

THE COLOUR OF INJUSTICE

MICHAEL SHINER



FRAMING



Knowing and caring

Official knowledge

- Scarman, Macpherson and Lammy

Why haven't we solved the problem?

- Failure to grasp its systemic nature - focus on individual officer decision making and “disease of the mind”
- Failure to address the defensiveness of the police organisation
- Reliance on persuasion and soft power
- Neglected the role of coercion (“talk softly and carry a big stick”)

Theresa May: ...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...the feeling has been passed through to young people in black and minority ethnic communities that this is what happens and is, if you like, a fact of life. I want to change that and ensure that it is not a fact of life.

Michael Ellis: The figures given by my right hon. Friend on stop-and-search are frankly **a stain on British policing**... Do not the figures indicate that, sadly, in a large number of cases it is nothing but the colour of the skin of the person being stopped that has caused the stop-and-search to happen?

Theresa May: I am sorry to say that my hon. Friend is right... Given that a black person is six times more likely to be stopped and searched than a white person, one can only assume that it is the fact that the person is black that leads to the stop-and-search taking place.

Michael Ellis: **Disgraceful.**

Mrs May: It is **absolutely disgraceful**...

Richard Fuller (Bedford) (Con): Like many other people, I thank the Home Secretary for addressing seriously the misuse of stop-and-search powers, which is probably the **worst form of legal racial abuse** in our country.

[Parliamentary Debate on stop and search: April 30, 2014](#)

A SMALL STICK

HMIC (2013) identified “alarming” and “disturbing” evidence of non-compliance with PACE

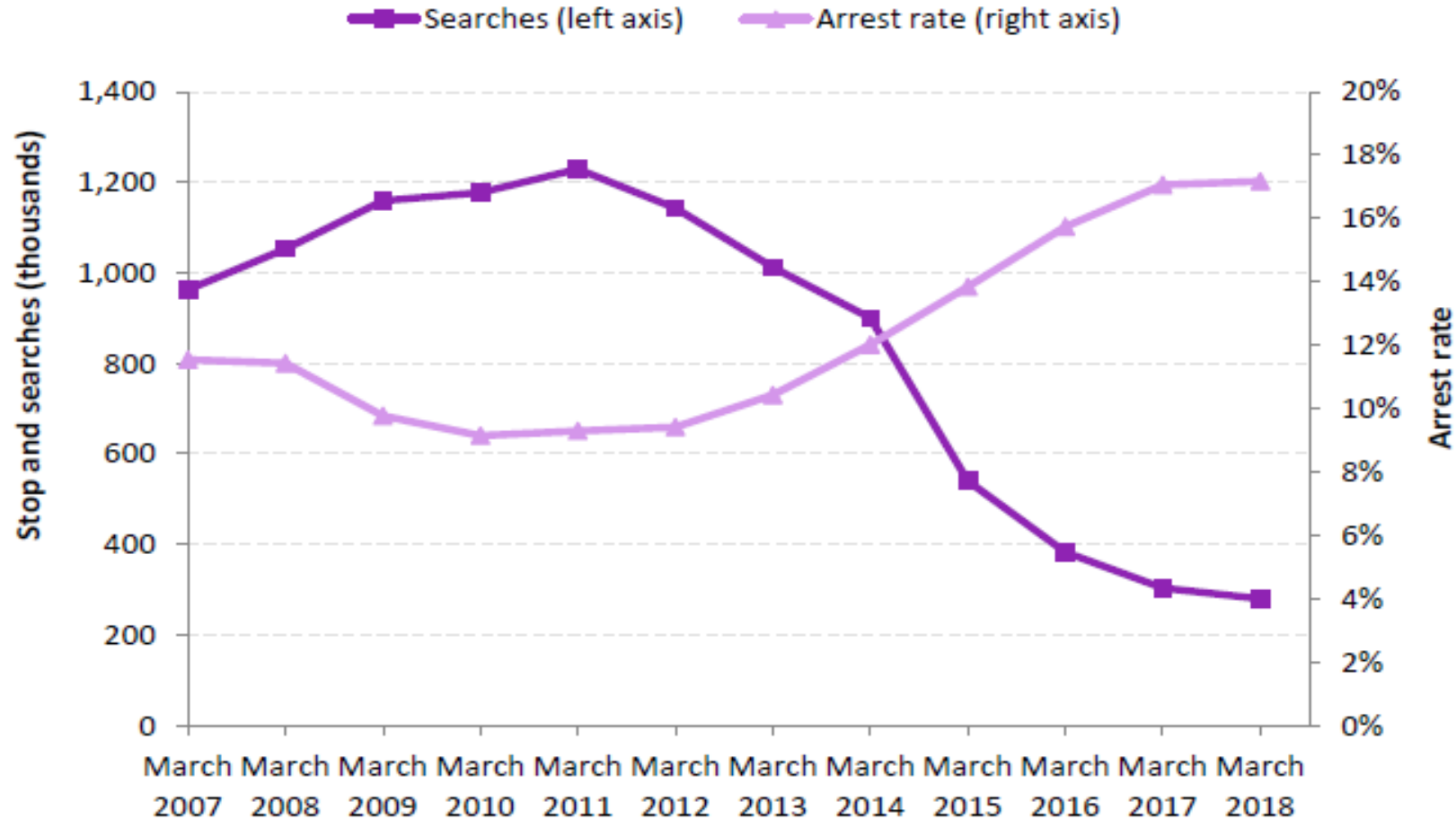
- Approximately 1/4 forms examined did not include reasonable grounds
- Almost half of forces “did nothing to understand the impact of stop and search encounters upon communities”
- Use of powers “rarely based upon evidence of what works best to cut crime”
- Pointed to “noticeable slippage” in attention since Lawrence inquiry

