations 2012/10/18, 2012/11/01 and 2012/11/05.

Nottinghamshire's PCC commissioned research into ethnic minority experiences of the police which involved focus groups and surveys with a cross-section of its ethnic minority residents. Wright et al. (2013) found stop and account to be a major issue raised by participants and thus recommended re-recording those encounters. Nottinghamshire's PCC (2014:8) fully "commit[ted] to implementing the recommendations from the independent research", including in relation to stop and account but was unsuccessful. As one interviewee remarked:

> "*It's gonna really take the PCC to be radical. It's gonna take the communities along with political power to change the police [to record stop and account]. But I don't think we've got the ability to do that at the moment. "*
>
> Nottinghamshire/Public/03

Similarly, two national interviewees stated:

> "*Well, I think the decision to reintroduce it would be the chief but I think the catalyst for that decision being made would be the PCC."*
>
> National/04

> "*Well, the legal position as I understand it is that when police authorities were disbanded, their legal responsibilities of monitoring, checking and governance that surrounds stop and search passed to the elected policing bodies. So they have a legal responsibility in terms of oversight. And this is where I come back to, you know, if they want stop and account I'm a bit concerned that… as the elected policing body… the chiefs aren't listening to them in terms of recording that."*
>
> National/06

As with all non-police officers interviewed, those quoted above felt that while PCCs do not have the powers to directly reintroduce stop and account recording, they retain enough influence to pressure their chief constables into doing so. However, local campaigners such as Nottinghamshire/Public/03 were aware of the difficulties PCCs face in achieving this and the need for more creative and "radical" strategies. As the Home Office (2014h:20) code of practice states:

> "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. Guidance should be provided locally and efforts made to minimise the bureaucracy involved."

As paragraph 22A states, stop and account recording is an operational matter for chief constables who maintain responsibilities for directing and controlling their force. This has enabled Nottinghamshire and the West Midlands, alongside most other constabularies across the country, to successfully resist pressures to re-introducing these records despite the existence of local concerns that the same paragraph stresses would justify its reintroduction. This difficulty emerged in interviews with commissioners who reluctantly admitted experiencing problems due to opposition from their chief constables, someone they had appointed themselves and were elected to hold to account. During these conversations, commissioners spoke around the issue rather than directly answer the question. Chief officers also became visually uncomfortable and instead used the opportunity to repeat well-rehearsed arguments exaggerating the difficulties in recording these encounters. Two of the most revealing conversations are presented below, one from a commissioner and a longer quote from their chief constable:

> "commissioner: *we're working on it ((laughs)).*
> interviewer: *but how are you working on it?*
> commissioner: *well, it's a conversation that's happening all the time. As you say, you can't always tell the police what to do, so it's a conversation that's going on and, yeah, it's going on.*"
>
> Commissioner/02

> "*so the difficulty we have around stop and account is where does 'hello mate, how are you doing today?' Is that a stop and account? 'Did you have a good time last night', is that a stop and account? Is that 'just been around the back there', is that a stop and account? Where does all that- when you pull somebody over because their brake-light's not working on their car, is that a stop and account? Or is that a stop under the Road and Traffic Act? And when you pull somebody over- as we encourage them to do- and say*

> *'your lights are out on your car mate, really good idea for you to get that repaired, it's dangerous; rather than do anything about it I'll drop round and catch up with you tomorrow to make sure you've done it'. So no enforcement, no prosecution we're making sure it's safe. Is that a stop and account? Is when we walk up to a group of kids in the street and say 'hello guys, how are things going?' We're engaging them, we're trying to build rapport, is that a stop and account? So what is a stop and account and what is an engagement? So that's where you start getting- we can be clear where you apply a power that it can be recorded in a certain way, but as soon as you start to move into something that's much more amorphous… The reason it [recording stop and account] was discontinued was because it was bureaucratic and undeliverable. Simple as that."*
>
> ChiefOfficer/02

As Commissioner/02 suggests, commissioners interviewed were engaged in "ongoing" dialogue with their chief constables who had persistently refused to re-record stop and accounts and justified this on a range of grounds. In particular, as ChiefOfficer/02 finally argued, but only after some persistent questioning, that the fundamental reason why they refuse to record those encounters is out of concern for "bureaucracy". However, a minority of constabularies had successfully adapted technology to continue recording it and minimise bureaucracy, thus casting doubt upon the veracity of this claim (see: Bridges et al., 2011). Further, as the High Court notes in *Diedrick*, despite the Labour government decision in January 2009 to significantly reduce the level of detail required to be recorded from stop and accounts, all police forces still continued to record the longer range of information until the Conservative-led coalition government scrapped it altogether in November 2010. This further undermines the arguments that the bureaucracy involved was considered too great to outweigh the benefits in recording stop and accounts, particularly given the intelligence value of that information. This suggests that chief officers own values rather than stated grievances play a greater role in defining their approaches to accountability.

Members of the public interviewed or who spoke at public events observed for this study were well aware of these arguments but saw the additional administrative work as necessary for accountability and all police explanations were interpreted as excuses to avoid listening to the public. As the quote from ChiefOfficer/02 shows, another strategy chief and senior officers interviewed or observed used was to confuse people in relation to what constitutes a stop and account by conflating it with generic, friendly conversations that police officers are expected to develop with the public, such as "hello mate" and "what's the time?" At times, references were made to the Home Secretary's decision to cease the statutory requirement to record those encounters as a further justification, particularly in Nottinghamshire where local campaigning was the most vociferous with the initial support of the PCC. The notes of a public meeting organised by the police provides a good example of this and records the following response to a related question from a member of the public:

> "*Why can't Stop and Account be stopped?*
> *Neither the Home Secretary nor the Chief Constable Chris Eyre, believes there is advantage in recording the many thousands of conversations that would come under category of Stop and Account. There is no legal requirement to record these encounters and if they were recorded, a conversation lasting seconds would take minutes of paperwork to capture the required data. When a stop and search is conducted there is no legal requirement for a person to provide personal details. This would also be the case for Stop and Account."*
>
> (Nottinghamshire Police 2014a:3)

Clearly, references to the Home Secretary's decision was made to legitimise the chief constable's own decision to avoid recording those encounters. This demonstrated a lack of transparency in explaining to the public exactly why the force continued to resist the demands of local ethnic minorities to re-record those encounters, particularly since the code of practice delegates this decision to chief constables and is reinforced in the case of *Diedrick*. Further, observations of public meetings and police-community consultative

groups revealed a successful strategy employed by police officers to narrow discussions towards debating stop and search rather than the broader range of encounters raised by the public at those sessions, including stop and accounts and traffic stops.[72] Blame was often shifted onto the public for confusing the different types of powers- and indeed for incorrectly perceiving stop and account to be a legal power- rather than officers seeking to listen to and understand the impact of those encounters. Senior officers also repeatedly emphasised the difficulties in recording stop and account, particularly within the context of budgetary constraints. Very few members of the public had the confidence or legal knowledge to challenge the authoritative performance of senior officers as they were ignorant of the wider policy debate and decision-making processes. Where challenges occurred, this was in relation to people raising their own negative experiences and criticising the police for lacking respect. However, even this was successfully dealt with by senior officers who offered to meet the person separately and investigate their experiences rather than addressing the more fundamental point in public or commit to implementing any changes. PCCs have the potential to empower minority communities by widening the scope of consultation towards the broader range of police-initiated encounters. Aside from facilitating police-community engagement events where the onus is usually on participants to raise these broader issues, PCCs appeared unwilling to broaden the terms of debate and were even quiet during these public exchanges, perhaps indicative of their resignation on the issue.

Overall, many non-police interviewees still felt that PCCs have a role to play and saw the lack of progress as indicative of commissioners' lack of competence. However, chief and senior police officers interviewed contested the role of PCCs. Interestingly, one chief

[72] Observations 2014/09/30 and 2016/04/20.

officer made the following remark which is reproduced alongside the response of their PCC (emphasis added):

> "*I don't know but it seems that they [PCCs] might be slightly overreaching themselves if they promised to do that [introduce stop and account recording], because it is arguably an operational decision that would ... sit outside their ability to deliver. I mean, I don't know if they captured it in slightly more cautious language than you're sort of suggesting there, but why hasn't it been introduced? Well, like [SeniorOfficer] has said, operationally we don't think it's the right thing to do. We don't think it adds any value. In fact we think it would probably make things worse.* ***I'm not aware we've actually been asked to do it by anybody... You have discussions with people, of course you do, [but] no-one's actually required us to do it.***"
>
> ChiefOfficer /04

> *So stop and account [recording] is important to find out how much is going on and clearly there was a suggestion that because of the more accountable arrangements for stop and search full stop that was being replaced by more stop and account. This [new electronic recording] process will be able to detect any changes in the balance between the two. So, hopefully, [we would] have some assurance that we're not seeing a displacement into stop and account from stop and search.* ***Clearly if we did pick up that there was a displacement into stop and account, we'd be pressing for that stop and account solution at an earlier stage.***
>
> Commissioner/05

As ChiefOfficer/04 states, operational independence remains a relevant concept despite a consensus among all interviewees that it has undergone further ambiguities since PCCs' introduction. Chief officers in Nottinghamshire and the West Midlands invoked their operational prerogative to effectively hamper the ability of their PCC to introduce processes that they disagreed with. Further, ChiefOfficer/05 explains that "no-one's actually required us" to record those encounters, thus raising questions about whether the necessary negotiations behind-the-scenes had taken place between them and their PCC. Commissioner/05 refused to directly answer this question and their long-winded answer suggests that they may have stalled in formally making this request. Perhaps s/he realised how limited their powers really were on this issue but it also suggests that s/he lacked the

resolve to apply public pressure to embarrass their chief officers into implementing those reforms, a topic returned to later.

By contrast, police officers responded with reluctant compliance to the potential recording of traffic stops. For example:

> "*Now that's a matter for ultimately the Home Secretary and I know as, you know, we said at the beginning she's having this debate with David Cameron. I don't know where we're heading. You've probably got a better knowledge of where we're heading."*
>
> Nottinghamshire/Police/01

Nottinghamshire/Police/01's answer was reflective of other officers interviewed and suggests that although they frequently cited the same practical issues in recording those encounters as stop and accounts, they essentially acquiesced this decision to the Home Secretary. Unlike stop and account, the Home Secretary was seen as having an enabling influence in introducing the recording of traffic stops. This was yet another revealing example of how police accountability remains centralised despite the introduction of PCCs. Whereas stop and account recording was an issue raised by PCCs in response to their ethnic minority electorate, traffic stops was also an issue affecting ethnic minorities but enjoyed the necessary ministerial support to raise the prospects of it being recorded. However, other issues raised in the same HMIC (2015a) inspection that prompted this development, notably the recording of strip-searches and searches of children, were not endorsed by the Home Secretary who expressly commissioned research into those areas. This indicates that chief officers have been successful in restricting the scope of external reform and that the Home Secretary must also choose her fights carefully. This also suggests that the Secretary of State and her department have less power to shape police practice than may have been previously thought.

As this section has argued, operational independence has presented significant barriers to PCCs ability to ensure policing is more responsive to the demands of their ethnic minority communities. The inability of PCCs for Nottinghamshire and the West Midlands to reintroduce stop and account recording was a good example of this. Concerns were also raised relating to Suffolk police potentially ceasing the recording of stop and accounts, but this did not materialise to then assess what this revealed about the relationship between the PCC, the public and the chief constable. Despite the case study PCCs giving their electorate a direct participatory role in identifying how the police should be made accountable, their inability to reverse chief constables' refusal to re-record stop and account reveals how local power remains unevenly held by the police, thus undermining what constitutes democratic police accountability (chapter 2). In other words, chief constables appear to remain powerful in determining how they are held to account locally. This also undermines the electorate's ability to obtain the necessary *information* to judge whether police powers are used *equitably*, two other elements of democratic police accountability.

