

Complaint matter Bianca Williams and Ricardo Dos Santos

An investigation into the stop and search and detention of Mr Ricardo Dos Santos and Ms Bianca Williams by the Metropolitan Police Service on 4 July 2020

> Investigation information

Investigation name:	Bianca Williams and Ricardo Dos Santos
IOPC reference:	2020/139147
Investigation type:	Multiple complaint allegations; some of which are subject to special procedures, and some of which are not
IOPC office:	Canary Wharf
Lead investigator:	Nathalie Harvier
Case supervisor:	David Heslop
Director General delegate (Decision maker):	Sal Naseem
Status of report:	Final
Date finalised:	08/11/2021

Please note that this report contains language that some people may find offensive.

Independent investigation report

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> Introduction

> The purpose of this report

1. I was appointed by the IOPC to carry out an independent investigation into the complaint made by Ms Bianca Williams and Mr Ricardo Dos Santos when a Territorial Support Group (TSG) van followed their Mercedes class A in the area of Maida Vale, London, on 4 July 2020. Nine officers aboard a TSG van stopped Mr Dos Santos' car and forced him and Ms Williams to exit their car, leaving their baby inside at the back. Ms Williams and Mr Dos Santos were handcuffed and searched for weapons under s1 Police and Criminal Evidence Act 1984 (PACE). Mr Dos Santos and his car were also searched under s23 Misuse of Drugs Act 1971 (MDA). Officers called search dogs and Intelligence checks on Mr Dos Santos, Ms Williams and their Mercedes were completed. All searches resulted in a negative outcome. The couple were released and an officer completed a report regarding their baby. The report was recorded on the police Merlin database to enable safeguarding teams to assess any risks or harm to the child based on the report (Merlin report). The Metropolitan Police Service (MPS) issued communications about the incident to the media. Ms Williams and Mr Dos Santos were subjected to negative press and abusive messages by members of the public on social media. Details of this incident came to the attention of the IOPC on 7 July 2020 as a Complaint referral. The matters raised in this summary will be explained in more detail in the presentation of the evidence.
2. Following an IOPC investigation, the powers and obligations of the Director General (DG) are delegated to a senior member of IOPC staff, who I will refer to as the decision maker for the remainder of this report. The decision maker for this investigation is Regional Director Sal Naseem.
3. In this report, I will provide an accurate summary of the evidence, and attach or refer to any relevant documents. I will provide sufficient information to enable the decision maker to determine whether to refer any matter to the Crown Prosecution Service (CPS).
4. I will also provide sufficient information and evidence to enable the decision maker to form a provisional opinion on the following:
 - a) whether any person to whose conduct the investigation relates has a case to answer for misconduct or gross misconduct or has no case to answer;
 - b) whether or not disciplinary proceedings should be brought against any such person and, if so, what form those proceedings should take (taking into account, in particular, the seriousness of any breach of the Standards of Professional Behaviour);

- c) whether the performance of any person to whose conduct the investigation related is unsatisfactory and whether or not performance proceedings should be brought against any such person; and
 - d) whether or not any matter which was the subject of the investigation should be referred to be dealt with under the Reflective Practice Review Process.
5. I will also provide sufficient information and evidence to enable the decision maker to identify whether a paragraph 28ZA recommendation (remedy) or referral to the Reflective Practice Review Process (RPRP) is appropriate.
 6. Where a complaint has been investigated but the investigation has not been subject to special procedures, I will provide sufficient information to enable the decision maker to determine whether:
 - the service provided by the police was acceptable; or
 - the service provided by the police was not acceptable; or
 - we have looked into the complaint, but have not been able to determine if the service provided was acceptable; and
 - to make a recommendation to any organisation about any lessons that may need to be learned.
 7. The IOPC will send a copy of this report and the decision maker's provisional opinion to the Appropriate Authority. If the appropriate authority provides comments, then they must do so within 28 days. Where the appropriate authority disagrees with the content of the report or the decision maker's provisional opinion, they should set out the reasons why as fully as possible in their response and provide any supporting information. Having considered any views of the appropriate authority, the decision maker is required to make the final determination and to notify the appropriate authority of it.
 8. The decision maker may also make a determination as to any matter dealt with in the report. This may include a decision that a matter amounts to Practice Requiring Improvement (PRI) and as such should be dealt with under the Reflective Practice Review Process (RPRP) or a recommendation under paragraph 28ZA (remedy).
 9. Where Articles 2 or 3 of the European Convention on Human Rights (ECHR) are engaged, this investigation is also intended to assist in fulfilling the state's investigative obligation by ensuring as far as possible that the investigation is independent, effective, open and prompt, and that the full facts are brought to light and any lessons are learned.

> Background information about Mr Ricardo Dos Santos and Ms Bianca Williams

10. Mr Ricardo Dos Santos and Ms Bianca Williams are international athletes. They have a son, who was a few months old at the time of the incident.
11. In his statement, Mr Dos Santos described how he grew up in London and as a young Black man, he was stopped by police on numerous occasions. He said that this continued to be the case today. Mr Dos Santos was stopped and searched before this incident on 13 May 2020. His stop and search on 13 May 2020 was completed in 15 minutes. Mr Dos Santos summarised his experience of growing up in London as a young Black man with the following words: *“I grew up living in London. As a teenager I was stopped and searched by the police many times. It was sadly the norm for young Black teenagers in London to be targeted by the police in this way, and this was my personal experience of growing up in London. It was usual for young Black men like myself to be stopped outside by the police and stopped in their cars. The police would often stop my friends and me when we were walking home from school. I remember feeling in 2007 that stop and searches increased further, which was after the failed Haymarket bombings. I have continued to be stopped and searched by the police as an adult. Bianca and I own a BMW X4 coupe and a Mercedes-Benz hatchback. They are nice cars with personalised number plates, but when I drive them they regularly attract attention from the police. I have been repeatedly stopped in these cars and I believe the stops are down to discrimination and bias of police officers. I firmly believe that when many officers see me, a young Black man, driving the car they think that it looks suspicious, like they are thinking “how can you afford to drive that car?” “you must be a drug dealer or have access to illegal finance to buy that car”. I don’t believe that police officers would view it as suspicious if I was a White man driving the car.”*
12. Ms Williams and Mr Dos Santos commented on the abuse they were subjected to through social media following the incident. Ms Williams stated that after the MPS released information about the incident in the media, she *“started receiving relentless attacks by people online. To this day, I receive hundreds of comments, which specifically refer to the allegations put out by the police. I have been called horrible names, my career has been threatened and my parenting has been criticised. Since this incident, I have developed anxiety and fear for the safety of my family. This is because of the incident but also because of the online attacks I am receiving.”* Mr Dos Santos told the IOPC that *“There were hundreds of hateful comments about us online and some people even made threats against us.”*

> Complaints

13. On 28 July 2020, Ms Williams and Mr Dos Santos provided a summary of their complaints against the MPS and what they would like the investigation to cover in order to address their complaints. The below is extracted from this document.

Complaint	Outline of complaint
1	<i>“To investigate the reasons that the vehicle was followed including stereotypes and inappropriate generalisations that would in particular suggest racial profiling and unlawful discrimination;</i>
2	<i>To investigate the decision to stop and search the vehicle and occupants including stereotypes and inappropriate generalizations that would in particular suggest racial profiling and unlawful discrimination;</i>
3	<p><i>To investigate the threat and use of force during the course of the incident. This includes, but is not limited to:</i></p> <ul style="list-style-type: none"> <i>• the exercise of the officer’s discretion to use force when other alternatives were available and should have been explored;</i> <i>• the unnecessary and/or disproportionate use of force in the circumstances;</i> <i>• the extent to which stereotypes, inappropriate generalisations influenced the decisions to threaten and/or use such force;</i>
4	<p><i>To investigate the decision to detain the complainant. This includes, but is not limited to:</i></p> <ul style="list-style-type: none"> <i>• the decision to detain the complainants;</i> <i>• the duration and nature of the detention;</i> <i>• the extent to which stereotypes and inappropriate generalisations influenced the decision to detain the complainant and the duration of his detention,</i>
5	<i>To investigate the honesty and integrity of the officers and especially with reference to the information recorded on the stop and search records and the extent to which that information was influenced by stereotypes and inappropriate generalizations;</i>
6	<p><i>To investigate communications issued by senior officers of the MPS which demonstrate:</i></p> <ul style="list-style-type: none"> <i>• an inappropriate and improper desire to publicly excuse or exonerate officers prior to an adequate investigation being carried out into the officers’ actions;</i> <i>• an intention and/or recklessness to discredit the honesty and integrity of the accounts given publicly by the complainant and others;</i>