A package of reform

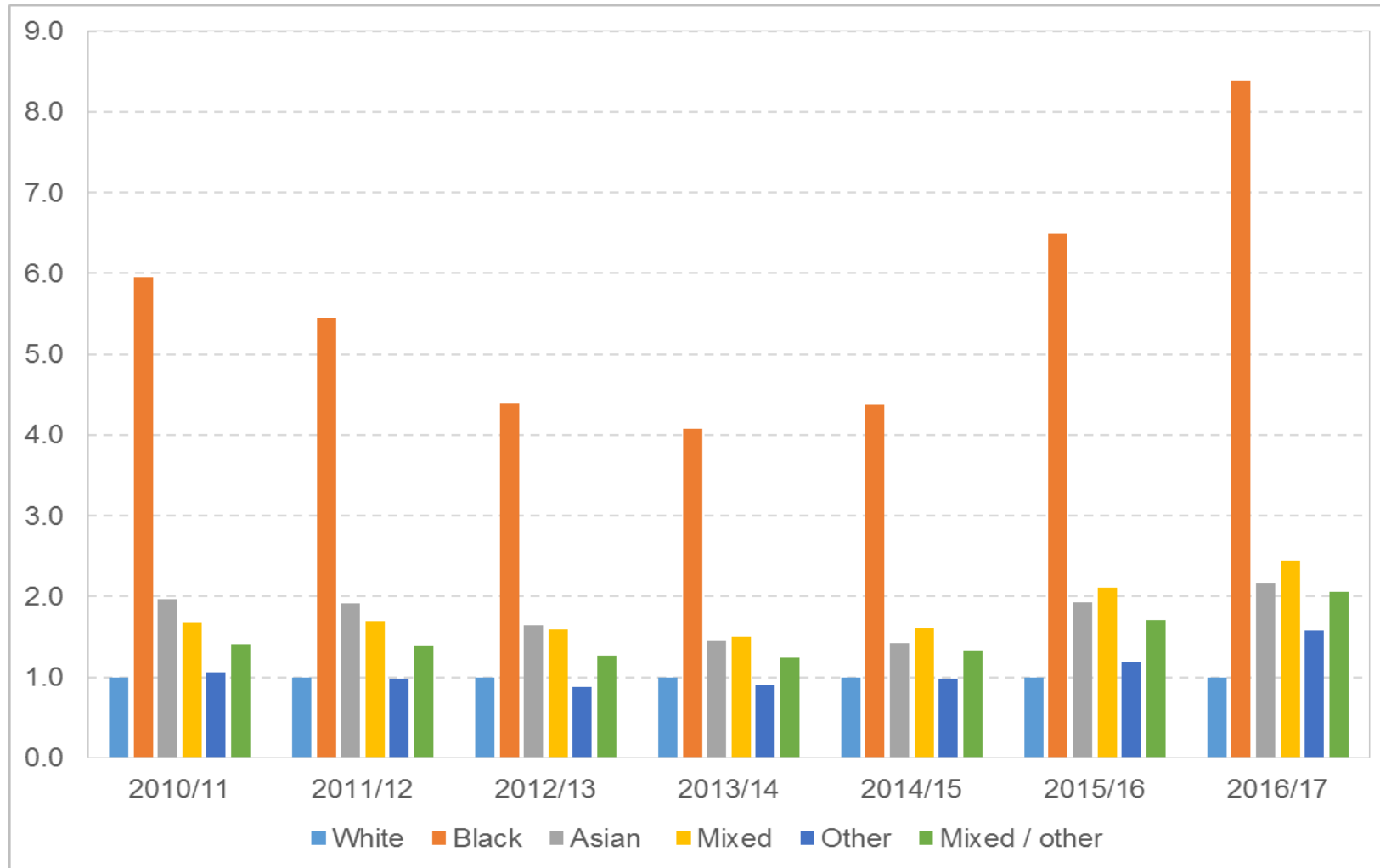
- Revisions to PACE e.g. to clarify what constitutes reasonable suspicion
- Best Use of Stop and Search Scheme e.g. enhanced recording;
- lay observer scheme; improved complaints mechanisms; limits on s.60
- Training for officers focusing on ‘unconscious bias’

THE POWER OF PERSUASION

Stop-searches without reasonable grounds fell from 27% to 6% ([HMIC](#))



STOP AND SEARCH DISPROPORTIONALITY



Shiner et al (2018)

DRIVERS

Variations between forces that are independent of crime

- *Stop and Think* (EHRC, 2011)

Rates of stop and search

- GMP = 1.0 and 0.6 (drugs) per 1,000
- MPS = 15.9 and 10.0 (drugs) per 1,000

Black / white disproportionality

- Durham = 1.7 and 3.0 (drugs)
- MPS = 3.8 and 3.9 (drugs)
- Dorset = 20.4 and 26.5 (drugs)

Drugs as a driver (mainly cannabis possession)

- 42% (2006/7) to 49% (2010/11) to 62% (2016/17) of all stop-searches

DEPRIVATION AND 'RACE'

LONDON BOROUGH ANALYSIS

Rates of stop and search are strongly correlated with levels of deprivation and inequality

- Only partly to do with distribution of crime
- Prevalence of cannabis use is not related to deprivation

General relationship does not hold for black people

- Subject to heightened rates of stop and search regardless of deprivation

Disproportionality is inversely related to deprivation, especially for drug searches

- Associated with wealth and affluence
- Ethnic profiling and incongruity

Geographical and individual profiling

OUTCOMES

SHINER ET AL (2018)

Proportion of stop searches resulting in detections and further action is similar across ethnic groups

But type of action varies

- Black people were arrested at a higher rate than whites: 22% *cf* 16%
- Yet received out of court disposals at a lower rate: 9% *cf* 11%
- Feedback loops?