### *9.2. "Sack the chief constable"*

PCCs' powers to dismiss their chief constable as a way of ensuring compliance with directives was raised by all interviewees, including by chief officers themselves:

> "*These people [PCCs] are powerful and, you know, public figures though. They can make noise and noise can have impact so if they're truly not happy about what they're seeing and what they're expecting, first of all they can sack, you know, they've got a power to sack chief constables."*
>
> ChiefOfficer/01

Similar to others, ChiefOfficer/01 suggests that PCCs have considerable powers to change policing by various means before invoking the ultimate sanction of sacking their chief constable. Lister (2013) argues that this power enables PCCs to overcome chief constables'

operational independence, but this research found otherwise. As some interviewees highlighted:

> "*it's quite healthy for us to have a disagreement in the way that we do something and there's been a few ones, you know, might be more than a few ((laughs)). But, yeah, it's healthy to have disagreements and not be afraid. But I think it's the way that you do it as well. I don't believe in airing our dirty lining in public, because you see if I go out there and say certain things that would be a headline… it will skew the relationship and create something that doesn't really exist, you know, when all-in-all everything is going well in my view."*
>
> Commissioner/06

> "Interviewee*:* *Now if you're not performing as a chief, he [the PCC] then ultimately has the power to, sort of, like, dismiss you and have you-*
> Interviewer*: -* *that's a bit of a nuclear option though?*
> Interviewee*:* *yeah, absolutely. It's never come to that for something like this but, you know, you go through it and you explain your position and where you stand so that's your elected representative.*
>
> ChiefOfficer/03

> "*I think [PCCs'] effect is helpful and unhelpful in different contexts as well. So their powers are that they can appoint the chief and effectively sack the chief, and so I think chiefs are becoming very sensitive to that power. […] And what you're seeing is potentially a slight stagnation in the chief officer labour market, as in they're not moving very much any more because they either have a situation where they have a PCC that they get on with or they don't want to move into those areas where they've got a PCC that's gonna be quite hard work for them, and that could develop into some very unhealthy relationships*."
>
> National/02

As these interviewees suggest, this "nuclear option"[73] operates as a blunt threat in practice. PCCs appeared to be reluctant to dismiss their chiefs over perceived failures in the use of police-initiated stops because, as ChiefOfficer/03 conceded, "something like this" was considered too much of a minority issue to justify their dismissal and make such threats credible. As with National/02, other staff from national policing bodies, all of whom regularly interact with both PCCs and senior and chief officers, felt that this exemplified

[73] A term originally coined by Commissioner/01 and adopted by the current author.

PCCs' failures to more robustly hold their chiefs to account as their relationship had become too friendly. Commissioners, on the other hand, were keen to explain that they preferred behind-the-scenes negotiations rather than exercising raw powers, just as Commissioner/06 argues. They felt this would be more conducive to making police practice more responsive to their initiatives and avoid provoking the defensive, "inward-looking culture" that Commissioner/04 criticised earlier.

For reasons unrelated to police-initiated stops, this power came under public scrutiny during PCCs first year in office. Lincolnshire's PCC was forced to reinstate his chief constable after the latter successfully appealed against his dismissal in the case *of Rhodes vs Police and Crime Commissioner for Lincolnshir*e.[74] The High Court ruled the dismissal was "irrational and perverse" and unnecessary because the PCC had done so without a prior investigation into his chief constable's conduct to ensure that the dismissal was proportionate. Soon after, Gwent's chief constable resigned and claimed to have been forced to do so by her PCC (HASC, 2013b), thus showing that commissioners are not entirely constrained in removing their chief constables. A committee of MPs also expressed its concerns over these and others cases, calling for greater protections for chief constables against the "maverick behaviour" of PCCs "who wish to make their mark in the new role" (HASC, 2013a:4). Commissioners interviewed, however, were more conscious of the potential backlash in dismissing their chiefs than the Committee suggests. One PCC was more blunt than others by arguing:

> "*the real politik of the situation which may in fact work against some of the accountability issues is there's not really a lot of votes in seeming to have lots of rows with your chief constable, particularly as usually even after a number of significant issues nationally the police officers are actually ((smiles)) a lot more respected than politicians. Having a row with one- particularly if you get rid of one- it would be very difficult to get rid of two.*

[74] [2013] EWHC 1009 (Admin); para78.

> *It starts to look like serial incompetence in terms of your ability to cope with chief constables. So clearly if your motivation as police and crime commissioner is to get re-elected, it's a very risky strategy"*
>
> Commissioner/05

As Commissioner/05 suggests, PCCs may be too concerned about the potential dangers in appearing unable to manage their chief constables and the unwanted publicity in dismissing them to take more aggressive action. This means that these initial controversies may have indeed been a temporary phase as some commissioners sought to "make their mark". In this sense, the PCC structure appears to be incentivising cooperation between the two actors, as the stressed by the Policing Protocol which outlines the relationship between them, their police and crime panel, and the Home Secretary (Home Office, 2011b). This supports Lister's (2013:8) assertion that the roles of PCCs and chief constables are now more "mutually contingent".

Ultimately, PCCs' power to dismiss their chief constables was widely understood to be a hollow threat with regards to minority issues like police-initiated stops. Chief officers appeared well aware that such action was too politically risky for their commissioners to justify such a drastic measure, particularly since *Rhodes.* Recognising this, PCCs appear to be relying on their 'soft powers' to realign police practice to the expectations of their ethnic minority electorate. Therefore, this ultimate sanction appears to be less 'nuclear' and more of a blunt threat. This means that the PCC structures risk a return to the 'explanatory and cooperative' forms of accountability in some police force areas, as was the dominant relationship from the 1930s to the 1980s (Marshall, 1978). Reiner (2010) argues that a 'calculative and contractual' form of accountability has developed since the late 1980s when New Public Management and other neo-liberal policies took hold. As discussed in Chapter 3, this is clearly embodied in the target-setting and commissioning culture first

introduced by the Conservative government's Police and Magistrates Courts Act in 1994, throughout various Acts under the subsequent Labour Government- notably the Police Reform Act 2002, and similar powers inherited by PCCs' powers under the recent Coalition government's Police Reform and Social Responsibility Act in 2011. It is this business-like relationship that could give PCCs significant leverage over police practice, particularly where they use their standing to bring about public scrutiny of their force's compliance with key priorities, and when combined with PCCs' powers to commission the services of a wider range of stakeholders than would have otherwise been included. These are discussed in the rest of this chapter.

### *9.3. "Make noise"*

Interviewees unanimously felt that the elected nature of PCCs and their public profile gave them considerable influence to pressure their forces into adopting policies more responsive to their electorate. Some PCCs sought to do this by using their budgetary powers to commission ethnic minority groups or organisations to develop recommendations for change and these activities are discussed in this section.

Differences emerged on the one hand between PCCs and their chiefs who felt that commissioners were successfully applying such pressures, and members of the public and staff from national policing bodies on the other hand who felt otherwise. Here are just two examples illustrating this difference:

> "*But they [PCCs] do have influence. If you're not performing as they would like… there's public naming and shaming, isn't there? So they can put loads of stuff in the media: 'I think this is disgusting, they're not doing' and you force the chief into doing something they don't want to do or you sit there and say [to the chief constable] 'actually no, this is really important. I've asked you to do it but you're not doing it'. So you call in somebody else to review it so you can obviously use that in the media and do that."*
>
> ChiefOfficer/03

> "*Do you know what I don't think they do enough of? If I were to be critical of them: they don't tell the public... [I] want them to be loud in the public's ear saying how badly the chief constable is doing around a particular issue if it is bad. They don't. They've gone too cosy, they've cosied up to the chief constables and of course the success of the chief constables is sort of linked to their success so there's no incentive to tell the public that it's not going so well. I just think there's something wrong with that."*
>
> National/05

ChiefOfficer/03 suggests that generating negative publicity is a good way for PCCs to pressure their chief officers into adopting policies that they refuse to do so privately. National/05 agrees but contends that PCCs are generally failing to do this, partly due to perceived fears that any negative media attention would reflect badly upon commissioners' own competence. An earlier quote from Commissioner/06 supports this latter argument when s/he was quote as saying s/he did not wish to create media *"headlines"* as it would risk "*skew[ing] the relationship"* with their chief. Perhaps it was fears that 'making noise' would expose PCCs own limitations in being able to control their chief constables that so few had publicly committed to tackling controversial issues like police-initiated stops (chapter 8). This supports Lister's (2013) argument that the PCC model would disincentivise public disagreements.

Case study PCCs did, however, use their commissioning powers as leverage to build some public momentum for change. Nottinghamshire PCC (2012) was the first in the country to commission a group of local citizens to investigate ethnic minority experiences of the police, focussing on stop and search, community engagement, victimisation and how to improve the diversity of police personnel. Wright et al.'s (2013) study found varying levels of public satisfaction in Nottinghamshire police, but the most common cited grievance related to stop and search and stop and account. Approximately 30% of respondents to its statistically representative survey reported to being searched in the two years prior to the

study and over half reported this had happened more than once. Young people were particularly aggrieved at these experiences, arguing it was discriminatory and lacked respect. Wright et al. recommended re-recording stop and accounts in order to obtain a truer picture of police encounters because their respondents could not distinguish between these stops and the legal search powers, thus reaffirming the PCC's earlier pledge to do this. Nottinghamshire's PCC endorsed their findings and commissioned them to set up a steering group with other 'community leaders' to oversee the implementation of the report's recommendations. This appears to have been an important means for the PCC to continue applying public pressure upon his chief officers by making them directly accountable to representatives of the public for any failures to adopt the report's recommendations.

However, direct public engagement was no guarantee for change. The immediate police response to the report was diplomatic and, neither rejecting its findings nor matching the commissioner's commitment, the chief constable simply reaffirmed the need for positive relations with ethnic minority communities by stating "we will work with the PCC to consider this report and identify how it may help us to increase the safety and confidence of Black and Minority Communities" (Nottinghamshire PCC, 2013b). Later, Nottinghamshire police (2014b) produced a detailed response to the eight recommendations on police stops, explaining how its existing work already met the proposals rather than committing to implement any new activities. Notably, reintroducing stop and account was the only recommendation to receive any firm response from the constabulary in the following outright refusal: "The Chief Constable has taken the operational decision that this will not be rolled out. As such there is no intention to record Stop and Account in Nottinghamshire" (Nottinghamshire Police (2014b:1). This was justified on the grounds that it was "not required in law", would "increase bureaucracy",

“the data quality from such recording is poor" and "a conversation lasting seconds would take many minutes of paperwork to capture the required data." This shows the lack of power of direct public pressure in ensuring that operational practice is more responsive to ethnic minorities, even when supported by a PCC.

Other PCCs country-wide adopted similar strategies. Staffordshire’s Conservative PCC, Matthew Ellis, established an independent Ethics, Transparency and Audit Panel (ETAP) consisting of members of the public who could review any area of policing. The Panel’s first review was of stop and search use and monitoring and recommended “an overhaul of the way that stop and search is looked at and directed” (Staffordshire PCC, 2015a:27). Similar to the HMIC's (2013, 2015a) inspections, it criticised officers for misunderstanding their powers and conducting “stops without legal basis”; the varied quality of search records; the lack of front-line supervision; racial disproportionality; and the low outcome rates. The panel also criticised the lack of oversight of road traffic stops and recommended it be reviewed to eliminate any discrimination; it also criticised stop and searches of young people and children, although it made no recommendations on the latter. Staffordshire's Assistant Chief Constable (ACC), Bernie O’Reilly, responded:

> “We welcome the report on this topic by the Ethics, Transparency and Audit Panel (ETAP) and *can assure our communities that the findings of the report will be addressed. In addition to acting on the recommendations made by ETAP* we are also working towards achieving greater transparency under the Home Office’s Best Use of Stop and Search Scheme, for example we will soon be implementing a scheme to give members of the public the opportunity to observe how we use stop and search to help us tackle crime and disorder”
>
> (Staffordshire PCC, 2015b; emphasis added).

As can be seen, Staffordshire PCC used his profile to bring to his chief officers' attention issues affecting ethnic minority residents, even if the impetus behind the review appeared to be the significant national government scrutiny at the time rather specific local concerns

(chapter 6-7). Unlike Nottinghamshire, however, the chief officer team in Staffordshire appeared to be more receptive to the panel's recommendations as indicated by the ACC's commitment to “address” and “act” upon their findings. Clearly, the national scrutiny had provided an environment conducive to this result, particularly as the report had supported the recommendations of various national reports that Staffordshire Police already appeared committed to implementing rather than making any additional and more fundamental proposals that reflected local concerns like in Nottinghamshire. The national recommendations endorsed by the panel related to strengthening existing regulations such as front-line supervision, monitoring complaints, improving training and also undertaking a public campaign to highlight people’s rights if stopped and searched. Thus its recommendations left police officers responsible for regulating their own practice, having failed to suggest an enhanced role for the public, and therefore made it easy for the chief officer team to endorse the report.

Northamptonshire's Conservative PCC (2015a) commissioned research into his residents’ experiences of stop and search which focussed more on the efficacy of the powers rather than its impact upon ethnic minorities. The research found high levels of mistrust in the police, particularly among young people and those who had been searched in the past or knew someone who had. This led to the PCC using his profile to successfully attract national media attention to call for “fundamental reform” of stop and search and encourage commissioners and constabularies around the country to adopt his force's policy of suspending police officers and their supervisors from exercising such powers where they are found to be misusing them (Northamptonshire PCC, 2015b). To maintain pressure upon his force, he then appointed a 'public figure' to review the force’s policies on stop and search, although the report presented a confusing assessment of stop and search practice

(see Brooks, 2016).[75] Finally, the PCC commissioned Northamptonshire's Rights and Equality Council to produce a report into people's experiences of police-initiated stops and input into police training (NREC, 2014). Elsewhere, Labour's Greater Manchester PCC (2014) initiated detailed scrutiny into his force through 'themed public meetings', the first of which was on stop and search in recognition of its impact upon his sizeable ethnic minority electorate; a follow-up progress meeting was held a year later. These sessions analysed figures on stop and search volumes, outcomes, disproportionality, and also provided members of the public with opportunities to share their experiences of those encounters. From this, he pledged to develop a series of recommendations to guide changes to the force's use of the powers.