	<ul style="list-style-type: none"> • <i>an intention and/or recklessness to subject the complainant and others to public criticism, hostility and abuse by publicly rejecting their accounts expressed in good faith without conducting an adequate investigation;</i>
7	<i>To investigate the failure properly to scrutinize the use of stop and search powers by officers and whether they are influenced by stereotypes and inappropriate generalizations.”</i>

> The investigation

> Terms of reference

14. Mr Colin Dewar, Operations Manager, approved the terms of reference for this investigation on 29 July 2020 and a copy was provided to A/PS Rachel Simpson, PC A*, PC Mike Bond, PC Allan Casey, PC Jonathan Clapham and PC Sam Franks. The terms of reference can be seen in full at appendix 2, however, in brief they are:
15. To investigate the circumstances surrounding the stop and search of Ms Bianca Williams and Ricardo Dos Santos on 4 July 2020, specifically:
 - a) Why Mr Dos Santos' vehicle was followed and stopped
 - b) Whether the force used against Mr Dos Santos, was lawful, necessary, reasonable and proportionate
 - c) Whether the force used against Ms Williams, was lawful, necessary, reasonable and proportionate
 - d) Whether the search of Mr Dos Santos and his vehicle under s1 PACE was reasonable and objective
 - e) Whether the search of Ms Williams under s1 PACE was reasonable and objective
 - f) Whether the search of Mr Dos Santos under s23 MDA was necessary, reasonable and objective
 - g) Whether there were legitimate grounds for a Merlin report to be created for the baby
 - h) Whether Ms Williams and Mr Dos Santos were treated less favourably because of their race
 - i) The accuracy of the accounts provided by the officers
 - j) The appropriateness of the communications issued by senior officers of the MPS whilst an IOPC investigation is being conducted.

> Subjects of the investigation

16. During this investigation, it was decided that the investigation into the following persons serving with the police should be certified as subject to special procedures.
17. An investigation is subject to special procedures if there is an indication that a person serving with the police may have:
 - (a) committed a criminal offence, or
 - (b) behaved in a manner which would justify the bringing of disciplinary proceedings.
18. Where there is such an indication for any police officer, police staff member or relevant contractor, they are categorised as a subject of the investigation. All subjects are served with a notice of investigation, informing them of the allegations against them.
19. They are also informed of the severity of the allegations. In other words, whether, if proven, the allegations would amount to misconduct or gross misconduct, and the form that any disciplinary proceedings would take.
20. The following people have been categorised as subjects of this investigation:

Name	Role	Severity	Interviewed	Were criminal offences investigated? If yes, please list these below
Rachel Simpson	Acting Police Sergeant	Gross misconduct	03/06/2021	No
PC A	Police Constable	Misconduct	03/06/2021	No
Sam Franks	Police Constable	Gross misconduct	02/06/2021	No
Jonathan Clapham	Police Constable	Gross misconduct	04/06/2021	No
Michael Bond	Police Constable	Gross misconduct	01/06/2021	No

Allan Casey	Police Constable	Misconduct	02/06/2021	No
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21. **A/PS Simpson**

On 8 October 2020 and 26 April 2021 A/PS Simpson was served with notices of investigation, outlining the following allegations:

- It is alleged that A/PS Simpson may have failed to act with courtesy due to her initial confrontational demeanour, her expressed refusal to apologise, and when she suggested that PC Franks should “ferret around Mr Dos Santos’ groin”.
- It is alleged that A/PS Simpson may have failed in her duties and responsibilities as a police officer by continuing to detain Ms Williams when there were no grounds to do so for a period of approximately 40 minutes, during part of which time she was in handcuffs and unable to hold her baby.
- It is alleged that A/PS Simpson may have failed in her duties and responsibilities as a police officer by agreeing to the creation of a Merlin report in circumstances not supported by MPS policy or the APP guidance (26 April 2021).
- It is alleged that A/PS Simpson’s use of force with Ms Williams may have been excessive in the circumstances by taking hold of Ms Williams without first having sought her co-operation with the search, handcuffing her initially and then failing to release her from handcuffs once she had been searched.
- It is alleged that A/PS Simpson’s actions and omissions as supervisor may have been due to racial bias, conscious or unconscious on the grounds of race (26 April 2021).

22. **PC A**

On 8 October 2020 and 26 April 2021 PC A was served with notices of investigation, outlining the following allegations:

- It is alleged that PC A may not have treated Ms Williams with the respect and courtesy that can be expected towards all members of the public as demonstrated by her initial aggressive and confrontational demeanour.
- It is alleged that PC A may not have been diligent in the exercise of her duties and responsibilities as a police officer when she continued to detain Ms Williams when there were no grounds to do so for a period of approximately 40 minutes, during part of which time she was in handcuffs and unable to hold her baby.
- It is alleged that PC A may have created a Merlin report in circumstances not supported by MPS policy or the APP guidance (26 April 2021).
- It is alleged that PC A’s use of force with Ms Williams may have been excessive in the circumstances when she took hold of Ms Williams without first having sought her co-operation with the

search, by handcuffing her initially and failing to release her from handcuffs once she had been searched.

23. **PC Franks**

On 8 October 2020 and 26 April 2021 PC Franks was served with notices of investigation, outlining the following allegations:

- It is alleged that PC Franks may have deliberately been lying about smelling cannabis coming from Mr Dos Santos' vehicle (26 April 2021).
- It is alleged that PC Franks may not have treated Mr Dos Santos with the respect and courtesy that can be expected towards all members of the public when he displayed aggressive and confrontational demeanour in his initial approach to Mr Dos Santos.
- It is alleged that PC Franks may not have been diligent in the exercise of his duties and responsibilities as a police officer by continuing Mr Dos Santos' detention and when there were no longer reasonable grounds to do so.
- It is alleged that PC Franks' use of force with Mr Dos Santos may have been excessive in the circumstances when he took hold of Mr Dos Santos, when he used handcuffs to detain him initially and then continued to detain him in handcuffs once his person had been searched.
- It is alleged that PC Franks' actions may have been due to racial bias, conscious or unconscious on the grounds of race (26 April 2021).

24. **PC Clapham**

On 8 October 2020 and 26 April 2021 PC Clapham was served with notices notice of investigation, outlining the following allegations:

- It is alleged that PC Clapham may have deliberately been lying about smelling cannabis from Mr Dos Santos (26 April 2021).
- It is alleged that PC Clapham may not have treated Mr Dos Santos with the respect and courtesy that can be expected towards all members of the public and may have been aggressive and confrontational in his initial approach to Mr Dos Santos.
- It is alleged that PC Clapham may not have been diligent in the exercise of his duties and responsibilities as a police officer when he continued to detain Mr Dos Santos when there were no longer reasonable grounds to do so.
- It is alleged that PC Clapham's use of force with Mr Dos Santos may have been excessive in the circumstances when he took hold of him, using handcuffs to detain him initially and then continued to detain him in handcuffs once his person had been searched.

- It is alleged that PC Clapham's actions may have been due to racial bias, conscious or unconscious on the grounds of race (26 April 2021).

25. **PC Casey**

On 2 November 2020 and 29 April 2021 PC Casey was served with notices of investigation, outlining the following allegations:

- It is alleged that PC Casey may not have been diligent in the exercise of his duties and responsibilities as a police officer when he may have failed to inform the Metropolitan Police Contact Centre (Met CC) that the Mercedes driven by Mr Dos Santos failed to stop, when he engaged in a pursuit that was not authorised, in an unsuitable vehicle, and without appropriate training to use tactics to stop the vehicle.
- It is alleged that PC Casey's actions may have been due to racial bias, conscious or unconscious on the grounds of race (29 April 2021).

26. **PC Bond**

On 8 October 2020 and 7 July 2021 PC Bond was served with notices of investigation, outlining the following allegations:

- It is alleged that PC Bond may have deliberately been lying about smelling cannabis coming from Mr Dos Santos' vehicle (7 July 2021).
- It is alleged that PC Bond may not have treated Mr Dos Santos with the respect and courtesy that can be expected towards all members of the public when he displayed aggressive and confrontational demeanour in his initial approach to Mr Dos Santos.
- It is alleged that PC Bond may not have been diligent in the exercise of his duties and responsibilities as a police officer when he continued Mr Dos Santos' detention and when there were no longer reasonable grounds to do so.
- It is alleged that PC Bond's use of force with Mr Dos Santos may have been excessive in the circumstances when he took hold of him and used handcuffs to detain him initially and then continued to detain him in handcuffs once his person had been searched.
- It is alleged that PC Bond's actions may have been due to racial bias, conscious or unconscious on the grounds of race (7 July 2021).