Arrests

- Black people were arrested as a result of stop and search at almost 12x the rate of whites
- No. of arrests of black people for drug offences remained unchanged, while arrests of white people more than halved
- 17% of all arrests of black people were made as a result of stop and search *cf* 5% for whites (proactive policing)

THE ROLE OF THE COURT

A CASE OF JOINT ENTERPRISE



>40,000 people were prosecuted for drug offences in 2017, more than 1/3 for cannabis possession

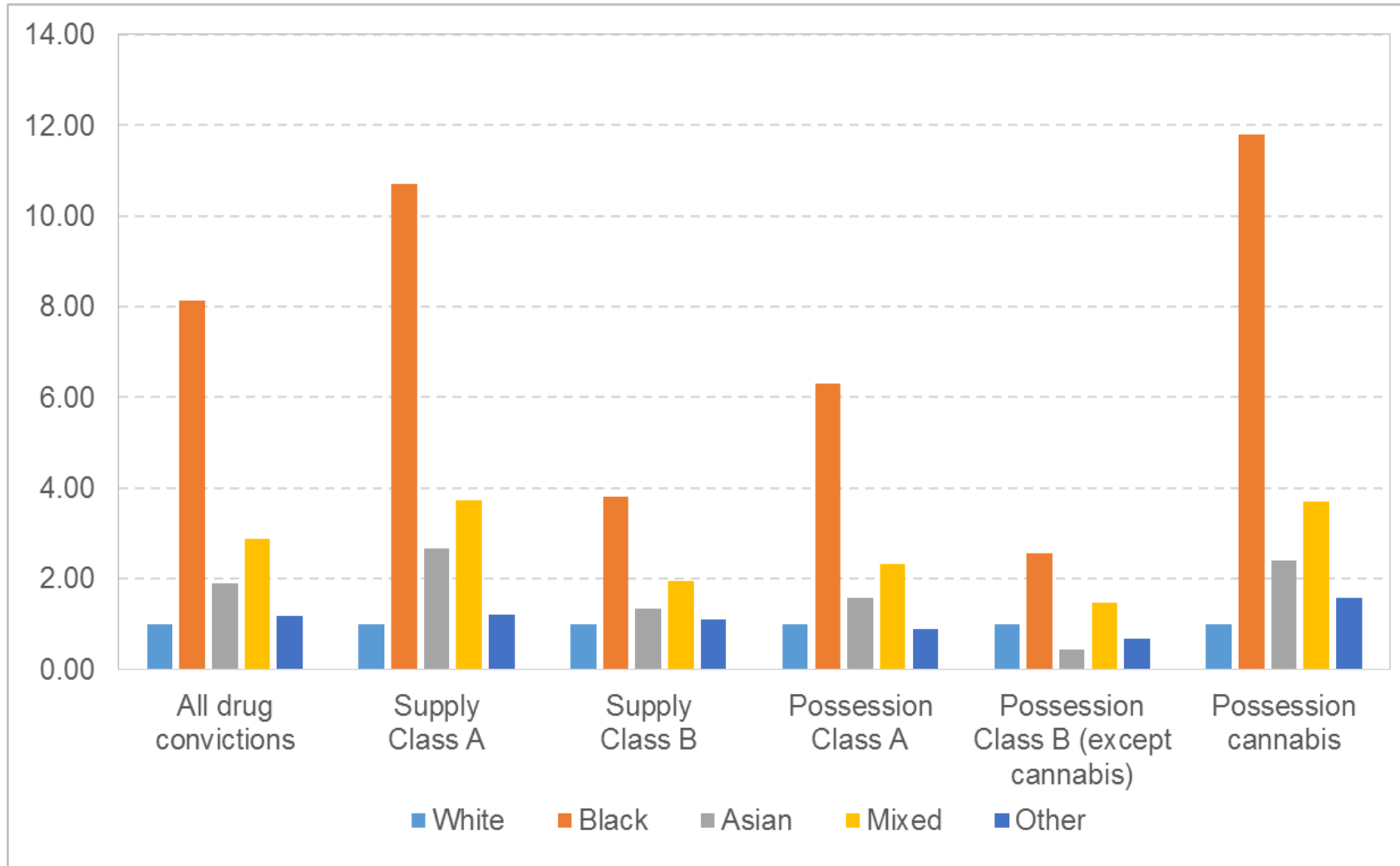
- Half of those prosecuted for drug possession were fined at an average of £124 or £108 for cannabis
- >1,000 people sentenced to immediate custody for drug possession (3.6 months), with 339 sentenced for cannabis (1.7 months)