Since Staffordshire, Northamptonshire and Greater Manchester were not case study areas, the potential impact of their PCCs' activities could not be investigated other than through analysis of documents and discussions at national conferences subject to field observations. This analysis supports the findings from the three case studies and suggests that commissioning civic groups to develop recommendations for change was one strategy that some PCCs were using to publicly apply pressure on their chief officers to making changes that the commissioners found difficult to achieve alone. However, most of these recommendations narrowly evolved around improving regulations and public information rather than making any significant changes to the existing structures of accountability. Perhaps this explains why these PCCs appeared to have more success than in Nottinghamshire. One exception is Northamptonshire's model of suspending police officers and their supervisors from using stop and search where they are found to be misusing them. This was an idea originally developed by a proactive senior police officer that later

[75] The public figure was Duwayne Brooks, a former Liberal Democrat councillor and 'critical friend' on stop and search matters to the-then Conservative Mayor for London Boris Johnson. He is also the friend of the teenager Stephen Lawrence who he witnessed being murdered by racist youths in 1993.

gained the support of the commissioner as national pressures mounted. The Home Secretary also proposed to extend this idea out across the country (chapter 7) but failed to do so. This suggests that PCCs can play an important role in supporting initiatives that can more fundamentally alter operational practices even where unsupported by national government.

In sum, “making noise” was an important means by which PCCs demonstrated to their ethnic minority electorate that they were sufficiently alive to their concerns to give them direct opportunities to help propose changes to police practice. This appeared to be a clever strategy designed to make it harder for senior and chief officers to resist those proposals as they were direct, often desperate, appeals from the public. It also meant that PCCs could give influential members of their ethnic minority communities an insight into the difficulties that they faced in implementing those changes whilst also helping to deflect criticism away from them and onto their chief officers. However, most of these recommendations narrowly focussed upon stop and search rather than the broader range of encounters and had also left the power base of police officers unchanged. Unsurprisingly, many were readily endorsed by chief officers. But where more fundamental changes were sought, as in the case of Nottinghamshire and the West Midlands with regards to public support for stop and account recording, this was successfully resisted by chief officers. This shows the lack of power that the public enjoy to ensure their recommendations are implemented, particularly without a PCC willing to be more vociferous in championing those demands. Even so, it was surprising that not a single PCC across the country had commissioned a policing body, such as the HMIC or College of Policing, to review their force's use and governance of the various police-initiated stops. These bodies have considerable expertise and can potentially give PCCs significant leverage in introducing

changes sought by the public, particularly for those encounters repeatedly ignored by the national debate. This suggests that commissioners were highly selective and had underused their commissioning powers, an issue returned to in the conclusion.

### *9.4. "Conduit" for public voice*

Public summits were a more frequent method PCCs used to provide ethnic minorities and others with direct opportunities to hold their chief and senior officers to account. As Nottinghamshire/Police/01 argued, PCCs were acting as the "conduit" for the public's voice. The level of accountability this afforded was typically low because members of the public rarely made any suggestions for change and instead used the opportunity to criticise police practice. Many were ignorant of the law or police processes and some too resentful of the police to believe that it was worth suggesting changes. In other cases, suggestions were made but the police had successfully deflected responsibility. For example, in Nottinghamshire where stop and account was an enduring issue:

> SeniorOfficer said s/he was focussing on stop and search but wanted to quickly clarify why he would not discuss stop and account. SeniorOfficer said the stop and search scrutiny board spends a lot of time talking about stop and account and also the IAG which had both recommended re-recording those encounters but there was no intention to do this as the chief constable has decided there is no benefit in doing so... A middle aged black man interrupted to express his grievances over his experience of a stop and account and, although he felt the "powers" were necessary, he was aggrieved at his treatment. SeniorOfficer said the actions of individual officers cannot be justified and s/he was happy to speak to the gentleman over lunch... A number of attendees complained that they wanted time to ask questions on this, showing the degree of interest in stop and account, but it was not discussed. Interestingly, on all other issues addressed in the rest of the presentation, all related to stop and search, SeniorOfficer repeatedly stated that the constabulary was open to feedback on any learning or issues missed, thus demonstrating how selective the police was in scope of public consultation. The PCC sat quietly throughout the presentation and question and answer session, as did a chief officer in attendance who let the senior officer take the heat.
>
> Observation 2016/03/19

This occasion was just one example of community frustrations at the perceived unwillingness of police officers to discuss the broader range of issues that mattered to them. For them, yet again concerns over stop and account were dismissed, thus reinforcing perceptions that the police were too unresponsive and resistant to change. Throughout this exchange, the chief officer present was notably silent and so clearly did not wish to get involved even as the senior officer struggled and became extremely uncomfortable. Thus the police had successfully narrowed the scope of debate and even managed to silence the vocal PCC whose retreat is perhaps a sign of his resignation on the issue having struggled to persuade the force to re-record those encounters. This was reinforced in interviews, including with one person:

> "Interviewee*: our only mechanism into holding them to account is through the PCC.*
> Interviewer*: and is he able to do that as well?*
> Interviewee*: He struggles. If you interview [him] I'm sure he'll tell you but he struggles because he has got no remit over operational policing, he has strategic and budgetary [responsibilities]. He sets out a crime plan strategy for twelve months or two years, there's certain targets, certain interventions he can say, but that's it. He can't say 'well, we need a specialist hate crime unit'- can't do it."*
>
> Nottinghamshire//Public/03

As Nottinghamshire/Public/03 argues, the PCC was an important mechanism through which ethnic minority groups sought changes to operational practice but they had become aware of the limitations of his role. The strong police control over the scope of discussion was not unique to the case studies as an observation of Avon and Somerset Police's summit on stop and search revealed. Here, the public's lack of power was most apparent at the end of the session when attendees were asked to propose issues for the force to prioritise but could only watch as the senior officers (including a chief officer) agreed amongst themselves which of these suggestions would be adopted (observation 2014/09/30).

However, interviews with West Midlands' police officers showed that its PCC's stop and search summit was more successful in helping them to develop new 'oversight arrangements' for the use of those powers. This was later published as a joint action plan between his office and the police force (West Midlands PCC, 2013b). The action plan set out 16 activities arising from the summit, five of which were owned entirely or jointly by the PCC and related to facilitating public scrutiny of stop and search. The rest were owned by the police and related to reviewing the use of the various powers, including the highly secretive schedule 7 which points to the strong leadership of the PCC in ensuring the inclusion of this power. StopWatch had firmly encouraged scrutinising this power which may have supported this development as the consultation outcome had shown through its extensive references to the organisation's proposals, although it excluded the group's proposal to include other encounters such as traffic stops and stop and account (West Midlands PCC 2014b). The significance of the summit in guiding police scrutiny arose during interviews, including:

> "*[the PCC] summit was something that really mobilised and moved things forward… The PCC summit was around September last year so just over a year ago and senior officers were there and that really focused the mind around the force as to some of the deficiencies we had around recording. We got a lot of criticism that day and some it was justified and some if it wasn't, but if I'm honest we hadn't really got our house in order about how we record stop and search so we weren't really in a position to have a defensible argument really. So we kind of took the flack that day and went away, addressed it and now we can say actually we're in a better place to say to you this is what we're doing and why we're doing [it]…. At the time I don't think we could have that argument because we didn't really know what was happening with stop and search…. Yeah, I think as a force that PCC summit was quite powerful."*
>
> WestMids/Police/02

Clearly for WestMids/Police/02, the shock of the summit had forced senior and chief officers to review how they were monitoring and using their powers; all other senior

officers interviews agreed. However, WestMids/Police/02 also appeared to reject any fundamental problem as s/he felt they "took the flack" thus suggesting that the scale of criticisms endured in summit had promoted some defensiveness. For this officer, it was important to be able to *explain* why police use their powers rather than being required to undertake any fundamental changes, particularly now that s/he felt they had finally developed the "defensive argument" that they supposedly had all along but were unable to make at the summit.

Overall, PCCs arranged ad-hoc public meetings aimed at providing their electorate with important opportunities to vent their frustrations towards senior and chief officers and publicly request changes, although very few proposed any changes. However, as demonstrated by all of the observations, both within and outside of the case study areas, the distribution of power remained primarily with the police who were able to narrow the scope of discussion towards the issues that they felt more comfortable discussing, particularly given the unwillingness of PCCs to intervene during those proceedings. The West Midlands summit appeared to be the most effective because it directly fed into the development of an action plan designed to address issues raised by ethnic minorities; it incorporated the expertise of a well-informed scrutiny group (StopWatch), albeit selectively; and was also chaired by the deputy PCC rather than the police.

### *9.5. Scrutiny of police-recorded data and search records*

Interviewees' understanding of how PCCs should monitor stop and search initially focussed narrowly upon analysing police-recorded data, particularly in relation to outcomes and racial disproportionality. This is unsurprising given that it was police

authorities primary form of scrutiny and subsequently adopted by PCCs as their main activity. However, commissioners interviewed were keen to stress a qualitative difference:

> "Commissioner: *It's the culture. Because for the last fifty years no-one's ever asked the police a tough question.*
> Support staff: *And they've [the constabulary] never published anything themselves. They don't regularly publish their own stuff, they feel generally anxious about that.*
> Commissioner: *I'm not blaming the police, I'm blaming the old police authority because the previous police authority jolly well should've asked and jolly well should've communicated to the public. Communication to the public doesn't mean always publishing the raw data or the raw police papers... but in the old days the police authorities never took the lid off the can, never looked under the bonnet, never in my judgement. How could they?"*
>
> Commissioner/03

> "*[Police authority members] didn't feel that they had to go out there and consult and speak to people. They wanted to remain- the majority of police authority members resisted going out and meeting people. So when incidents occurred they didn't want to go. So when we had the [August 2011] riots they didn't really want to go out there. When we had any kind of conflict they didn't want to go out there. I'd be out there with the community speaking to people."*
>
> Commissioner/06

As both commissioners argued, they felt that they had introduced a different "culture" than their predecessors through far greater depth of scrutiny and a more proactive engagement with the public. Commissioners felt that this public engagement gave them a unique understanding of their electorate to then "look under the bonnet" and ask the "tough questions" previously lacking. Interestingly, commissioners were entirely speculative in these discussions and no-one was able to provide any firm example of having successfully changed policies or practices as a result of this new culture.

PCCs were also keen to give members of the public direct and regular opportunities to participate in police accountability through stop and search scrutiny groups. Most of these had existed under the police authorities as it has long been required by PACE Code A

(Home Office, 2014h). Observations were carried out of a variety of these groups, both within and beyond the case study areas, to assess whether PCCs had produced a better culture of accountability. All of these groups demonstrated significant variation in the depth and quality of accountability as shaped by their degree of independence from the police and attendees personal experiences of the police. Despite these differences, all scrutiny groups were united in revealing a lack of power enjoyed by the public or their PCC to ensure any recommended changes were implemented. Members of the public routinely obtained an explanation for overall trends in data and officers' behaviour but were never given a fundamental say over how those powers were directed or used, even when the conversation appeared to be heading that way.

Each case study had an independent advisory group (IAG) firmly under the constabulary's direction, besides Suffolk whose IAG was financed and supported directly by the PCC. Since these were 'closed public' groups, observations were restricted to 'open public' groups although documentary analysis of IAG meetings and interviews with its members suggested similarly findings. West Midlands PCC provided ample opportunities for his electorate to engage in scrutiny panels, with one established for each of the seven districts comprising the force, although some met far more frequently than others. A force-wide summit was convened every six months to bring together members of each regional panel and discuss issues at a strategic level with the PCC. Suffolk PCC provided joint-funding for its independent Stop and Search Reference Group (SSRG) to continue its work since 2008 in scrutinising police records. More generally, he also organised a series of regular forums for local communities and businesses within each of his seven policing districts which required the attendance of the chief constable and senior officers responsible for policing that area (Suffolk PCC, 2013). Nottinghamshire had the least opportunities and,

unlike the others, it was not clear how to access its scrutiny groups. Both the PCC's 'BME steering group' set up to oversee the implementation of Wright et al.'s (2013) 'BME report' and the force's IAG were closed to the general public. A 'Stop and Search Scrutiny Board' was managed by the police and also closed off to the public. Therefore, only observations of ad-hoc public events could be conducted across Notinghamshire.