> Training and conduct history

A/PS Simpson

27. A/PS Simpson joined the Metropolitan Police in 2013 as a Police Constable. She was posted to the Westminster borough until 2017. In 2017 she transferred to the Territorial Support Group (TSG) unit. A/PS Simpson passed her Police Sergeant's exam but deferred her promotion to work as a detective.
28. A/PS Simpson's training record showed that she completed a number of training courses. The most relevant ones to the allegations made against her included her Officer Safety Training (OST) completed on 16 April 2019. She completed equality and diversity training on 7 June 2013. A/PS Simpson also completed a Merlin Search course and Merlin Basic User course on 12 September 2013. Her training record did not mention that she attended any refresher course related to Merlin reports. The officer's training showed she attended Human Rights training on 13 September 2013, and completed a community resolutions course in 2018. Her record showed that her training seemed to be up to date at the time of the incident on 4 July 2020.
29. In total, A/PS Simpson's complaint history listed seven allegations, two allegations concerning incivility, impoliteness and intolerance and discriminatory behaviour logged on 16 April 2015 which were resolved by local resolution. In 2016, a complaint relating to fairness and impartiality was made against A/PS Simpson. This resulted in no case to answer and no action taken. In 2017, a complaint was made about oppressive conduct or harassment and she was alleged to have breached PACE Code A. This also resulted in no case to answer and no action taken.

PC A

30. PC A started with the Metropolitan Police in 2001 as a Police Constable (PC). From 2001 to 2018 she was allocated to the borough of Kingston Upon Thames. Her response to caution stated that she was part of the Neighbourhood Team. She was posted to an Emergency Response team between February and May 2018. She was then transferred within the department of response between May 2018 and January 2019. In January 2019 PC A joined the TSG department.
31. PC A's training record showed that she attended a number of training courses including the OST that she completed on 16 April 2019. PC A passed her basic Merlin report training and her stop and search training in 2012. Her training record did not mention that she attended any refresher course related to Merlin reports. Her record showed that PC A's training seemed to be up to date at the time of the incident on the 4 July 2020.
32. In total, PC A's complaint history listed six allegations, four of which were no case to answer. Her conduct history record showed that PC A had three complaints for other assault, in 2015, 2016 and in 2019. [REDACTED]

[REDACTED]

[REDACTED]

PC Franks

33. PC Franks joined the Metropolitan Police in 2015. He joined as a PC in 2017 working in the borough of Lambeth as a response officer. From 2019 to 2020, PC Franks transferred to the safeguarding team. In March 2020 he transferred to the TSG unit.
34. PC Franks' training record showed that he completed a number of training courses. The most relevant to the allegations made against him included equality and diversity training on 24 December 2015 and Human Rights training completed on 4 January 2016. He completed a community resolutions course in 2017. His record also showed that PC Franks completed his OST on 7 January 2020. PC Franks' record seemed to indicate that the officer was up to date with his training at the time of the incident on 4 July 2020.
35. In total, PC Franks' complaint history listed one allegation for unlawful or unnecessary arrest or detention made on 3 May 2017. The outcome resulted in no case to answer.

PC Clapham

36. PC Clapham started with the Metropolitan Police in 2014 as a PC. From 2014 to 2017 he was allocated to the borough of Hammersmith and Fulham. His response to caution stated that he was a Neighbourhood Officer on a local policing team in Shepherds Bush for a year and then joined the Emergency Response team in Fulham. According to PC Clapham's service history in 2018 he joined the TSG unit, his response to caution however stated that he joined the TSG unit in 2017.
37. PC Clapham's training record showed that the officer completed the following courses on 9 April 2016: MPS Equality and diversity, Equality Act 2010, Equality and diversity, and Stop and Search 7: fair and effective, Stop and Search 1: introduction. He also completed Human Rights training on 15 April 2014. In 2018, the officer completed a community resolutions course and his OST was completed on 16 April 2019. PC Clapham's training was up to date at the time of the incident on 4 July 2020.
38. In total, PC Clapham's complaint history contained six allegations which resulted in no case to answer. Amongst the relevant complaints made against him, his conduct history showed that he had two complaints for a Breach of PACE Code A in 2016 and 2018. In 2016, a member of the public made a complaint against the officer for discriminatory behaviour. He also had a lack of fairness and impartiality complaint and a complaint related to an alleged assault in 2018. There were no other relevant complaints after 2018. All these allegations resulted in no case to answer and no action was taken.

PC Casey

39. PC Casey's relevant training record showed that he attended the following courses:
- CO12-PD001-Public Order Tactical Driver Training (Level I), 2009
 - PSU Personnel carrier course, 2 days 13-14 June 2009
 - Pursuit Management – MPS January 2019
 - Response car – non pursuit, 4 February 2019
 - DX015 - Hollow Spiked Tyre Deflation system - Procedures and operation, Feb 2019
40. PC Casey attended his training to drive a Personnel Carrier in 2009. His record showed that he was competent in all aspects of the course assessment and passed.
41. The officer's training history also mentioned that PC Casey attended and passed his DR018 - Response Car Refresher (Non-Pursuit) training on 4 February 2019 but failed the following other driving related courses:
- DR015-Response Car 3-5 Year Refresher Training04-FEB-2019 Incomplete: Failed test
 - DR015-Response Car 3-5 Year Refresher Training24-JAN-2019N- Rejected by Approver
 - DR015-Response Car 3-5 Year Refresher Training11-MAY-2018- Rejected by Approver
42. In an email dated 9 February 2021 to the IOPC, Police Sergeant (PS) Darren Palmer from the MPS Police Driver Training, explained that PC Casey had originally booked and attended a DR015 Response car Initial Phase Pursuit refresher on 4 February 2019. This involved dealing with the initial phase of a pursuit, by chasing an unmarked vehicle (police vehicle driven by an instructor) whilst driving a fully marked police vehicle. Police officers were required to drive and give pursuit commentary to a national standard and were being assessed by another instructor whilst engaged in this activity. This was shown as a fail in PC Casey's record as he did not meet the required standards on the day.
- PS Palmer stated that, *"If the officer does not come up to standards then they are assessed on a single vehicle 'blue light' run, on the same day. If they meet the required standards, having taken away the pursuit element, then they (as is the case here) are shown as having passed a DR018 Response car – Non Pursuit refresher."*
- This was therefore marked *"PSOP is updated as DR015 – Fail. DR018 – Pass"* on PC Casey's training record.
- PS Palmer further stated that *"All enhanced police drivers are required to refresh their driving skills before the end of 5 years since last training / refresher. They can attend at any time between the 3-5 year period. If this is not achieved then their enhanced driving classification is removed and*

they can only drive as a 'Basic' driving within the confines of road traffic legislation. They then have a further 2 years (now 7 years since last training) to attend and pass a refresher, otherwise their skill is permanently removed and they have to attend a full driving course to return to enhanced driving."

43. PC Casey's training record showed that he completed Equality and Diversity training in 2010.
44. In total, PC Casey's complaint history contained 36 allegations, including three allegations for discriminatory behaviour. An allegation of discriminatory behaviour and other neglect or failure in duty appeared to have been resolved by local resolution on 20 July 2004. Another allegation of discriminatory behaviour and breach of Code PACE A was locally resolved on 15 September 2008. His record showed that members of the public made other complaints against the officer after 2008 but none of them were relevant to the present allegations made.

PC Bond

45. PC Michael Bond joined the Metropolitan Police in 2017 as a PC. He was assigned to the borough of Kensington and Chelsea where he was on a response team. He then transferred to join the TSG unit in 2019.
46. PC Bond's training record showed that the officer completed his most recent OST on the 26 November 2019. He also attended a human rights training in 2017. From his record, PC Bond's training seemed to be up to date at the time of the incident on the 4 July 2020.
47. In total, PC Bond's complaint history listed four allegations. The officer's conduct history showed that the officer had two complaints for unlawful or unnecessary arrest or detention made against him in 2018. Both resulted in no case to answer. His conduct history also recorded that PC Bond had one allegation of other assault on 4 April 2019 which remained outstanding with no result.

> Legislation, policies and guidance considered

48. During the investigation, I have examined relevant legislation, together with national and local policies and guidance, as set out below. This material will enable the decision maker and the appropriate authority to consider whether the police officers, police staff member and relevant contractors named in this report complied with the applicable legislation, policy and guidance, and whether the existing policies were sufficient in the circumstances.