Black people prosecuted for drug offences at >8x the rate of white people and at approx. 4x the rate for all indictable offences

- Black people made up 26% of prosecutions for cannabis possession, but constitute < 4% of the population
- More black people were prosecuted for cannabis possession than for the supply of Class A or B substances combined
 - 3,229 *cf* 2,453 respectively
 - 6,892 *cf* 7,955 for whites

CONVICTIONS

DISPROPORTIONALITY



Criminal justice system statistics, 2017

THE HEART OF THE MATTER

“It’s important for it to go forward because it’s important for society not to have a situation in which a large portion of people have at one time or another broken the law and only a select few get punished... Middle-class kids don’t get locked up for smoking pot, and poor kids do. And African-American kids and Latino kids are more likely to be poor and less likely to have the resources and the support to avoid unduly harsh penalties.”

Barak Obama



**'Harass the hell' out of gang
leaders, says Iain Duncan Smith**

**Sajid Javid promises support
for stop-and-search amid rising
knife and gun violence**

**Police afraid of racism complaints if
they use stop and search powers**

**Police in talks to scrap 'reasonable
grounds' condition for stop and search**

**More stop and search powers to
cut acid attacks**

**Commissioner Cressida Dick says institutionally racist label not a
'useful way to describe' force**

THE COLOUR OF INJUSTICE

SHINER ET AL (2018: 2)

“The evidence presented in this report provides an important corrective to the defensive rhetoric that has developed in response to the reform of stop and search. This rhetoric pivots around claims that police are afraid of using their stop and search powers in case they are accused of racism; that ethnic disparities are a ‘myth’; and that stop and search is a ‘vital tool’ in the fight against knife crime. None of these claims stand-up to empirical scrutiny. While police narratives about stop and search revolve around knives, gangs, organised crime groups, drug supply, county lines and modern slavery, our analysis tells a different story – one of deprived, minority communities being over-policed and selectively criminalised for minor drug possession offences that are largely ignored in other contexts and for other groups.”

POLICY RECOMMENDATIONS

Specific measures and safeguards are required to tackle ethnic disparities in drug policing and stop and search

- Reorient drug policing (“smell of cannabis” and priority crimes)
- Disproportionality as stand alone item for PEEL inspections
- Extend requirements regarding public scrutiny to cover outcomes
- Give greater attention to area based drivers (EHRC compliance action)
- Identify good practice (e.g. Bedford)
- Pilot and evaluate use of decision breaks and real-time supervision
- NPCC and CPS to establish general presumption that drug possession should be dealt with using out of court disposals, including ‘deferred prosecution’
- National Police Chiefs’ Council should provide clear guidance on how out of court disposals can be used in ways that do not exacerbate ethnic disparities

Primary legislation

- Enable Home Office to suspend poorly performing forces from using stop and search powers until appropriate safeguards have been put in place



“[Impacted] communities must no longer be viewed as the designated enemy, and ghetto communities must no longer be treated like occupied zones. Law enforcement must adopt a compassionate, humane approach to the problems of the urban poor—an approach that goes beyond the rhetoric of “community policing” to a method of engagement that promotes trust, healing, and genuine partnership”

Michelle Alexander (2010) *The New Jim Crow*, p. 91/2