Analysis of statistical data on stop and search use formed the core activity of all of these groups and was indeed expected by attendees who relied upon officers to interpret the figures for them. Opportunities for members of the public to talk about their own negative experiences of police encounters, or other known incidents, was another expectation regardless of whether time was set aside for this. Due to government reforms, some of the regular force-level or district-level groups also scrutinised anonymised copies of the handwritten stop and search records given to people searched, but this was not the case in all scrutiny meetings. Coventry, which met almost every month, did not scrutinise any forms because, as one senior officer later explained, its members had historically done so and were satisfied enough with their quality to not warrant continued scrutiny. However, observations revealed members held strong affinities towards the police which most likely prevented more robust scrutiny from taking place compared to if it was comprised of people with negative experiences of the police.

Across all groups, only a shallow degree of accountability was found to take place due to the composition of its membership and the strong steering of proceedings by police officers. For example in Birmingham:

> Attendee01 demonstrated another core lack of understanding of the powers when s/he asked what the Firearms Act shown on the pie chart allowed officers to search for. Senior Officer explained that it provided powers to search for guns and accounted for 4.25% of overall searches that financial

> year (n= 136). Attendee01 then asked if this was a search that usually takes place on the street to which Attendee02 look at Attendee01 in quiet disbelief. SeniorOfficer said yes and said that there were a number of legal search powers as shown on the pie chart. At no time during the whole session did SeniorOfficer show any proactivity in ensuring a more robust scrutiny could take place by providing attendees with any basic information or explanation of the various stop and search powers even though most attendees had clearly struggled to understand. […] Throughout the entire session, SeniorOfficer was explaining away issues and sped through the two parts of the scrutiny (data and search records) without much time left for discussion. SeniorOfficer was clearly in a hurry to leave and a number of times cut conversations short to move on to the next topic, and even shut down the computer and got ready to leave as a way of hinting that it was time to finish even as attendees were discussing an electronic search record projected onto the screen.
>
> Observation 2016/03/17

As this observation shows, there were significant deficiencies in the types of people invited to sit on scrutiny groups managed by the police. (Suffolk's independent group provides a good contrast and is discussed after this analysis of police-led groups.) Members were unable to interpret the figures presented to them to then engage in any meaningful scrutiny of what those trends implied. As these notes show, this was an inevitable outcome given that the senior officer failed to educate members to ensure meaningful scrutiny could take place. Although Birmingham was the most extreme example of an officer using their privileged position to restrict discussions, this was a recurrent finding in most other places observed albeit more tactfully.

Across all observations, few attendees demonstrated any awareness of the significant national developments outlined in chapters 6-7 to ask the 'right questions' and even those who claimed to have “seen something” in the news were insufficiently familiar with the relevant details. This was inevitable given that scrutiny groups were dominated by older citizens who were either employed outside of the criminal justice system or retired, and most attendees had never been searched or had any negative experience of the police.

Birmingham was unique in having a number of young people (four), but all of them expressed strong support of the police and had no adversarial experiences either (one was even vocal in his desire to become a police officer). Two older members did but were content on receiving explanations rather than engaging in more in-depth scrutiny. Members in all police-led scrutiny groups neither appeared aware of independent sources of information to hold their officers to account nor able to find the time or willingness to keep themselves up-to-date with the many changes that occurred during the course of this research. For example, not a single question had been asked in any scrutiny panel or other public event about how compliant their force was with the Home Office (2014) best practice scheme; how forces sought to meet the APPGC's (2014) recommendations with regards to searches of children and young people; or how their force was responding to the highly critical HMIC (2013; 2015a; 2016) inspections despite these gaining significant media attention. Only in rare circumstance were these raised by senior officers in Coventry and Suffolk in order to comply with the Home Office's demands but scrutiny group members were not sufficiently aware of the details to engage in any meaningful dialogue or even remember for subsequent meetings.

Commissioners and police officers interviewed conceded that scrutiny group members were typically too inclined towards the police to provide critical scrutiny but it was still striking to see how true this was in practice. Coventry's scrutiny group provided the best example of this, although this finding recurred to a lesser extent elsewhere:

> SeniorOfficer presented stop and search data covering the last month via a projector and highlighted a rise in volumes for the second consecutive month. Last month there were 229 searches in Coventry. SeniorOfficer argued that his/her previous warnings had now materialised with regards to a rise in search volumes for two consecutive months, which would also mean that those increases were not a temporary blip as it cannot be attributed to an anomaly or the effect of police operations... Following the presentation, no member followed this up with any question. Instead, one

> vocal member argued that the police should be given an award for their activity as the distribution of searches appeared to coincide with police recorded crime (others agreed), even though the presentation also showed that the outcomes rate was still low.
>
> Observation 2013/03/07

As this observation shows, members strongly supported the police even where senior officer(s) present tried to obtain feedback and were more open in expressing concerns over their own officers' practices. However, members were disinterested and instead reaffirmed their support of the type of police practice which would have almost certainly been challenged by people actually affected by those powers. Although younger participants were encouraged to attend the scrutiny groups in all case study areas, there appeared to be no proactivity in recruiting them outside of Suffolk or Birmingham West and Central, thus restricting the scope and depth of scrutiny.

This strong police steer of how they are publicly held to account was also observed outside of the case study areas, such as a summit organised by Avon and Somerset Police at its rural headquarters:

> Seniorofficer repeatedly cast doubt on disproportionality figures by constantly referring to the *"complexities"* in calculating it and contrasted the differing rate of searches for blacks, mixed and Asians across the different command units across the force. One example provided was the search rate of blacks being at 2.5 times the rate of whites in the City of Bristol but only 0.8 times in Law Hill i.e. a comparatively lower rate than whites. Using this, SeniorOfficer asked if it is a *"distraction"* to focus so much on disproportionality... *"because the figures are so complex... but [conceded] the perception of stop and search is as important as its reality"*. A small group of young people predominantly from black and mixed race backgrounds- all of whom later said that they resided in Bristol (many miles away from the headquarters)- looked at each other confused and screwed their faces at the data and explanations given for disproportionality but lacked the understanding to challenge these claims and others made throughout the session. I doubt they lacked any confidence because they regularly asked questions and spoke about their own experiences of being stopped and searched.
>
> Observation 2014/09/30

As this observation suggests, it was not just in the case studies that people from ethnic minority backgrounds were unable to challenge the authoritative assertions of senior police officers in undermining potential criticism. As the notes show, their ignorance was exploited by senior officers who used this to steer discussions, narrow the terms of debate, and pre-empt claims of racial stereotyping by casting doubt on the validity of the figures used to calculate this. Such assertions would have almost certainly been dismissed as simplistic by national policing staff and some officers from other constabularies had similar statements been made at the national forums observed for this study. In fact, a staff member from a national policing body used their presentation later on at the summit to gently challenge some of SeniorOfficer's claims, thus suggesting that the officer quoted may have deliberately exploited the public's lack of understanding knowing that they would not be able to respond.

Contrary to these police-led groups, observations of those organised by members of the public and held outside of police stations showed far more critical discussions taking place and its inclusion of people regularly subject to various police-initiated stops. Suffolk's Stop and Search Reference Group (SSRG) provided the most robust scrutiny of any observed. This was led by the very active Ipswich and Suffolk Council for Racial Equality (ISCRE) and partly financed by the PCC who attended the occasional meeting. Indeed, the SSRG was credited by interviewees in Suffolk for achieving some changes to stop and search practices due to its intrusive scrutiny of search records which regularly resulted in management action taken against constables and their supervising officers.

However, SSRG members were equally constrained in their scope and depth of scrutiny as well as lack of power to effect fundamental changes. Although SSRG sets its own discussion items and could choose which search records to scrutinise from a sample provided by the force, the geographical extent of its scrutiny was initially constrained by the constabulary which only shared Ipswich-wide but not force-wide forms until the introduction of BUSSS. This shows how central activities still strongly influenced local accountability. Surprisingly, not once was stop and account raised as a discussion item despite Suffolk being one of only a handful of forces still recording it. Although the SSRG appeared to provide the most robust form of scrutiny of any group observed, their reliance upon police data and lack of understanding of national activities hampered its ability to reach its full potential. The group was itself self-critical concerning the extent to which they had managed to achieve changes to police practice in its eight year history:

> Following a lengthy discussion about what learning is instilled from the group's scrutiny of search records, one attendee asked the police in the room to explain what happens when a supervisor rejects a form as unsatisfactory. After a senior officer provided some explanation, discussions suddenly moved onto police culture and whether the group had in fact managed to achieve changes to police officers' behaviour. Another attendee expressed their frustration with the process, arguing forcefully: *"when we started back in 2008 the forms were bad, now they're still bad- well, better but still bad."* Other attendees laughed and expressed their agreement. As this discussion item was being drawn to a close another attendee interrupted to express their frustration that *"[scrutinising] forms don't change a damn thing"*, and argued they needed to change police culture and also questioned whether the SSRG had any longer term impact upon learning within the Constabulary.
>
> Observation 2015/11/25

As these outbursts suggest, scrutiny group members doubted whether the desired longer term changes to police practice were taking place without also being able to address the elements of police culture perceived to encourage inequitable practices and narrow the scope of accountability, as Brogden et al. (1988) argued previously.

In sum, observations graphically illustrated the general lack of understanding and independence of scrutiny group members to ensure police officers were sufficiently held to account for stop and search use, albeit with some variance across sites. At best, they were important opportunities for some members of the public, including ethnic minorities, to raise their concerns with police officers who could then choose how to deal with those issues, or ignore them. Jones et al.'s (1994) study of three police authorities found significant variation in their capacity to effectively scrutinise their force, including one which failed to take up the opportunities provided by a forthcoming chief constable. Observations carried out for this research found a similar picture across all public scrutiny groups. Formal groups organised independently of the police appeared to provide the most robust scrutiny, especially where members had prior experience of police stops or had a good but critical working relationship with senior officers, notably in Suffolk. However, even Suffolk's independent group was powerless to overcome the limited scope of scrutiny it was permitted to be engaged in by the force.

Explanations of policy or practice was regularly given to all scrutiny events observed, but no systemic change arose from any, partly because most attendees did not have the relevant experience or understanding of those powers to ask the 'right questions'. PCCs and officers interviewed were aware of these dynamics but rather than being more proactive in recruiting members belonging to the social groups regularly subject to police stops, relied upon their website, social media, existing attendees and police officers to recruit additional members. They also continued to hold meetings in police stations rather than venues most likely to attract affected groups. Little surprise then that only Suffolk had produced the highest degree of accountability that these groups were able to achieve. PCCs' overall lack of engagement with or monitoring of progress within these groups also meant that where

members were independent and vociferous in seeking explanations, they lacked the power to extend the debate beyond the traditional locus of stop and search scrutiny or achieve a more fundamental influence over these practices. In essence, despite PCCs relying upon these scrutiny groups as the primary means of public scrutiny, they remain as patchy and powerless as research has always suggested they have been (Morgan, 1987; Brogden et al. 1988; Rowe, 2004).

### *9.6. Conclusion*

Almost forty years after Marshall (1978) argued that the nature of police work warranted a special form of control beyond the retrospective, 'explanatory' forms of accountability (also Baldwin & Kinsey, 1982), an analysis of three PCC case study areas has found that power remains firmly in the hands of chief constables, at least with respect to police-initiated stops. This chapter's analysis of similar activities undertaken by PCCs elsewhere suggest that despite having firmer powers than their predecessors, they collectively face many constraints in progressing local police accountability beyond the shallow, retrospective explanations that has dominated in modern times, particularly concerning issues affecting ethnic minorities. When measured against the criteria of what constitutes as democratic police accountability (see chapter 2), PCCs score unevenly, thus validating Jones' (2008) argument that reform to police governance usually produces this outcome.

First, the highly discretionary nature of police powers (Young et al., 2010) presents commissioners with legal barriers to directly ensure their use is more equitable and responsive to their ethnic minority communities. The best example of this is the ongoing refusal of the chief constables for Nottinghamshire and the West Midlands to reintroduce stop and account recording despite it being a persistent demand of their ethnic minority

communities and a major electoral pledge of the PCCs. Due to the concerns expressed about potentially discriminatory practice, this means that PCCs have also been unable to ensure that they or their public have sufficient information to assess whether officers are using those encounters equitably, the chief aim of democratic police accountability.