> Code of Ethics and police Standards of Professional Behaviour

49. The Code of Ethics aims to support police officers and staff to “*deliver the highest professional standards in their service to the public*” when exercising their duty to protect the public and to prevent crime. At its centre is the National Decision Model (NDM) which ensures that all decisions made by police officers, staff, contractors and volunteers working in policing are consistent with the standards of professional behaviour set out in the Code of Ethics.
50. The NDM enables police officers to rationalise decisions made when attending incidents by providing them with a structure as follows:



51. The Police (Conduct) Regulations 2020, Schedule 2, laid out ten standards in relation to the conduct of police officers and staff that they should all apply. These are mentioned at this stage of the report because they underpin all police officers’ and police staff’s actions, decisions and conduct. They are contained in the Code of Ethics. The standards that are relevant in this investigation are:
- **Honesty and Integrity:** police officers “*will be honest and act with integrity at all times and will not compromise or abuse my position.*”
 - **Authority, respect and courtesy:** police officers “*will act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy. I will use my powers and authority lawfully and proportionately and will respect the rights of all individuals*”
 - **Use of force:** “*Police officers only use force to the extent that it is necessary, proportionate and reasonable in all the circumstances.*”

- Duties and responsibilities: *“Police officers are diligent in the exercise of their duties and responsibilities.”* The Code states that officers are required to *“account for any use of force, in other words justify it based upon your honestly held belief at the time that you used the force.”*
- Equality and diversity: police officers must:
 - *“uphold the law regarding human rights and equality*
 - *treat all people fairly and with respect*
 - *treat people impartially”*

The Code states that meeting this standard means that police officers, *“act and make decisions on merit, without prejudice and using the best available information”*.

52. Additionally, the College of Policing Code of Ethics states at paragraph 3.1 that a police constable must:
- uphold the law regarding human rights and equality
 - treat all people fairly and with respect
 - treat people impartially

> Driving

53. S163 of the Road Traffic Act (RTA) 1988 confers powers to the police to stop vehicles as follows:
- *“(1)A person driving a motor vehicle on a road must stop the vehicle on being required to do so by a constable in uniform.*
 - *(2)A person riding a cycle on a road must stop the cycle on being required to do so by a constable in uniform.*
 - *(3) If a person fails to comply with this section he is guilty of an offence”*
54. S164 and 165 make it an offence if being the driver of a vehicle on a road or being a person whom a police constable reasonably believed has driven a vehicle when an accident occurred, owing to its presence on a road, or other public place fails on being so required by a constable to produce his/her driving licence, insurance and/or MOT certificate.
55. Under s6 of the Road Traffic Act 1988 a constable in uniform may require a person to provide a preliminary drug test where he reasonably suspects that the person to be driving or in charge of a motor vehicle on a road has cannabis in their body (there is no requirement that the person appears intoxicated). It is an offence to refuse the test and failure provides grounds for arrest.

Use of legal exemptions

56. The Road Traffic Regulations Act 1984 and The Traffic Signs Regulations and General Directions 2016 exempt emergency vehicles from the observance of, and complying with:
- speed limits,
 - keep left/right signs
 - red traffic signals, if it would hinder the use of the vehicle for policing purposes¹.
57. S87 of the Act specifically refers to the use of exemptions of fire brigade, ambulance and police vehicles from speed limits and explains “*No statutory provision imposing a speed limit on motor vehicles shall apply to any vehicle on an occasion when it is being used for [fire and rescue authority], for ambulance purposes or police purposes, if the observance of that provision would be likely to hinder the use of the vehicle for the purpose for which it is being used on that occasion.*”
58. The College of Policing stipulates that the “*Use of exemptions are an everyday occurrence and, where applied, the driver must be able to readily and proportionately justify their actions in the pursuance of their duty.*”
59. The College of Policing’s Authorised Professional Practice (APP) is the national guidance applicable to all police forces in England and Wales. The APP on road policing and police driving states that, only drivers who are suitably trained to ‘national standards’ are entitled to use legal exemptions. It specifies that standard/response drivers are trained to a standard to enable them to respond safely to incidents using the legal exemptions afforded to them by The Road Traffic Regulation Act 1984 and The Traffic Signs Regulations and General Directions 2016.
60. The APP points out that despite the existence of exemptions “*an officer must always give due regard to their driving manner and behaviour which should not put other road users or members of the public at a risk that cannot be justified.*”

Police pursuit

61. The APP and SOP on police pursuits state that a police driver is deemed to be in pursuit when a driver indicates by their actions or continuance of their manner of driving that they have no intention of stopping for police. The police driver must believe the driver of the subject vehicle is aware of the requirement to stop and decides to continue behind the subject vehicle with a view to either reporting its progress or stopping it.
62. The SOP states, “*the majority of police pursuits start with an officer forming the intention to stop a vehicle and / or its occupants, either as a result of observed behaviour or as a result of Intelligence or information received. This will be followed by some form of Intelligence gathering,*

¹ Policing purposes essentially means the investigation, detection and prevention of crime.

dynamic risk assessment and an attempt to stop the vehicle. If the driver fails to stop, continuing to maintain contact with a vehicle in these circumstances is described as a Pursuit.” The MPS policy also states that “the initial phase begins as soon as a driver fails to stop for police.”

63. The APP states, *“A spontaneous pursuit occurs when the actions of the subject driver in deciding to flee are triggered by the presence of a patrolling vehicle without warning or sufficient time for the development of specific strategy and plans.”*
64. The APP is clear that vehicles that can transport large number of personnel such as people carrier are prohibited from undertaking any phase of a pursuit. MPS Police Driver and Vehicle Policy - Pursuits Standard Operating Procedure (SOP) confirms that PSU personnel carrier marked or unmarked are specifically excluded from undertaking pursuits. The policy continues, *“Drivers of these vehicles should in the event that a vehicle fails to stop upon request, assume the role of a Basic driver and report the vehicles last known direction. They must not drive in response mode in order to maintain contact with the subject vehicle.”*
65. According to the SOP:
 - A Basic Driver cannot undertake a pursuit.
 - A Response Driver may undertake an initial phase pursuit in marked vehicles only.
 - A Covert Advanced trained driver can undertake Initial phase pursuit in unmarked, high-performance vehicles only. If driving a marked response vehicle or an unmarked low performance vehicle a Covert Advance driver is restricted to the initial phase.
 - An Advanced Driver can undertake an initial pursuit in both marked and unmarked vehicles.
66. The APP states, *“Initial phase trained drivers/motorcyclists must immediately inform control/communications room staff of the circumstances when it becomes evident that a vehicle is refusing to stop. Authorisation to continue must be sought and, if granted, the driver may pursue in the initial phase only” and “Officers should inform control/communications room staff of their driving authority level, which police vehicle they are using, and give a description of the subject vehicle and occupants as well as the direction of travel.”*
67. The SOP states that a basic driver *“must not take part in a vehicle pursuit. Basic drivers must immediately inform Met CC, via the main pursuit working channel - MPS InterOps1, of the circumstances when it becomes evident that a vehicle is refusing to stop having been required to do so. If the vehicle is not fitted with a main set this should be done via a CAD [(computer Aided Dispatch)] message from the local control room. The officer may observe the vehicle, reporting on its progress, but only within the confines of their normal driving authority. They must not make use of any legal driving exemptions or use emergency warning*

equipment. Breaches of this instruction may result in discipline or other sanctions being taken by the Police Driving Standards Unit.”

68. According to the SOP, “[o]fficers should seek authorisation for their decision to engage in a pursuit from the Met CC Supervisor at Lambeth”. The SOP states that the driver or operator who is informing Met CC should ask “Do I have authority to continue?”
69. The policy states, “on occasion, the time available between recognising the need for action and taking action maybe too short to obtain the authority. In such cases officers may self-authorise and justify the decision at a later time in line with the NDM.”
70. The MPS vehicle and equipment policy states that use should be made of warning equipment (lights and/or sirens) or indicators to ensure the driver of the vehicle being stopped understands the requirement for them to stop.
71. The policy states that, “Officers should give consideration to the location of a stop and should not stop in a dangerous position such as the brow of a hill, bend in the road or near a junction. A police stop should also avoid any necessary congestion being caused to other road users.”
72. The policy states that “the tactical phase occurs where tactics to bring the pursuit to a resolution are available. Tactics are actions intended to conclude the pursuit using physical intervention and only level one TPAC trained drivers in suitable vehicles will engage the tactical phase.”
73. A driver who has completed a Tactical Pursuit & Containment (TPAC) course can undertake both initial and tactical phase of a pursuit if driving a suitable vehicle. The policy also states that “only those drivers trained In pre-emptive tactics are permitted to use tactics to prevent a pursuit, boxing can only be undertaken by TPAC trained drivers or other trained drivers who have been specifically trained in pre-emptive tactic e.g. re-enforced stop.”
74. Until the pursuit progresses to the tactical stage, “drivers must not get involved in any attempt to stop the vehicle.” Instead, police drivers in the initial stages are to be “engaged in a reporting role, passing information to Met CC [Metropolitan Police Contact Centre] to enable the control room operator to deploy a TPAC trained driver in a suitable vehicle.”