Second, interview data, field observations and documentary analysis support Lister & Rowe's (2015) argument that PCCs have narrowly interpreted their role particularly in relation to issues affecting ethnic minorities. The case study PCCs were among the most active in trying to improve the stop and search experiences of ethnic minorities and some other commissioners undertook similar activities. On a positive note, these activities appeared to enhance public participation by giving people more opportunities to directly hold their senior and chief officers to account than police authorities did. This was primarily through local opinion surveys to inform recommendations for change, public summits, or more regular scrutiny groups established to monitor stop and search records. However, none of these were conducive to more fundamental changes to ensure this increased participation would translate into a more responsive police service because chief constables could still ignore any recommendations. Senior officers responsible for regular scrutiny were also able to cherry-pick what issues would be discussed at those meetings and respond to questions with half-truths that attendees were unable to verify. Further hampering the effectiveness of PCCs activities was their absence in monitoring how well scrutiny groups were operating and their later reluctance to publicly endorse more fundamental reforms sought by citizens or civic groups, or reaffirm those previously made during the election campaign.

However, contrary to Jones et al.'s (1994) argument that participation is not essential for democratic policing, this study found that public participation is a necessary feature to enhance police accountability, despite the structural limitations of many of these activities. This is because, the potential embarrassment faced by senior officers in having to repeatedly explain unpopular decisions or persistent malpractice provided at least some incentive to address some of the more obvious and pressing issues. Therefore, without public summits and scrutiny groups, little else was preventing local policing from becoming even more unresponsive to ethnic minorities than this study discovered to be the case. Public participation had also supported other elements of democratic accountability, such as prompting opportunities for redress against perceived deficiencies, and ensuring more information entered the public to support future accountability.

As interviews revealed, PCCs were too averse to using their raw powers to force their chief constables to comply with directives on police-initiated stops as it affected too small a population to warrant such drastic action. However, PCCs were also hesitant to use their public profile to pressure their chief constables into changing their stop and search practices despite the national environment favouring greater public accountability. This was a consistent theme countrywide and the general lack of attention to minority issues elsewhere suggests that PCCs have largely acquiesced these matters to their chief constables and the Home Secretary. This is perhaps why national policing bodies had largely excluded PCCs from their activities (chapter 7). Therefore, whilst this chapter contradicts Lister's (2013) prediction that PCCs would be too powerful for chief constables to resist “encroachment” into operational matters, it did support his argument that their roles would become “mutually contingent”.

In conclusion, just as preceding chapters have argued that chief constables have determined the extent to which national reforms translate into operational practice, this chapter argues this was amplified at the local level. This shows that despite some PCCs successfully enhancing public participation, the fundamental issue of power remains unevenly concentrated within the hands of chief constables, thus undermining more responsive policing for ethnic minority communities. As one interviewee argued:

> "*But they're [chief constables] not being cooperative anyway. They're giving the impression of being cooperative to keep the PCC nice and, sort of, happy. I think they [PCCs] need to be much, much more transactional about it. They need to tell the public more, have a louder voice and it would make a difference because the police don't like being seen to be told that they're wrong in public. It's why I'm not terribly popular ((laughs)).*"
>
> National/05

As National/05 argues, chief constables were successfully managing their PCCs but this was because commissioners were failing to assert their authority and use their broader range of influences to produce changes. National/05's argument also suggests that some of the progress made by PCCs in obtaining their chief constable's support for one-off reports they commissioned or for setting up scrutiny groups was due to the chief constables permitting such developments rather own commissioners resilience, even if the latter could be credited for providing the necessary impetus.

Interestingly, case study PCCs did demonstrate greater powers to enhance equity and police responsiveness on broader issues, such as domestic violence, rural crime and hate crime. What distinguishes these areas from police-initiated stops is that they are (i) of broader public interest; (ii) are not 'protected' by operational independence as they do not directly relate to the exercise of specific legal powers; and (iii) involve linking together other local bodies or criminal justice agencies outside of the police's legal authority. For example, Suffolk PCC commissioned research into domestic violence (see Bond, 2015)

and, together with an increasingly vocal chief executive, used his public meetings with the chief constable to pressure the constabulary into implementing the report's recommendations and monitor progress. The PCC's influence was acknowledged by Suffolk Police which stated: “The Police and Crime Commissioner has made domestic abuse one of his priority areas and has been at the forefront of driving improvement, involving both the police and other county partners” (Suffolk Constabulary, undated). Nottinghamshire's PCC used his commissioning powers and public office to reverse his constabulary’s hesitation to establish a dedicated hate crime unit, for which he was widely praised for achieving (e.g. observation 2016/03/19). The impetus behind this campaign came from the highly influential and well organised local civic group *Nottingham Citizens* which obtained the support of the PCC's office at a public event but not that of the chief constable on the grounds that the force could not guarantee the necessary resources when faced with further austerity measures (observation 2014/10/09). The reverse was achieved partly through the PCC's multi-agency approach in securing the support from all other agencies and potentially leaving the police in an embarrassing and isolated position. West Midlands PCC had supported a harm-reduction approach to reducing deaths in police custody by establishing a street triage scheme with nurses specialising in treating mental health problems, something other commissioners country-wide had also engaged in (APCC, 2013).

These developments suggests that the 'electoralism' of PCCs (Sampson, 2012) has promoted populism and that the constraints to stronger local police accountability identified in this chapter may be unique to the exercise of police powers rather than wider policing issues. As discussed earlier, commissioners were keen to suggest that their relationship with their chief constables was positive overall. Perhaps it was due to progress

being made on wider policing issues such as those just discussed that some PCCs were compromising on minority issues like police stops. Ultimately, these broader areas of progress show just how powerful PCCs can be in producing a policing service more responsive to public concerns, as Jefferson & Grimshaw (1984) and Loveday & Reid (2003) argue elected commissioners can do without encroaching into operational independence. The next chapter concludes this thesis by reviewing its main findings. In light of these findings, it critically assesses government proposals intending to enhance local police accountability to their PCCs, including in areas neglected thus far, namely redress.

# 10. Conclusion: Democratic Accountability Revisited and Prospects of Reform

> "Police and crime commissioners... have shifted power away from Government to the public, and replaced the bureaucratic accountability of police authorities with democratic accountability. […] Today policing is more accountable, more transparent and more efficient than it was before 2010. And today, the historic principle of policing by consent is stronger than ever before."
>
> Rt. Hon. Theresa May (2016)

This thesis has investigated the extent to which directly-elected Police and Crime Commissioners (PCCs) have introduced greater democratic accountability of the police, focussing particularly on the policing experiences of ethnic minorities in relation to police-initiated stops. The first section of this concluding chapter draws upon this study's findings to make broader judgements concerning how PCCs have fared in filling the historic local deficit in police accountability, including through an assessment of the three criteria specifically investigated by this thesis: responsiveness, participation, and power. It also considers the issue of equity considering its overriding importance in the literature on democratic policing and its accountability (chapter 2). The second section then examines government proposals to further enhance PCCs' role and their potential to strengthen democratic accountability, including in areas thus far neglected such as redress.

## *10.1. Democratic accountability revisited*

According to the opening quote, by the-then Home Secretary and now Prime Minister, Theresa May, PCCs have indeed enhanced police accountability on the main elements of democratic policing that this thesis has explored. She characterised their predecessors as "bureaucratic"- a dirty word in policing- despite research suggesting that some were actually relatively effective (e.g. Jones et al., 1994; HMIC, 2010; Millen & Stephens,

2011). Contrary to her statement, police authorities did have some democratic legitimacy in so far as most of its appointed members were drawn from locally elected councillors. But what was most striking was just how upbeat her assessment was in stark contrast to her more critical judgement of PCCs on the same criteria just over two years before. Earlier, May (2013) admitted that PCCs' electoral legitimacy was "disappointingly low" and that, despite some "encouraging" innovations introduced by commissioners, their overall ability to produce the democratic accountability she so praised in 2016 was actually "mixed" as they were failing to "use the powers we gave them to hold their forces to account." In particular, she criticised a number of commissioners for 'parroting' the lines of their chief constables during moments of crisis and hastening to their defence.[76] Yet such was her faith in PCC two years later that she also outlined proposals to further expand their powers as analysed in the second part of this chapter. Perhaps the praise was a necessary strategy to sell those proposals, but to what extent have PCCs filled the democratic deficit?

PCCs were introduced following claims of a democratic deficit in local police accountability (chapter 3). This deficit first emerged from the 1930s as the watch committees found their powers to direct police officers and exercise control of decision-making restricted with the emergence of operational independence, though not without ongoing controversies. As successive Conservative and Labour governments enhanced police powers, police authorities found themselves hampered further without the commensurate increase in their own powers to hold their chief constables to account for their burgeoning operational practice (chapter 3-4). Instead, governments have transferred power to the Home Secretary who has come to wield great influence in setting targets,

[76] Although the Home Secretary was referring to a specific incident, it was clear that this was used as an example to send a more general message to PCCs. The incident concerned the alleged 'stitch-up' of her colleague Andrew Mitchell MP, then Government Chief Whip, who was forced to resign in 2012 over what later emerged to be false allegations that he swore at police officers stationed at the Prime Minister's residence. Several officers involved were later dismissed and one imprisoned for falsifying evidence.

regulating police practice and directly intervening in police authorities' matters, thereby making the police more responsive to national concerns rather than local priorities (chapter 3) and producing "a de facto national police" (Reiner, 2010:205). Police powers to stop and search and other types of stops are a primary example of how this deficit has produced policing styles at odds with local expectations and undermined police relations with ethnic minority communities in particular (chapter 4). Unsurprisingly, police authorities were only able to produce a shallow form accountability based upon receiving *explanations* rather than exercising any *control* over decisions made, as democratic theories on modern British policing have rightly distinguished (chapter 2).[77] Even then research shows wide variation in the extent to which chief constables have felt compelled to offer such explanations (e.g. Jones et al., 1994; Millen & Stephens, 2011; Caless & Tong, 2013).

Perhaps unfairly at times, police authorities have collectively been criticised for being 'architects of their own decline' by failing to exert what little remained of their dwindling powers to more robustly hold their chief officers to account (Jones et al., 1994; also Scarman, 1981; Morgan, 1987; Millen & Stephens, 2011; Caless & Tong, 2013). It is within this context that PCCs have emerged, been granted firmer powers than their predecessors, and tasked with reversing the local democratic deficit (chapter 3). Certainly the findings of this thesis suggest that PCCs can potentially fill much of this deficit but appear to be overly cautious in doing so. Unlike police authorities, PCCs have more direct claims to legitimacy in representing the interests of their electorate. Although the first election turnout in 2012 gave them a low mandate having returned only 15% of the eligible vote, this improved to 27% in 2016 (Electoral Commission, 2013, 2016). Their full-time

[77] Newburn (2012) and Sampson's (2012) comparative analyses of the British and various models of police governance in the United States of America shows that this separation between explanations and the exercise of control is not a necessary feature of democratic policing and its accountability, and neither is centralisation. Afterall, chief officers in Britain were once under the control of the once powerful watch committees and at a time when the Home Secretary was powerless to direct either of them (chapter 3).

position also ensures that more regular and immediate scrutiny of police practices can take place which all chief officers interviewed for this thesis welcomed, although this was mainly for the self-serving reason of speeding up financial decision-making. The former lengthier process of deliberation is partly what the Home Secretary was alluding to in the opening quote when she unfairly characterised all police authorities as “bureaucratic”. Yet recognising the benefit of some of this bureaucracy, PCCs have continued their predecessors' tradition of holding official meetings in public and publishing the details on their website. However, many have added the innovation of giving their electorate opportunities to question senior and chief officers at those meeting; police and crime panels have also done the same. Also, PCCs assume responsibilities for crime reduction grants previously dispersed among a wider range of agencies thus concentrating local power into their hands, although this can also narrow the opportunities available to local civic groups by making grants dependent upon the whims of their commissioner.

Taken together, PCCs have amassed considerable powers and these give them extraordinary potential to fill much of the historic deficit in local police accountability. They are certainly able to seek better explanations in public and in private; influence operational practice by setting the police budget, priorities and any performance targets unfettered by the Home Secretary; and also decide their chief constable's performance-related pay or terminate their contract almost unhindered (chapter 9). But this is all subject to some caveats: PCCs' ability to improve local accountability concerning how police officers exercise their legal powers appears to be hampered by operational independence and, more significantly, by commissioners' own narrow interpretation of their role (chapter 8-9). This means that while PCCs appear to have improved some aspects of local police accountability, they have proven unable to address the more contentious aspects of

policing, such as police-initiated stops. This support Jones' (2008) argument that electoral reform is patchy and produces an uneven result. The rest of this section elaborates these findings by discussing how PCCs measured in relation to the three aspects of democratic police accountability that this thesis has investigated.

### 10.1.1. Equity

Equity is the overriding priority of democratic policing (Jefferson & Grimshaw, 1984; Jones et al., 1994; Newburn & Jones, 1997; Loader & Walker, 2007; Manning, 2010). Therefore, minimising the inequitable experiences of ethnic minorities or other vulnerable groups must be a central concern for the institutional arrangements governing the police. However, operational independence limits the extent to which institutional actors can effect such changes because they still rely upon individual officers to realign their discretionary practices to more equitable policing styles.

PCCs are, however, responsible for formulating the policing priorities that chief constables are legally obliged to have regard to implementing. It is precisely through these processes that PCCs could promote more equitable policing experiences in so far as they embody an "ordered compromise" (Jones, 2008:695), or an outcome that "proves satisfactory to all" (Brogden et al., 1988:191) even if some groups continue to disagree with "some specific actions" (Reiner, 2010:34). The Police Reform and Social Responsibility Act 2011 that established PCCs also requires them to consult their local population in devising their priorities and lets commissioners create their own mechanisms for doing so. Whereas Jefferson & Grimshaw (1984) would also leave it to elected commissioners to define these processes, Loader & Walker (2007: chapter 8) elaborate more than any others in establishing a guiding framework. As they argue, these processes must ensure that the

range of competing claims are recognised but, crucially, ensure resources are allocated based upon its own merits so as to avoid the concerns of less vocal groups- and presumably also absent claims- from being ignored. By contrast, Manning (2010) would speed up unnecessary delays by automatically distributing resources in favour of the most marginal social groups.

Lister & Rowe (2015) are highly critical of PCCs' ability to achieve these better democratic processes, having analysed the manifesto pledges of all PCC candidates in 2012 and the profile of those subsequently elected, both of which were found wanting in relation to ethnic diversity. Although, they did not review the police and crime plans of successful candidates to assess its impact upon PCCs' decision-making, this thesis has and the results support their claim (chapter 8). All 41 PCCs' original and 'refreshed' plans were analysed for explicit references to police-initiated stops, which very few actually did, although this number increased alongside the greater government and parliamentary scrutiny into those powers (see table 8.1). Those who did, such as the three case study PCCs, were found to be experiencing tremendous difficulties in ensuring their chief constables were implementing their pledges to reform these encounters in response to concerns of ethnic minority communities, notably reintroducing stop and account recording (chapter 9). But what was striking was just how few PCCs had prioritised any issue affecting ethnic minority groups, apart from the 'usual suspects' who preside over areas with sizeable minority electorates. All of this suggests that the 'electorialism' (Sampson, 2012) of the PCC structure has exacerbated inequalities as commissioners have prioritised the concerns of the wider electorate at the expense of less powerful minority groups. Further, PCCs' reliance upon police-public consultation and scrutiny groups to give their minority electorate opportunities to scrutinise police practice suggests a failure to seek better ways of

incorporating those very sections of the population who have historically lacked the confidence in these processes to participate in them.

10.1.2. Responsiveness and public participation

In the opening quote, the Home Secretary rather optimistically declared "policing by consent is stronger than ever before". One way of measuring this is through the extent to which the police is responsive to the wishes of the public, another criteria of democratic policing (Jefferson & Grimshaw, 1984; Manning, 2010; Loader & Walker, 2007). Although participation is related to this, few distinguish it from responsiveness as this thesis does (also Jones et al., 1994; Jones & Newburn, 1997).

Police authorities were found to be unresponsive to their public (Morgan & Swift, 1987; Jones et al. 1994; Millen & Stephens, 2011) and this appears to have improved with the advent of PCCs (chapter 8-9). Similar to Caless & Owens' (2016) study, this thesis found PCCs to be far more engaged with their electorate and this was recognised by all research participations, including by interviewees who admitted to being initially opposed to their introduction. However, PCCs have largely failed to ensure police priorities also reflect issues affecting ethnic minorities despite this being cited as a key measure of their success (Newburn, 2012; Lister & Rowe, 2015).

Nottinghamshire, Suffolk and West Midlands PCCs were amongst the most responsive in this regard, all of whom also sought to enhance opportunities for the public to directly scrutinise the use of police-initiated stops (chapter 8-9). However, these have only reproduced the traditionally weak and explanatory forms of accountability, particularly as most of these activities involved establishing yet another public committee or meeting

dedicated to scrutinising data that the police (helpfully?) supplied and helped them to interpret. More innovative activities involved commissioning ethnic minority groups to undertake one-off research reports but without the necessary 'people power' to then monitor and drive through any changes rejected by chief officers. Some PCCs even established youth-led committees or youth commissioners to produce recommendations, such as in Avon & Somerset, Kent, Leicestershire, Northamptonshire and Nottinghamshire. As important as these have been in giving some members of the public opportunities to scrutinise police practice, these are unlikely to attract those most adversely affected by police powers. More fundamentally, they fail to illuminate the discretionary practices that Brogden et al. (1988) argue is important to ensure adequate accountability. In this regard, PCCs have been eclipsed by the Home Office (2014f) Best Use of Stop and Search Scheme which enables members of the public to go out on patrol with the police to see how they conduct searches. Although officers may modify their behaviour during these observations, and 14 out of 43 forces were not even compliant with this initiative by the end of the research period (HMIC, 2015a), it does more than any other activity to open up discretion to public scrutiny, although observers are still powerless to change those practices (chapter 7).

Overall, this suggests that whilst the introduction of PCCs has improved opportunities for ethnic minorities to participate in police accountability, commissioners have failed to ensure that this also translates into policing styles more responsive to their demands. This is despite the public profile and firm powers that commissioners enjoy to pressure their chief constables into adopting the practices sought by their communities. Instead, PCCs country-wide were relying upon softer approaches and traditional mechanisms for public participation. Therefore, PCCs were narrowly interpreting their mandate to that of the

ballot box, in line with warnings to this effect (e.g. Jones, 2008; Millen & Stephens, 2011; Reiner, 2016).

### 10.1.3. Power

Have PCCs, as the Home Secretary declared, really "shifted power away from Government"? Essentially, this thesis has been an investigation of power and whether PCCs have reversed the century-long erosion of local democratic control of the police. According to some theories of democratic policing and its accountability, control over decisions must be dispersed more evenly within governance structures (Jones et al., 1994; Loader & Walker, 2007). Since the emergence of operational independence, local democratic bodies have found their control over the police restricted but it was successive central governments that have struck the deadliest blow by not only failing to give police authorities additional powers to counterbalance those afforded to police officers but also assumed greater powers itself to directly intervene in local affairs (chapter 3). Of course, many police authorities were collectively failing to exercise the full extent of their dwindling powers, but this is unfair to the few who did (Jones et al. 1997; HMIC, 2010; Millen & Stephens, 2011).

Reiner (2010), Newburn (2012) and Lister (2013) are all sceptical about central government devolving its powers, but this thesis suggests otherwise. PCCs have gained stronger powers over the budget; setting their own objectives and performance targets; and hiring and dismissing their chief constables. The latter is their ultimate power over chief constables and whereas police authorities required the Home Secretary's approval to employ or dismiss their chiefs, PCCs can do so with only limited restraints. A number of PCCs have already done so with only one chief constable having successfully appealed

against his dismissal in the case of *Rhodes* (see chapter 9). Therefore, PCCs are certainly not as impotent as their predecessors but, contrary to Lister's (2013) prediction, they have not proven to be "too powerful" for chief constables to prevent "encroaching" on operational matters, or at least in relation to minority issues like police-initiated (chapter 9). This study found commissioners to be overcautious in applying public pressure on their police force to change and were particularly averse to threatening their chief constables with dismissal for failing to implement policies popular with their minority electorate. Chief officers appeared to be taking advantage of this.

Interestingly, Nottinghamshire PCC managed to reverse his chief officer's initial apprehension in establishing a dedicated hate-crime unit, a pledge made to and supported by the very powerful civic group *Nottingham Citizens.* So too had Suffolk PCC persuaded his force to undergo a significant overhaul in how it investigates domestic violence. Both PCCs made use of their full range of powers to mount considerable public pressure upon their chiefs to reform (chapter 9). Significantly, both developments involved pooling together the wider criminal justice system and local council and neither of these policing activities are firmly covered by operational independence, even though they do have a considerable impact upon operational policing, particularly the investigation of domestic violence. Therefore, this suggests that not only are some of the limitations that this study has discovered unique to the accountability of legal police powers, but that it also depends on how willing PCCs are to use the full extent of their hard and soft powers to introduce reform. As chapter 9 concluded, perhaps it is because commissioners were making progress on these issues that affect the broader electorate that they appeared so willing to compromise on minority issues such as police-initiated stops.

Over the course of the study, the Home Secretary- the other key player in the tripartite structure- made true on her promise to "withdraw from day-to-day policing matters" (Home Office, 2011b: para27), something also noticed by PCCs and chief officers interviewed. Indeed, the Police Reform and Social Responsibility Act also removed the considerable powers amassed by the Home Secretary since the 1990s to direct police forces in setting objectives and measuring performance (see chapter 3). However, the Home Secretary still retains the power to direct remedial action on any matter that receives a negative inspection by the HMIC, and to also dismiss chief constables in the 'public interest'. Stop and search was a brilliant example of how the Home Secretary has not abdicated her oversight role by introducing considerable reform to the governance and use of those powers. But chief officers were still able to resist some of these pressures, thus suggesting that the Home Secretary is less powerful an actor than previously thought (chapter 7). Although she refrained from formally invoking her powers to direct remedial action following the damning HMIC (2013, 2015a, 2016) inspections and also failed to introduce reform of the wider range of issues she promised to deliver on, this episode was extraordinarily revealing of power relations within the new governance structures. Overall, it suggests that the degree of direction from central government is entirely dependent upon how future Home Secretaries conceptualise their role (chapter 6-7).

Certainly chief constables, the third element of the tripartite structure, appear to be the most powerful actor. This is supported by their consistent refusals to implement their PCC's pledge to re-record stop and account, and selective implementation of the reforms recommended by various national policing bodies and those demanded by the Home Secretary (chapters 7 & 9). As for the general public, aside from being able to elect a PCC every four years, their general impotence remained virtually unchanged. Despite the

impetus behind stop and search reform arising from the actions of frustrated citizens, they were totally reliant upon the local and national actors who claimed to be acting in their interest but yet failed to give them any meaningful role in stop and search scrutiny. Ultimately, the PCC arrangements appears to provide little incentive for members of public to engage in these structures, particularly for ethnic minorities and other groups routinely subject to police coercion.[78] Arguably, this lends itself to the types of litigation and public disorder that appeared to be more effective in highlighting frustrations over policing and producing some reform.

### *10.2. Prospects of reform*

The words 'police' and 'reform' are rarely far apart. With the re-election of a (now majority) Conservative government in May 2016 and PCCs entering their second term, they appear to be the model of local police governance for the foreseeable future. As this concluding section discusses, they are also set to gain additional powers in the Police and Crime Bill which may strengthen local democratic police accountability. Some proposals may even address some of the areas of democratic accountability neglected by the current PCC arrangements, notably redress which is what most of these developments relate to.

#### 10.2.1. Internal complaints

PCCs will be given powers to define how far they wish to be involved in the complaints process. Currently, they retain their predecessors' phenomenally vague duty of keeping themselves 'informed' of how their police force handles complaints. At the minimum, government proposals will give PCCs a more explicit duty of holding their chief constables to account for how complaints are handled. Similar to the current study's findings on

[78] See Bowling et al. (2008) for a good discussion of a wider range of powers and their disproportionate impact upon ethnic minorities.

police-initiated stops, this is unlikely to ensure more robust oversight as it still relies upon chief constables' cooperation and prevents proactive commissioners from introducing more fundamental changes to those processes. Two commissioners interviewed alluded to this when they stated:

> "Well, my role in complaints is very limited: I can ask if people contact me if I don't think the police have done it properly to ask them to reinvestigate it. That is the only power I've got. The complaints process is a nightmare, it's long, it's very defensive from the police... Do I think it needs to be fundamentally reformed? Yes, I do."
>
> Commissioner/01

> "So one of the things- very simple things- that we managed to change is the way some of the letters [to complainants] are written. I'd still like to see improvements but it's a step."
>
> Commissioner/02

As indicated, Commissioner/02 sought greater "improvements" but, alongside Commissioner/01, had been constrained in doing so, thus demonstrating PCCs' overall lack of power over mechanisms for redress. Research with complainants and litigations show tremendous dissatisfaction with these processes, including the length of time taken; the lack of communication and information; being pressured into informal resolution rather than making an official complaint; and not being taken seriously (Waters & Brown, 2000; Smith, 2003). Procedural changes such as what Commissioner/02 appeared to be primarily concerned with and claimed to have some limited success in introducing may help to address some of these issues. However, it still fails to address the more fundamental and systemic issue of public mistrust in a system that continues to allow police officers to investigate themselves. This is a flaw repeatedly highlighted by numerous inquiries whose recommendations for a system of dealing with complaints entirely independent of the police has been ignored by successive governments (Scarman, 1981; Macpherson, 1999).