> Stop and search

75. The guidance on how to conduct a search under s1 for weapons and under a s23 Misuse of Drugs Act (MDA) is set out in the Police and Criminal Evidence Act (PACE) 1984, Code A, the College of Policing Authorised Professional Practice (APP) and the Metropolitan Police Service (MPS) Standard Operating Procedure (SOP) and other internal policies.

76. According to the College of Policing APP on Stop and Search:
- *“Section 1 of the Police and Criminal Evidence Act 1984*
Section 1(2)(a) of PACE provides police officers with the power to stop and search any person, vehicle, or anything which is in or on a vehicle, for stolen or prohibited articles, points and blades, or fireworks. Prohibited articles include offensive weapons and articles with which a person is going equipped to steal or cause criminal damage. Section 1(2)(b) gives the accompanying power to detain individuals and vehicles for the purpose of conducting a search.

 - *Section 1(3) specifies that the power only applies where the officer has reasonable grounds to suspect that the relevant article will be found.”*

 - *“Section 23 of the Misuse of Drugs Act 1971*
Section 23(2) of the MDA provides that a constable may search a person suspected of being in possession of a controlled drug and detain them for the purpose of the search. They may also search any vehicle or vessel in which they suspect the drug may be found, and can require the person in control of the vehicle or vessel to stop it for that purpose.

 - *This provision specifies that the person must be suspected of being in possession of the drug, not merely to have used it or been present during its use by others. With respect to a vehicle, the provision similarly requires the officer to suspect that the drug may be found in it.”*
77. PACE Code A states that *“the primary purpose of stop and search powers is to enable officers to allay or confirm suspicions about individuals without exercising their power of arrest. Officers may be required to justify the use or authorisation of such powers, in relation both to individual searches and the overall pattern of their activity in this regard, to their supervisory officers or in court.”*
78. As part of their toolkit for officers, the MPS publishes a series of documents aimed at supporting officers in a variety of areas including stop and search. The document entitled ‘Stop & Search Policy Toolkit – Questions and Answers (Q&As) published in 2017, responds to a list of topical questions including what the Quality of Encounter Model is. The document states the model is *“encapsulated into four simple headings: Explain, Ensure, Record and Reassure.*
- *Explain – An appropriate introduction and explain what is going to happen during the encounter.*
 - *Ensure – Obtain agreement or understanding and thus co-operation.*

- *Record – Provide acknowledgement of the encounter (hand over a copy of the search form/receipt).*
 - *Reassure – A positive departure (explain you are acting to protect Londoners)."*
79. As the model suggests, reasonable steps must be taken to provide certain information to the person to be searched, including a person in charge of a vehicle which is to be searched. These requirements are set out in s2 of PACE and Code A. If these are not followed in full, any evidence thus obtained could be challenged in court (PACE Code A, para 1.6).
80. There is significant case law which highlights the risk to evidence posed by failing to adhere to the requirements set out in PACE, including:
- *R v Fennelley 1989 - demonstrates that the courts are ready and willing to exclude evidence obtained as a result of a s1 PACE search where the aforementioned requirements have not been explained adequately by the relevant officer.*
 - *Bonner v DPP 2004 - highlights that a failure to comply with PACE or its accompanying Codes of Practice when conducting searches means that a police officer would be acting outside the scope of the execution of their duties.*
 - *Sobczak v DPP 2012 - provides that "section 2(2) is mandatory and requires that an officer conducting a search take reasonable steps to bring certain matters to the attention of the appropriate person, including the officer's name and station, the object of the search, and the grounds for making it".*
 - *R (on the application of Michaels) v Highbury Corner Magistrates Court 2009 – states "however ritualistic the requirement in section 2 may appear, it had to be complied with in order for the subsequent search to be lawful".*

Reasonable grounds

81. PACE Code A provides the test for reasonable grounds for suspicion, outlining that the officer must have formed a genuine suspicion in their own mind that they will find an object and secondly that the suspicion an object will be found must be reasonable. Further, PACE Code A provides officers with guidance on reasonable grounds, informing them that reasonable grounds should normally be linked to accurate and current Intelligence.
82. PACE Code A, paragraph 2.2, deals with the legal test of 'reasonable grounds for suspicion' in relation to police officers' use of stop and search powers. It states: "*Reasonable grounds for suspicion is the legal test which a police officer must satisfy before they can stop and detain individuals or vehicles to search them under powers such as section 1 of PACE (to find stolen or prohibited articles) and section 23 of the Misuse*

of Drugs Act 1971 (to find controlled drugs). 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, information and/or Intelligence 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 and/or Intelligence.

83. To support its officers further, the MPS has a Standard Operating Procedure (SOP) for stop and search which gives the following guidance on reasonable grounds for suspicion:

“What are reasonable grounds for suspicion?

Reasonable grounds for suspicion is the legal test which a police officer must satisfy before they can stop and detain individuals or vehicles, to search them under powers such as s.1 PACE 1984, s.23 Misuse of Drugs Act 1971. The following test must be applied to the particular circumstances in each case:

- An 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

- The suspicion that the object will be found must be reasonable. This means there must be an objective basis for that suspicion based on facts, information and / or Intelligence 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 and / or Intelligence.*

Reasonable suspicion can never be supported on the basis of personal factors. This means that unless the police have information or Intelligence which provides a description of a person suspected of carrying an article for which there is a power to stop and search, the following cannot be used, alone or in combination with each other, or in combination with any other factor, as the reason for stopping and searching an individual, including any vehicle they are driving or being carried in:

- A person’s physical appearance (including any of the ‘protected characteristics’ set out in the Equality Act 2010), or the fact that the person is known to have a previous conviction; and*

- *Generalisation or stereotypical images that certain groups or categories of people are more likely to be involved in criminal activity.*

Reasonable grounds for 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. Reasonable suspicion may also exist without specific information or Intelligence on the basis of the behaviour of a person.

You MUST be able to justify your grounds for suspicion. The mere appearance of a person is not sufficient – there must be something about their manner, deportment, conversations and the surrounding circumstances which afford the suspicion. A hunch or instinct which cannot be explained or justified to an objective observer can never amount to reasonable grounds. To further assist understanding, the following guidance has been developed (this list is not exhaustive):

- *Known criminal – not to be used as a ground for search, PACE Code A does not allow the fact that someone has a criminal conviction as a reason for searching that person.*
- *Known drug user – not to be used as a ground for search as it is non specific and if correct, would relate to a criminal conviction and therefore falls under the above bullet point;*
- *Smell of drugs – insufficient in itself and needs to be expanded with the circumstance / conversation with the individual / their appearance, actions, behaviour etc.*
- *Anti-Police – not to be used. It is not suspicious to dislike or be uncooperative towards the police.*
- *High crime area – must have a reference to a specific briefing or tasking location.*
- *Crime or drugs hotspot – must have a reference to a recent specific briefing, tasking, CAD etc.*
- *Evasive to questions – include reference to what the questions were about e.g. evasive to questioning about where they had just come from.*
- *Appeared nervous – needs to be expanded to include specific actions or behaviour e.g sweating, muscles tensed, pacing, refuses to co-operate, repeats questions before answering etc.*
- *Fitted description of a suspect for a recent crime – must include a summary of the description and a reference (CAD, CRIS etc.) e.g White male, 18yrs, blue hoody, CAD 63 refers.*
- *Acting as a lookout – needs further explanation. Describe what you saw them doing e.g. observed for 3 minutes at the rear of a closed shop premises, crouching down behind a wall, kept peering over the wall looking left and right down the alley.*

- *Avoids police – describe what they did e.g. changed direction and/or speed of walking having seen police, or, ran away from police when approached.*
- *Concealed an article on seeing police – describe the item, and / or what you believed it to be (and why). Describe where / how it was concealed e.g. inside their jacket, up their sleeve, inside their sock etc.”*

84. According to PACE Code A searches based on accurate and current intelligence or information are more likely to be effective. Code A provides guidance on reasonable grounds for suspicion based on information and/or Intelligence:

“Reasonable grounds for 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. This would include reports from members of the public or other officers describing:

- *a person who has been seen carrying such an article or a vehicle in which such an article has been seen.*
- *crimes committed in relation to which such an article would constitute relevant evidence, for example, property stolen in a theft or burglary, an offensive weapon or bladed or sharply pointed article used to assault or threaten someone or an article used to cause criminal damage to property.”*

85. Code A also provides guidance on reasonable grounds for suspicion based on behaviour, time and location:

“Reasonable suspicion may also exist without specific information or Intelligence and on the basis of the behaviour of a person. For example, if an officer encounters someone on the street at night who is obviously trying to hide something, the officer may (depending on the other surrounding circumstances) base such suspicion on the fact that this kind of behaviour is often linked to stolen or prohibited articles being carried. An officer who forms the opinion that a person is acting suspiciously or that they appear to be nervous must be able to explain, with reference to specific aspects of the person’s behaviour or conduct which they have observed, why they formed that opinion. A hunch or instinct which cannot be explained or justified to an objective observer can never amount to reasonable grounds.”

86. Code A goes on to clarify what cannot form part of an officer’s reasonable grounds for suspicion:

“Reasonable suspicion can never be supported on the basis of personal factors. This means that unless the police have information or Intelligence which provides a description of a person suspected of carrying an article for which there is a power to stop and search, the following cannot be used, alone or in combination with each other, or in combination with any

other factor, as the reason for stopping and searching any individual, including any vehicle which they are driving or are being carried in:

(a) A person's physical appearance with regard, for example, to any of the 'relevant protected characteristics' set out in the Equality Act 2010, section 149, which are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation, or the fact that the person is known to have a previous conviction; and

(b) Generalisations or stereotypical images that certain groups or categories of people are more likely to be involved in criminal activity."

Fair and effective

87. The College of Policing APP goes on to explain that the four core elements that should underpin a stop and search are that:

- "1. The decision to stop and/or search a person must be fair*
- 2. The search must be legal in basis and in application*
- 3. Interaction with the public during the encounter must be professional*
- 4. Police use of stop and search powers must be transparent and accountable."*

88. The APP states that a stop and search is, "most likely to be fair and effective when:

- the search is justified, lawful and stands up to public scrutiny*
- the officer has genuine and objectively reasonable suspicion that s/he will find a prohibited article or item for use in crime*
- the person understands why they have been searched and feels that they have been treated with respect*
- the search was necessary and was the most proportionate method the police officer could use to establish whether the person has such an item".*

The APP advises that it is not good practice to stop and search based on a single ground.

Professional

89. GOWISELY is an acronym used to outline the steps an officer must take before and during a stop and search. It stands for: Grounds, Object, Warrant, Identification, Station, Entitlement, Legislation and You.

G	A clear explanation of the officer's grounds for suspicion, eg, info/intel or specific behaviour of person.
O	A clear explanation of the object and purpose of the search in terms of the article being searched for.
W	Warrant card, if not in uniform or if requested.
I	Identity of the officer(s): name and number or, in cases involving terrorism or where there is a specific risk to the officer, just warrant or collar number.
S	Station to which the officer is attached.
E	Entitlement to a copy of the search record within 3 months.
L	Legal power used.
Y	You are detained for the purposes of a search.

90. Code A states that *“A search of a person in public should be completed as soon as possible.”*

91. PACE Code A provides details on what must be recorded after a stop and search which does not result in an arrest:

“When an officer carries out a search in the exercise of any power to which this Code applies and the search does not result in the person searched or person in charge of the vehicle searched being arrested and taken to a police station, a record must be made of it, electronically or on paper, unless there are exceptional circumstances which make this wholly impracticable (e.g. in situations involving public disorder or when the recording officer’s presence is urgently required elsewhere). If a record is to be made, the officer carrying out the search must make the record on the spot unless this is not practicable, in which case, the officer must make the record as soon as practicable after the search is completed.

If the record is made at the time, the person who has been searched or who is in charge of the vehicle that has been searched must be asked if they want a copy and if they do, they must be given immediately, either:

- *a copy of the record; or*
- *a receipt which explains how they can obtain a copy of the full record or access to an electronic copy of the record.*
- *An officer is not required to provide a copy of the full record or a receipt at the time if they are called to an incident of higher priority.”*

92. PACE Code A also emphasises the importance of supervising officers in monitoring stop and search encounters. Code A states *“Supervising officers must monitor the use of stop and search powers and should consider in particular whether there is any evidence that they are being exercised on the basis of stereotyped images or inappropriate*

generalisations. Supervising officers must satisfy themselves that the practice of officers under their supervision in stopping, searching and recording is fully in accordance with this Code. Supervisors must also examine whether the records reveal any trends or patterns which give cause for concern and, if so, take appropriate action to address this.” Code A also states that “Senior officers with area or force-wide responsibilities must also monitor the broader use of stop and search powers and, where necessary, take action at the relevant level.”

93. Code A provides further details as to how supervising officers must monitor stop and searches. It states *“Police supervisors must monitor the use of stop and search powers by individual officers to ensure that they are being applied appropriately and lawfully. Monitoring takes many forms, such as direct supervision of the exercise of the powers, examining stop and search records (particularly examining the officer’s documented reasonable grounds for suspicion) and asking the officer to account for the way in which they conducted and recorded particular searches or through complaints about a stop and search that an officer has carried out.”*

> Discrimination

94. Discrimination is referred to in the College of Policing Authorised Professional Practice (APP) and guidance on misconduct proceedings, the Police (Conduct) Regulations 2020, Equality Act 2010 and PACE Code A.

General principles

95. The Standard of Professional Behaviour for Equality and Diversity states that officers must not discriminate unlawfully or unfairly. Unlawful discrimination is defined according to the tests set out in the Equality Act. According to the Equality Act, direct discrimination occurs when a person is treated less favourably on the basis of a protected characteristic. In the present case, the protected characteristic would be race.
96. APP on Stop and search defines conscious and unconscious bias in the following way:
- *“Conscious bias is a prejudice of which the person who holds it is aware, e.g., an officer who has a negative or positive view of a particular group. If the officer acts on that prejudice by treating that particular group differently to others, whether to the person’s advantage or disadvantage, the result is overt discrimination.*
 - *Unconscious bias and stereotyping are more difficult to identify and address because people are often unaware of using mental shortcuts to make sense of people and situations that might be new, different or unfamiliar.”*

97. The College of Policing Guidance on Outcomes in Police Misconduct Proceedings advises:
- Discrimination towards persons on the basis of [protected] characteristics is never acceptable and always serious.
 - Discrimination may involve language or behaviour. It may be directed towards members of the public or colleagues. It may be conscious or unconscious.

It is important to note that while discrimination is always serious, the COP guidance still provides for different levels of seriousness and states that “*cases where discrimination is conscious or deliberate will be particularly serious.*”

98. The CoP guidance on outcomes in police misconduct proceedings states that “*Discrimination may involve language or behaviour. It may be directed towards members of the public or colleagues. It may be conscious or unconscious.*” It also states that “*Unconscious discrimination can, however, also be serious and can also have a significant impact on public confidence in policing.*”
99. The IOPC guidelines for handling allegations of discrimination state: “*Direct discrimination includes actions that are informed by biased assumptions or prejudice in respect of a protected characteristic – even if this is done unconsciously. An investigation into this type of allegation will need to test whether discriminatory assumptions, prejudice or bias impacted on police actions or behaviours. To do this the investigating officer will need to have an understanding of what these discriminatory assumptions might be.*”
100. In *Nagarajan v London Regional Transport* [1999], the courts said “*Many people are unable, or unwilling, to admit even to themselves that actions of theirs may be racially motivated. An employer may genuinely believe that the reason why he rejected an applicant had nothing to do with the applicant’s race. After careful and thorough investigation ... [a panel] may decide that the proper inference to be drawn from the evidence is that, whether the employer realised it at the time or not, race was the reason why he acted as he did*”².
101. Although discrimination can be present in any area of policing, there is specific regulation that apply to stop and search.

Discrimination and stop and search

102. PACE Code A states that “*Powers to stop and search must be used fairly, responsibly, with respect for people being searched and without unlawful discrimination. Under the Equality Act 2010, section 149, when police officers are carrying out their functions, they also have a duty to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity between*

² This guidance has been given largely in the context of employment, but the concepts are the same outside of the employment sphere.

people who share a 'relevant protected characteristic' and people who do not share it, and to take steps to foster good relations between those persons (see Notes 1 and 1A)."