To promote greater independence, the Bill enables PCCs to assume greater responsibilities by either (a) 'receiving and recording complaints' whilst letting their force conduct investigations; or (b) become the 'single point of contact'[79] responsible for managing the entire process and, if desired, (c) assume control of the entire complaints department from the chief constable. Clearly, the latter provides PCCs with the greatest potential to make local complaints independent. But its integrity can easily be called into question if the police officers typically employed to investigate complaints are not replaced by civilian staff, and if the elected commissioner had previously been employed as a police officer or member of staff. According to Caless & Owens (2016), eight (19.5%) of the forty-one PCCs elected in 2012 were former police officers. However, this is likely to be much higher if broadened out to include those who were formerly employed as police staff as the current author discovered by meeting candidates during the election campaign and elected PCCs at various meetings and conferences throughout the research.

According to research, most complainants desire the relatively simple goal of obtaining an apology for perceived wrong (Waters & Brown, 2000; Smith, 2003). Commissioners interviewed were all aware of this, including the aforementioned commissioners who more eloquently than others stated:

> "If you've got something wrong it's easy to say 'I'm sorry we've got it wrong, you know, we apologise we're gonna learn from that mistake'. Do the police ever do it? No they don't, you know, ((thuds on table)) 'we're always right', you know, 'there's no point coming to us telling us we've made a mistake, we never make mistakes.' Well, it's not a very sensible organisation who takes that view."
>
> Commissioner/01

> "And the other thing we discovered with complaints is they [police] weren't very good at saying sorry, you know, 'yes, we got something wrong, sorry'. So one of the things we've managed to instil is sometimes you have to admit when you're wrong. Don't just be defensive."

[79] See explanatory notes accompanying the Police and Crime Bill HL 55–EN (paras472-477).

Commissioner/02

This awareness may instil the cultural changes that both research and these commissioners argue would make the complaints processes more responsive to complainants. However, despite both commissioners appearing to be well versed in how these issues undermine confidence in complaints, they appeared to be hesitant to assume greater responsibilities:

> "Perhaps I should have thought about this a bit more and tried to withdraw it out of [the] police. But [there are] some commissioners who are doing some work around trying to set up better complaints procedures particularly in XXXX and I've just kind of took the view that rather than getting into this myself I'd wait and see what the results of their work was"
>
> Commissioner/01

> "I certainly would like additional powers regarding complaints. I don't think we'd want everything the government is suggesting... They should still be investigated by the PSD [professional standards department] but that we monitor the progress much more closely... It's a difficult thing. It's a principle thing because we've kept ourselves fairly small so that more money can go into policing. We don't want to build an empire, or a bigger empire ((laughs))."
>
> Commissioner/02

Public dissatisfaction and mistrust in the complaints process emerged from almost every observation conducted in both PCCs' police forces and elsewhere. Despite the rationalisations offered by both commissioners, their lack of proactivity and that of their colleagues elsewhere suggests that PCCs nationwide may be just as hesitant as Commissioner/02 admits to adopt "everything the government is suggesting." Ultimately, this may be because commissioners have little incentive to assume greater responsibilities for complaints and risk facing the same barrage of criticisms traditionally directed towards the police. This is exacerbated by the lack of powers PCCs have to directly change the operational practice that gives rise to complaints in the first place.

10.2.2. "Super complaints"

Currently, the role of any civic group in the complaints system is restricted to initiating a complaint on behalf of a specific person and supporting them through the process (Police Reform Act, section 12(1)). The Bill seeks to expand the role of the public by empowering groups awarded 'designated body' status to make 'super complaints', defined as "a feature, or combination of features, of policing in England and Wales by one or more than one police force is, or appears to be, significantly harming the interests of the public" (Police and Crime Bill, section 24). Incidentally, a number of interviewees highlighted the importance of local, credible civic groups in raising to their attention issues that would have otherwise gone unnoticed:

> "Youtube and social media: people who are filming stuff and sharing it helps sometimes if you don't get your camera ripped off you. What else? And, you know, campaign groups like StopWatch, like Runnymede, like OpenSociety, Release, the LSE have done a lot of work as well around, sort of, pushing and keeping on pushing to keep it on the agenda."
>
> National/04

> "So when we did our piece of work before, the forces which thought about this the most and the most advanced were those which had been challenged either through Liberty or the EHRC or StopWatch, one of those monitoring groups who'd actually challenged them over their use of those powers"
>
> National/06

> "People aren't necessarily confident enough to make complaints and sometimes those people- you know, like working with Cageprisoners- sometimes people feel more comfortable to talk to a third party about their issues and have that party then drip issues through to us"
>
> National/08

As these interviewees with national policing staff suggest, locally-based groups have played a key role in influencing their own work and developing subsequent recommendations aimed at reforming police-initiated stops (chapter 6). As National/08 indicates, *CagePrisoners* has been widely credited for the IPCC's decision in 2009 to require all police forces to refer onto it complaints relating to the highly secretive schedule

7 ports power. This ultimately led to the IPCC's successful judicial review that forced the Metropolitan Police to comply with its investigations (see chapter 6). As others indicate, StopWatch has become a leading voice in police-stops for which national policing bodies have become amenable towards even if most forces appear to ignore it (chapter 6). As chapter 9 highlighted, a number of local groups from within the case studies have also played a key role in shaping their police force's approach to those powers, particularly Suffolk's Stop and Search Reference Group which the HMIC (2013) endorses as best practice. Whilst these examples relate to police-initiated stops, they also show the potential of civic groups to raise attention to wider experiences of the police and assist in changing it.

However, as the Bill indicates, this is not a general provision enabling any charity or advocacy group to exercise. This is restricted to those awarded 'designated body' status by the Home Secretary for their "experience in representing the interests of the public" and the ability to "demonstrate that they had the capacity and capability to test and compile a range of evidence to form the basis for a super-complaint" (HL Bill 55–EN:para567). Therefore, super complaints may considerably enhance the ability of the public to challenge almost any aspect of policing and could do more to answer Millen & Stephens's (2011) call to re-conceptualise the tripartite governance structure into a quartet to include citizens. It may also give them more meaningful ways to participate in police accountability rather than the rare, periodic input of PCC elections. In practice, however, as with so much in modern policing, this depends upon how future home secretaries conceptualise their role. Designating a variety of local charities or advocacy groups could give traditionally powerless minority groups powers to raise attention to the broader range of police encounters not subject to formal scrutiny, and indeed other policing experiences.

But restricting it to a narrow few could constrain civic participation, prevent collective action, and even exacerbate tensions between social groups, as most members of the public interviewed argued was already happening in their areas.[80]

10.2.3. Commissioning services

PCCs wield significant budgetary responsibilities and are assuming ever greater powers over local crime reduction funds. However, commissioners had significantly underused these powers despite its capacity to widen public participation and enhance their influence over the police, even if its success ultimately depends upon police officers to incorporate any recommendations into operational practice. Astonishingly, despite the unique and extraordinary powers of the HMIC to obtain information for its inspections, for which police-initiated stops is just one example (chapter 6-7), only four PCCs had commissioned it to inspect their force.[81]

Following concerns about inappropriate practices in police officers resolving more detectable crimes at the expense of serious crimes, Kent's PCC became the first to commission an inspection into how her force recorded crime which led to changes made to these operational decisions. Both South Yorkshire and Greater Manchester PCCs commissioned inspections into how their force investigated sexual offences, including against children. Arguably these matters are firmly within the confines of operational policing even if the wider issue is one of public confidence. Such was the level of concern in South Yorkshire- which contributed to its PCC's resignation- that the HMIC now

[80] This was particularly the case in Nottingham where every interviewee criticised the local council decision a few years beforehand to effectively discontinue the city's leading race equality council. 'Different communities', interviewees argued, were placed in direct competition with each other in bidding for various funding streams in the absence of a unifying civic force.

[81] These can be viewed from: https://www.justiceinspectorates.gov.uk/hmic/our-work/commissions-from-pccs/

produces quarterly inspection reports into progress made against its recommendations. Even the typically secretive world of counter-terrorism has been subject to a review by a conglomerate of five East Midlands PCCs who commissioned an inspection of their joint counter-terrorism unit.[82] Although the inspection result was positive, it does highlight the potential for PCCs to restructure or withdraw from collaborations which would have a significant impact upon operational capacity. Perhaps one reason why so few PCCs have commissioned the HMIC is due to their loss of control over the inspection process knowing that the results are automatically made public, unlike the privacy of a consultancy. Further, any negative inspection report may solicit unwanted media attention, call to question the PCC's competence, and could potentially result in a direct remedial action by the Home Secretary.

A number of PCCs have instead opted to commission local groups or organisations to conduct research or carry out specific services. Suffolk's PCC commissioned independent research into domestic violence which produced changes to practice following his repeated public demands to do so, thus illustrating the potential significant of commissioning powers. Other PCCs have commissioned youth groups, scrutiny panels and crime prevention programmes. However, Nottinghamshire PCC's commission of research into ethnic minorities' experiences of the police resulted in some of its recommendations being implemented but not the crucial one on stop and account recording (chapter 9). It was also only towards the end of the research that the dedicated hate crime unit the PCC had pledged to establish was set up. This suggests that whilst commissioning the electorate to deliver programmes can improve their participation and carries a certain weight of the public legitimacy that makes it harder for the police to resist, the fundamental lack of

[82] Composed of Derbyshire, Leicestershire, Lincolnshire, Northamptonshire and Nottinghamshire.

power that ethnic minority groups hold and the reluctance of PCCs to apply public pressure on their chiefs means that changes to practice still rely upon the will of chief and senior police officers.

### *10.3. Final thoughts*

This thesis is the first study of PCCs' impact on relations with ethnic minority communities, although the findings can also be applied to police-community relations more generally. While recent scholarship has attempted to understand what these new structures mean for police accountability in Western democracy, these discussions are, unfortunately, speculative. This is because claims are made without testing those claims empirically and research has focused narrowly on how PCCs and chief constables negotiate their role. However, by analysing how a wide range of stakeholders negotiate operational policing (i.e. police-initiated stops), this thesis has shed new light into the impact of PCCs on democratic policing. The collaborative nature of this studentship enabled a full immersion into the research context. This meant that developments could be identified that would have otherwise gone unnoticed and also that stimuli are understood from the point of view of those actually engaged directly within and around those structures. It therefore provided the greatest depth for understanding how police accountability operates in practice.

The central finding from this research is that PCCs represent an uneven improvement in the local democratic accountability of the police, as Jones (2008) predicts. Compared to the police authorities, PCCs were found to be more engaged with their electorate and granted them greater opportunities to participate in setting police priorities and scrutinising the police, albeit still limited in nature. For example, they were bringing together key

stakeholders through organising public summits or providing the necessary funding of scrutiny groups to ensure that citizens could routinely hold senior police officers to account for operational policing. Only some PCCs were providing more innovative methods for their electorate to shape police policy, primarily by commissioning citizens to conduct research locally and develop recommendations. Government proposals to enhance PCCs' functions may also help to improve local accountability by extending their powers beyond that enjoyed by their predecessors, namely the complaints process and other areas of the criminal justice system beyond their current remit.

However, this only represents a potential rather than a necessary outcome because PCCs appeared unable to more robustly hold their chief constables to account for their operational practice, practices that tend to disproportionately affect ethnic minorities. This was partly due to the legal constraints imposed by operational independence but more significantly because PCCs were themselves largely unresponsive to minority concerns, as predicted by Millen & Stephens (2011) and Lister & Rowe (2015). The few PCCs around the country who were more responsive were too hesitant to exert the full extent of their existing powers to produce changes to operational practices and too cautious to even publicly embarrass their chief constables into doing so. Therefore, despite the considerable potential of PCCs to significantly improve local police accountability, in *practice*, they appear to be repeating the mistakes of their predecessors by undermining their own ability to do so, especially in relation to 'minority issues'. If PCCs were supposed to improve democratic policing, they have actually undermined it by exacerbating social inequalities.

This study is not without its limitations. Notwithstanding PCCs' fear of public embarrassment, it is unclear why so few had used their wider powers to better align their

police force's policy to the expectations of ethnic minorities locally, particularly given the strong national pressures. Perhaps, it was a reflection of commissioners' own lack of creativity rather than a by-product of austerity or other structural problem. Also, it remains unclear why the PCCs for Nottinghamshire, Suffolk, and the West Midlands appeared to be the most receptive to their electorate whereas others were not. In other words, why were the PCCs studied incredibly outspoken on police-initiated stops, but not their colleagues who also preside over police forces with similar- if not worse- ethnic disproportionality and historic failures over stop and search use? Afterall, ethnic minority groups across England and Wales were just as vociferous as this study's research participants in vocalising their frustrations and pressuring PCCs and chief officers into changing police practice. While it may be that the case study PCCs had a personal affinity to stop and search reform, future research should probe these issues to shed better light onto how commissioners develop their priorities and what influence the public has in shaping their agenda.