103. The APP guidance stresses that: *"The presence or absence of procedural justice (ie, fair decision making and respectful treatment) during stop and search can affect whether people perceive the police to be legitimate. When a person or particular group does not understand the reason for the police stopping or searching them, or feels unfairly singled out, it can damage their trust in the police and increase resentment"*
104. APP clarifies that an officer cannot:
- *"decide to stop and/or search a person **because of** their physical appearance" including "protected characteristics under section 4 of the Equality Act 2010... Other examples might include hairstyle, facial hair or items of clothing, including dress associated with a particular religion or faith"*
 - *decide to stop and/or search a person **because** the officer knows they have been in trouble before, whether or not they have previous convictions*
 - *assume that **because** a person, for example, lives on a particular street, adopts a specific lifestyle or is a young person wearing a hoodie, they are likely to be carrying a prohibited item."*

> The use of search dogs

105. The NPCC Police Dogs Manual of Guidance 2011 states that police dogs provide support to frontline officers in a number of activities including the search of a person and property. The document highlights that dogs can be deployed as a use of force or in non-use of force operations such as for the search of *"articles of evidential value"* and specialist searches such as drugs and weapons.
106. According to the manual, General Purpose Dogs (GP) are trained to search for discarded property or evidential material but it may require a more specialist dog such as a Proactive Drugs or Firearms Dog to search open spaces for drugs or firearms. The manual specifies that drugs dogs can be used to detect firearms. The manual also states that *"dogs being training in the detection of drugs could fall in two categories: Specialist Drugs Search Dogs i.e. those dogs trained solely for the detection of drugs, Dual Purpose Search Dogs i.e. general purpose dogs that are additionally trained to detect drugs."* During the training of the dogs, instructors must wear gloves so that scents do not confuse the dog.
107. The manual states that good practice dictates that *"police dogs may not be appropriate to be used in places of perceived sensitivity. Police dogs should only be used in intelligence-led operations, in cases of extreme urgency or where a clear and credible threats exists."*

108. The Met Dogs Service Unit (DSU) is a 24/7 specialist dog support to all BCU's across the whole of the Met. It works with TSG, Marine Policing Unit and Mounted Branch. The Met intranet states that to *"cover all aspects of a DSU handler, we have several dog types such as our General Purpose (GP) Dogs, Proactive Narcotics Dogs, Passive Narcotics Dogs, Specialist Forensic Search Dogs, Victim Recovery Dogs, Explosive (EXPO) Dogs and Trojan Dogs."*
109. General Purpose Dogs (GP) can assist in locating *"Suspects, missing Persons or discarded property from a scene. Our GP dogs also deploy to spontaneous public disorder, violent or an armed suspect"* including to provide *"Support to Frontline Policing BCU both Response and Pre-Planned"* and other police units in public order, sporting events and community engagement for instance.
110. According to the Met intranet, there are two types of drugs dogs. Narcotics Detection Dogs *"are available to locate Narcotics of all types. Proactive Narcotics Dogs are trained to search within Buildings and Vehicles for Narcotics, Firearms and Cash. IE During the execution of a warrant."* Passive Narcotics Dogs *"are trained to scan the air around people and indicate any persons carrying Narcotics in Public especially crucial during night life Policing."*

> Use of force

111. Section 117 of the Police and Criminal Evidence Act (PACE) 1984 applies where any provision of this Act *"confers a power on a constable, and does not provide that the power may only be exercised with the consent of some person, other than a police officer, the officer may use reasonable force, if necessary, in the exercise of the power."*
112. Section 3 (1) of the Criminal Law Act 1967 states *"a person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at larg."*
113. Section 76 of the Criminal Justice and Immigration Act 2008 reaffirms that a person who uses force is to be judged based on the circumstances, as he/she perceived them.
114. The general common law principle is stated in Beckford v R: *"a defendant is entitled to use reasonable force to protect himself, others for whom he is responsible and his property. It must be reasonable."*
115. The College of Policing Authorised Professional Practice (APP) – Use of Force recommends that questions related to the force used by police officers are considered in line with ten key principles that govern the use of force by the police service.
116. Amongst these principles, the most relevant to this case state:

- *“Police officers owe a general duty to protect persons and property, to preserve order, to prevent the commission of offences and, where an offence has been committed, to take measures to bring the offender to justice;*
- *Police officers may, consistent with this duty, use force in the exercise of particular statutory powers, for the prevention of crime or in effecting a lawful arrest. They may also do so in self-defence or the defence of others, to stop or prevent an imminent breach of the peace, and to protect property;*
- *Police officers shall, as far as possible, apply non-violent methods before resorting to any use of force. They should use force only when other methods have proved ineffective, or when it is honestly and reasonably judged that there is no realistic prospect of achieving the lawful objective identified without force;*
- *When force is used it shall be exercised with restraint. It shall be the minimum honestly and reasonably judged to be necessary to attain the lawful objective”.*

> Tactical options

117. The PSM on conflict management (Module 02) refers to the fact that any tactical option chosen by an officer must *“be proportionate to the threat faced in any set of circumstances.”* The guidance recognises that the aim of using any tactical option is to *“gain control of the situation and then retain that control so that officers are in a position to carry out their duty, whatever that may be.”*
118. The APP on Public Order describes threat and risk in the following way:
- *“**Threat** may be summarised as the source of actual or potential harm (ie, anything that can cause harm).*
 - ***Risk** refers to the possibility of harm occurring, and has been widely accepted as the measurement of both the likelihood and the impact of an event which could cause harm.”*
119. In considering risks, the APP explains that police officers should consider the *“immediacy of the threat including the assessment of capability and intent of the subject(s)”* as part of their decision-making.
120. Module 02 defines risk or threat assessment as *“accurately assessing any impact factors relating to the situation particularly to the officer, person, object or place which could put anyone at risk.”* The document states that risks are either high or unknown and that a high risk is an obvious risk like someone waving a knife. It also points out that threat and risks levels are fluid and need to be reassessed throughout an incident.
121. Module 02 also encourages officers to think of threat and risks in relation to person, object and place to develop a working strategy. The document

recommends that officers be aware of a person's hands going into a pocket, reaching for an object, the person's behaviour, other individuals present at the time and the surroundings. It further states that a high risk is an obvious risk like someone waving a knife.

122. Module 02 proposes several categories of behaviour that police officers may encounter and that should form part of their decision-making process:
- Compliance: *"the subject offers no resistance and complies with requests. It is important that the officer understands that this could change rapidly."*
 - Verbal resistance and gestures: *"the subject refuses to comply either verbally or, by their body language, non-verbally."*
 - Passive resistance: *"the subject stands/sits/lies still and will not move."*
 - Active resistance: *"the subject pulls away or pushes the officer but makes no attempt to strike them."*
 - Aggressive resistance: *"the subject physically attacks the officer."*
 - Serious or aggravated resistance: *"the subject commits an assault which presents the possibility of serious injury or death. This includes the use of weapons."*

Batons

123. The APP states that batons can be used by officers to defend themselves or as a demonstration of force. The APP further says that as other uses of force it needs to be necessary, proportionate and reasonable and as such the *"level of force should be reasonable, necessary and proportionate (ie, minimum required to meet a lawful objective, and be ECHR-compliant)."*
124. The Personal Safety Manual (PSM) on batons (Module 10) says that this is a tactical option used to manage conflicts. The document recognises that the aim of using any tactical option is to *"gain control of the situation and then retain that control so that officers are in a position to carry out their duty, whatever that may be."*
125. The PSM describes several ways that a police officer should hold his baton. One of these is described in the training manual as the 'ready stance' where the baton rests on the shoulder.

Tactical communication

126. The PSM on communication defines tactical communication as, *"the use of communication skills with the purpose of achieving control"*. It states: *"When confronting aggressive behaviour, successful resolution may be achieved by calming the emotions and then building a rapport with the individual once they are back to thinking rationally ... those dealing with the incident should be assertive, signal nonaggression, and use active*

listening skills at the same time being aware of their own and other's attitudes and behaviours".

Handcuffs

127. The PSM on handcuffing (Module 08) states that *"The physical condition of a person is another consideration in deciding whether or not handcuffs should be applied or their application continued. For example, where a person has a condition that may be aggravated when handcuffed, this might make their use unreasonable. When handcuffs are used, the condition of the person should be monitored to ensure that there is no particular risk of injury or death."*
128. The guidance states that in considering what action is reasonable, an officer should apply the principles of the Conflict Management Model, especially the Impact Factors. Factors such as age and gender, respective size and apparent strength and fitness may or may not support the justification of using handcuffs, taking into account all the accompanying circumstances at the time. *"There must always be an objective basis for the decision to apply handcuffs"*.
129. Module 08 explains that, *"If violence had already been displayed in the circumstances that led to the detention, regardless of whether or not the detention was for an offence involving violence this could constitute adequate objective grounds for handcuffing. Verbal and non-verbal indications from a person of a possible likelihood of violence can provide grounds for making an objective decision. When a person is known or is believed to be likely to use violence, based on previous experiences of such (perhaps particularly at the point of detention or while in custody), this would also assist an officer to develop an objective basis for a decision to use handcuffs."* The PSM also reminds officers that handcuffs are temporary and do not totally immobilise the person who can still have a weapon that they can use.
130. The PSM recommends that the officer should communicate with the person about what they are doing and states that the *"Initial control of the subject is achieved by downwards pressure on the subject's shoulder, and by pressure against / locking out the subject's elbow when the arm is straightened, together with downward pressure on the subject's wrist."*
131. Module 08 describes back-to-back handcuffing as *"a method of handcuffing where the subject is handcuffed to the rear, with their hands facing back to back"*. The manual states that front stack position is *"a method of handcuffing where the fingers of the subject's hand face in opposite directions and the palms of both hands face downwards"*. Module 08 also provides an illustration of front stack and back to back handcuffing:



Front stack position



Back-to-back position

132. The PSM recommends that officers should follow these first steps when using the back-to-back position:

- *“Approach the subject from outside the fighting arc maintaining a good stance, using clear verbal commands throughout.*
- *Instruct subject to place arms out to side, legs apart, lean forward at the waist, look away, rotate shoulders forwards and turn palms up.”*

133. Module 08 explains that, *“With this in mind consider a safe approach and only remove handcuffs when the threat assessment indicates that it is safe to do so. It should be done in a safe and secure environment e.g. the custody area or with the support of other staff. Removing them while the handcuffed subject is seated, kneeling or prone may lessen the risk”*. The guidance recommends that constant monitoring of the person handcuffed is necessary.