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## Appendix A – Stop and Search Powers and Other Police Encounters in England and Wales

| | Purpose and object of the encounter | Extent of the search | Is reasonable suspicion Required? | Is prior authorisation required? |
|---|---|---|---|---|
| *PACE-regulated powers* | | | | |
| **Section 1**, Police Criminal and Evidence Act 1984 | Stolen items or weapons | People, drivers, and vehicles | Yes | No |
| **Section 23**, Misuse of Drugs Act 1971 | Controlled drugs | People, drivers and vehicles | Yes | No |
| **Section 47**, The Firearms Act 1968 | Firearms and ammunition | People, drivers and vehicles | Yes | No |
| **Section 43**, Terrorism Act 2000 | Articles useful for terrorism | People, drivers, passengers, and also vehicles under section 43A | Yes | No |
| *Exceptional powers* | | | | |
| **Section 60**, Criminal Justice and Public Order Act 1994 | Dangerous or offence weapons | People and vehicles | No | Yes |
| **Section 44 (repealed),** Terrorism Act 2000 | Articles useful for terrorism | People | No | Yes |
| **Section 47A**, Terrorism Act 2000 | Articles useful for terrorism | People and vehicles | No | Yes |
| *Other* | | | | |
| **Section 163,** Road and Traffic Act 1988 | Drivers' identification and insurance policies | Drivers only | No | No |
| **Stop and Account** | Confirm or ally suspicious behaviour | None | No | No |

## Appendix B - Anonymised List of Interviewees

*Note: to protect the identity of police and crime commissioners, deputy police and crime commissioners, chief constables, deputy chief constables and assistant chief constables interviewed, they are aggregated into a dedicated category rather than identified alongside other interviewees from the same case study area.*

Total interviews = 42

| # | **Police and crime commissioners, deputy police and crime commissioners and office staff** |
|---|---|
| 1 | Commissioner/01 |
| 2 | Commissioner/02 |
| 3 | Commissioner/03 |
| 4 | Commissioner/04 |
| 5 | Commissioner/05 |
| 6 | Commissioner/06 |
| 7 | Commissioner/SupportStaff/01 |
| 8 | Commissioner/SupportStaff/02 |

| | **Chief constables, deputy chief constables and assistant chief constables** |
|---|---|
| 1 | ChiefOfficer/01 |
| 2 | ChiefOfficer/02 |
| 3 | ChiefOfficer/03 |
| 4 | ChiefOfficer/04 |

| | **Public appointees and staff from national policing bodies** |
|---|---|
| 1 | National/01 |
| 2 | National/02 |
| 3 | National/03 |
| 4 | National/04 |
| 5 | National/05 |
| 6 | National/06 |
| 7 | National/07 |
| 8 | National/08 |
| 9 | National/09 |
| 10 | National/10 |

| | **Nottinghamshire** |
|---|---|
| 1 | Nottinghamshire/Police/01 |
| 2 | Nottinghamshire/Police/02 |

3 Nottinghamshire/Public/01
4 Nottinghamshire/Public/02
5 Nottinghamshire/Public/03
6 Nottinghamshire/Public/04
7 Nottinghamshire/Public/05
8 Nottinghamshire/Police&CrimePanel/01
9 Nottinghamshire/Police&CrimePanel/02

**Suffolk**

1 Suffolk/Police/01
2 Suffolk/Public/01
3 Suffolk/Public/02
4 Suffolk/Public/03

**West Midlands**

1 WestMids/Police/01
2 WestMids/Police/02
3 WestMids/Police/03
4 WestMids/Police&CrimePanel/01
5 WestMids/Public/01
6 WestMids/Public/02
7 WestMids/Public/03

## Appendix C - Interview Questions

*Note: questions were adapted to the person interviewed and semi-structured. Therefore, the following questions are only indicative of the topic of conversation.*

**Objectives for this interview**

- To identify how, if at all, stop and search features in the case study area and how it is perceived by the research participant
- Understand how their role and associated activities fit within stop and search governance and scrutiny
- Understand their attitudes towards the PCC structure and what role PCCs can play, if any, in stop and search governance, reform and scrutiny particularly in light of police 'operational independence'

**Introduction**

- Thank
- Blurb of research: impact of PCCs on police-communities relations esp. BME
- Ask permission to record but can go off-record and stop recording at any time

**1. Please explain what you envisage your role to be as XXXXX and what that means in practice?**

*Prompts:*

a) Re: relations with the public
b) Re: Police & Crime Panels
c) Re: Home Office, HMIC, IPCC and CoP
d) Re: PCCs
e) Re: chief constables

2. **What does operational independence mean to you and how do you define or negotiate your role with the PCC/chief constable?**

**3. What are the key issues affecting BME communities in XXXXX?**

*Prompts:*

a) How do you attempt to engage them on these issues?
b) How do you ensure 'representation' across communities?

**4. What are your views on stop and search and its use?**
**HO 2014 (S1 PACE 10,206 -4% pc; S60 434 -66% pc)**
*Prompts:*

**a)** Is it operational for the chief constable or strategic issue for PCCs/police authorities?

**b)** Police say it is an *"essential tool in the fight against crime"*- what is your view?

1. Arrest rate:

| S60 | S1 | |
|---|---|---|
| 2% (-99%) | 8.6% (10%) | 2012/13 - HO 2014 |
| 2% | 7.5% | |

2. What are the factors behind its historic **increase** in use? And **disproportionality**?

| | Black | Asian | Mixed | Other | |
|---|---|---|---|---|---|
| S1 | 4.8 | 1.4 | 2.1 | 1.0 | 2012/13 – HO 2014 |
| | 5.6 | 1.3 | 2.6 | 0.9 | 2011/12 – MOJ 2013 |
| S60 | 24.7 | 3.4 | 5.3 | 1.9 | |
| | 29.5 | 3.2 | 9.4 | 1.7 | |

**c)** What are the factors behind recent **reductions** in use? And **disproportionality**

**5. What role do police authorities/PCCs have on stop and search use or do you think they don't?**
*Possible discussion points:*

a) Where does it fit within the context of 'operational independence'?
b) How would you resolve any tensions between yourselves and the police authority/PCCs?
E.g. stop and account reintroduction [if relevant]

**6. How well do you think the PCC system is working in comparison to police authorities?**
*Possible discussion points:*

a) PCCs have only five powers but no job description; operational independence barrier
b) Police and crime panels prefer a more direct relationship with the chief constable.
c) Police and crime panels have little to no powers to hold PCCs to account- what are your thoughts on this?
d) What additional powers would you need to fulfil your role?

**7. Going forward, what changes, if any, would you advocate/expect to be made in relation to stop and search?**
*Prompts:*

a) What influence can ***you*** have on (a) overall level of use of stop and search and (b) the ethic disproportionality in its use
b) Ask for specific examples where s/he was able to influence changes e.g. training, codes of practice, level of authorisation, etc.
c) HMIC Inspection and Home Office - what do you expect to emerge out of the consultation?

**Thank & Close**
Thank; possible follow up Qs by interview or email later.

## Appendix D - List of Observations

*Note: events organised jointly or entirely by StopWatch and subject to an observation are indicated by an asterisk (*).*

Total observations = 26

| Date | Event | Location |
|---|---|---|
| 2012/10/18 | West Midlands PCC husting, co-organised by brap* | Handsworth Community Fire Centre, Birmingham, (West Midlands) |
| 2012/11/01 | Suffolk PCC husting, co-organised by Ipswich Suffolk Council for Racial Equality* | University Campus Suffolk, Ipswich (Suffolk) |
| 2012/11/05 | Leicestershire & Rutland PCC husting, co-organised by Equanomics* | Highfields Community Centre, Leicester (Leicestershire) |
| 2012/11/05 | StopWatch: 'The Human Cost of Stop and Search'* | Clapham Junction, London |
| 2013/04/24 | Observation at Heathrow Airport and the use of security measures and counter-terrorism powers | London |
| 2013/05/14 | Home Affairs Select Committee session on Leadership and Standards | Houses of Parliament, London |
| 2013/06/05 | CagePrisoner's Schedule 7 Stories | St Bride Foundation, Holborn, London |
| 2013/09/20 | West Midlands PCC summit on stop and search | Tally Ho Police Training Grounds, Birmingham (West Midlands) |
| 2013/11/19 | Public Administration Select Committee Inquiry into Crime Statistics | Houses of Parliament, London |
| 2013/11/19 | Police, Local Authorities & Community Engagement | Westminster Hub, New Zealand House, London |
| 2013/12/12 | Observation at Birmingham Airport and the use of security measures and counter-terrorism powers | Birmingham International Airport |
| 2014/02/06 | Observation at Gatwick Airport and the use of security measures and counter-terrorism powers | Gatwick Airport |
| 2014/09/25 | British Transport Police Stop and Search Community Consultation Group | BTP headquarters, Camden, London |
| 2014/10/09 | Nottingham Citizen's Hate Crime Commission Report Launch | University of Nottingham, |

| | | |
|---|---|---|
| | | Nottingham (Nottinghamshire) |
| 2014/11/04 | ACPO Police Public Encounters Board | West Mercia Police HQ, Hindlip Hall, Worcester |
| 2014/09/30 | Avon & Somerset Police Stop & Search Summit | A&S Police HQ,Portishead, Bristol |
| 2014/11/22 | Nottinghamshire Police and Crime Commissioner's BME Steering Group‘s Conference | Marcus Garvey Centre, Nottingham (Nottinghamshire) |
| 2015/07/29 | Suffolk Stop and Search Reference Group | Ipswich Suffolk Council for Racial Equality, Ipswich (Suffolk) |
| 2015/11/25 | Suffolk Stop and Search Reference Group | University Campus Suffolk, Ipswich (Suffolk) |
| 2016/01/26 | Capita Stop and Search Conference | Copthorne Tara Hotel, London |
| 2016/03/07 | Coventry Stop and Search Scrutiny Panel/Community Safety Forum | Coventry Central Police Station, Coventry (West Midlands) |
| 2016/03/17 | Birmingham West & Central Stop and Search Scrutiny Panel | Handsworth Police Station, Birmingham (West Midlands) |
| 2016/03/09 | Nottinghamshire Police and Crime Commissioner's BME Steering Group‘s Conference | Marcus Garvey Centre, Nottingham (Nottinghamshire) |
| 2016/04/20 | Nottinghamshire Police and Crime Commissioner's Hustings; co-organised by Embrace in Community* | NCVS, 7 Mansfield Road, Nottingham (Nottinghamshire) |
| 2016/04/21 | Suffolk Police and Crime Commissioner's Hustings; co-organised by Ipswich Suffolk Council for Racial Equality* | University Campus Suffolk, Ipswich (Suffolk) |
| 2016/04/27 | West Midlands Police and Crime Commissioner's Hustings; co-organised by Birmingham Empowerment Forum* | St Pauls & St Silas Church, Birmingham (West Midlands) |

## Appendix E - Police and Crime Commissioners Responses to Key National Reports and Consultations

| Police and crime commissioner, or other local policing body | HMIC (2013) | Home Office (2013) | HMIC (2015a) |
|---|---|---|---|
| Avon and Somerset | x | | |
| Bedfordshire | x | | |
| Cambridgeshire | x | | |
| Cheshire | x | x | |
| Cleveland | x | | |
| City of London (Police Committee) | x | | |
| Cumbria | | | |
| Derbyshire | | x | |
| Devon & Cornwall | | | |
| Dorset | x | x | x |
| Durham | | x | |
| Dyfed-Powys | x | x | |
| Essex | | | |
| Gloucestershire | | x | |
| Greater Manchester | x | x | x |
| Gwent | x | | |
| Hampshire | | | |
| Hertfordshire | | | x |
| Humberside | | | |
| Kent | | | |
| Lancashire | | x | |
| Leicestershire | x | | |
| Lincolnshire | | | |
| London Mayor's Office for Policing & Crime | | | x |
| Merseyside | x | | x |
| Norfolk | | | |
| North Wales | x | x | |
| North Yorkshire | x | | |
| Northamptonshire | | x | |
| Northumbria | x | x | x |
| Nottinghamshire | x | | x |

| | | | |
|---|---|---|---|
| South Wales | | x | |
| South Yorkshire | x | x | |
| Staffordshire | | | x |
| Suffolk | x | x | |
| Surrey | x | | |
| Sussex | x | x | x |
| Thames Valley | x | x | x |
| Warwickshire | | | |
| West Mercia | | | x |
| West Midlands | | x | x |
| West Yorkshire | | x | x |
| Wiltshire | | | |
| **Total respondents:** | **21** | **18** | **13** |