> Safeguarding children

134. APP Guidance on the Police Response to Concern for a Child stipulates that officers making decisions about a child *“need to listen to the child and take their views into account. Attention should be paid to what the child says and does not say, how they look and how they behave.”*

135. It further states *“Officers attending any incident should be prepared to identify issues that affect the safety and welfare of children. Where concern for children is identified, contact should be made with the local child abuse investigation unit as soon as possible. [...] Officers should*

consider whether the incident is one in a series of related incidents, not all of which may have been reported previously.”

136. The guidance also notes that *“officers should be aware of, and be able to identify, children who may have been harmed physically or emotionally, or are at risk of harm or in need, even when they are dealing with matters that appear to be unrelated to child abuse.”*
137. The MPS ‘Instructions, Advice and Guidance for Frontline Officers and Supervisors in Regard to Safeguarding Children’ contains an initial investigation checklist of specific actions for officers. It indicates that officers must *“observe, listen to and be alert to the needs of the child” and should “record [...] the impact of the issues in the case.”*
138. The policy stipulates that *“the welfare of the child is the priority in all types of investigations and police officers attending any incident should be prepared to identify issues that may affect the safety and welfare of children.”*
139. The policy recommends that relevant initial actions include:
- Assessing the welfare of any child present or connected to the scene or involved parties.
 - Recording on the Computer Aided Dispatch (CAD) any child welfare concerns and assigning themselves as *“Safeguarding Officer.”* Officers must record all information about that child and the risks associated with that child being in that environment and/or in the care of other persons responsible.
 - Conduct a dynamic risk assessment, taking into account relevant information and Intelligence received from police indices and partner agencies.
 - Complete a Merlin pre-assessment check (PAC): If an officer has concerns about that child, a Merlin PAC must be completed and must include full details of the child, a clear record of concerns and *“an accurate description of circumstances,”* including the condition of the child (*“injuries recorded, physical state and clothing etc”*) and the condition of the house (*“hazards, risks, lack of food and living conditions”*), any actions taken by police, details of any other agencies contacted and a cross reference to any other reports such as crime report on the crime report information system (CRIS), Police Protection CRIS and other Merlin reports, if applicable.
140. According to the London Mash Project Toolkit, Multi Agency Safeguarding Hubs (MASH) ³ *“co-locate safeguarding agencies and their data into a secure assessment, research and decision-making unit that is inclusive of all notifications relating to safeguarding and child welfare in a Local Authority Area.”* MASH share information and resources across partner agencies including local government, health and social care,

³ <https://www.londonscb.gov.uk/>

policing and education to “enable decisions to be made based upon interpretation of the best possible information at a given time, supporting only necessary, proportionate and timely interventions.” Notifications from the police come into MASH via Merlin reports.

141. The toolkit indicates that a Merlin PAC should be created for a child if there is a policing incident and safeguarding or welfare concerns for a person under the age of 18 are identified. “Merlin PACs were created by the MPS to comply with the ‘Every Child Matters’ (ECM) initiative.” They are to be completed when police encounter “a child in circumstances that cause concern in relation to that child or other members of its family failing to meet one or more of the five key outcomes society wants for all children. These are best described using the SHEEP mnemonic. S - Stay Safe H - Healthy E - Economic Wellbeing E - Enjoy and Achieve P - Positive Contribution.”
142. According to The London Continuum of Need classification system (BRAG), Merlin reports are risk assessed on the circumstances of the incident, and the level of risk is shown using the ‘London Continuum of Need’ criteria for the prioritisation of work. The London Continuum of Need model was developed in consultation with Local Authorities (LAs) and key local, regional and national partners.
143. There are four levels of classification:
 - Blue, Level 1: No identified additional needs. No Local Authority (LA) referral. These PACs still require an IIP search to identify any safeguarding concerns. If these are identified, the initial rating must be reconsidered and revised to reflect the identified risks. If no safeguarding concerns are identified, the researcher must rationalise on the Merlin why the PAC has been rated Blue. This will need to be validated or endorsed by the Police Decision Maker.
 - Green, Level 2: Low risks to vulnerable. Child’s needs are not clear, not known or not being met.
 - Amber, Level 3: Complex needs likely to require longer term intervention from statutory and/or specialist services. High level additional unmet needs - this will usually require a targeted integrated response, which will usually include a specialist or statutory service. This is also the threshold for a child in need which will require a CSC intervention.
 - Red, Level 4 - Acute needs, requiring statutory, intensive support. This includes the threshold for child protection which will require CSC intervention. These cases may also require immediate police intervention as the child has been identified to be at risk of harm.
144. The MASH Process is as follows:
 - Merlin notifications must be assessed by police MASH staff to determine whether it is part of a criminal investigation that requires an immediate referral if this has not yet taken place.

- If several notifications have been received at the same time, the police supervisor “*should immediately and quickly review these to establish a priority for research.*” Each Merlin will be prioritized before research by assigning a number and grading according to the London Consortium of Need grading (see above).
- A researcher or police officer should then research each Merlin notification using a minimum of IIP. A check of the Local Authority (LA) database will be completed to identify if any child within the notification is an open case. i.e. If a social worker is allocated to the child. If so, the PAC will be sent to the allocated worker or team.
- The Police Decision Maker (PDM) then reviews and validates the research, evaluation of risk and control measures completed by the researcher. Guided by the London Continuum, the PDM will assign an appropriate grading (Blue, Green, Amber or Red).
- “*Cases designated at Level 1 (Blue) will be completed with a rationale as to why they are not to be passed to the LA manager for MASH. Cases considered to be Level 2, 3 or 4 (Green, Amber, Red) should be forwarded to the LA MASH Decision Maker who will make the decision in consultation as to whether or not these notifications should be subjected to the full MASH procedure and the level of priority.*” According to the toolkit, this process means that the LA have a record of every Merlin Pac that is risk assessed as red, amber or green.
- The Police Decision Maker will allocate notifications that have a safeguarding concern into the confidential area of MASH for research by all constituent agencies. The priority of the progression of each notification will be based upon the London Continuum and the given BRAG rating: Red: Immediate and serious safeguarding concern requiring action. An information package should be completed within 4 hours. Amber: Significant concerns but no immediate urgent action. A MASH product required within 1 working day. Green: Requires limited services or record only. There are concerns about a child’s well-being, and the child may be in need under section 17. However, there is no information at this stage to suggest an investigation under section 47 would be required. MASH product required within 3 working days.
- Once the information has been gathered, the Local Authority Decision Maker (LA DM) will review the findings, provide a final grading and determine “whether any action is necessary and proportionate to safeguard a child.” It further notes that MASH are expected to “*follow principles of proportionality that where concerns are unjustified or mitigated, unnecessary intervention and disruption do not take place.*” *The LA DM is responsible for deciding the most appropriate agencies to disseminate the MASH report to. They should also make a decision in consultation with*

the “owning agency as to what information can be included in the disclosure to the operational agency.”

- If the LA DM decides a full MASH enquiry is necessary, the Merlin will be flagged to police whilst additional research is conducted using PND, ViSOR and multi-agency research is conducted.

> Media protocol

145. There is one protocol in place that specifically covers the media communications of the IOPC and police services during IOPC investigations. This was agreed by the National Police Chiefs' Council and applicable to police services across the UK, including the MPS.
146. The IOPC/NPCC Joint Media Protocol (updated June 2018), states that both IOPC and police services have a 'shared responsibility for communications with media and the public during IOPC independent and managed investigations, which is to ensure 'public confidence in the investigation and in the police complaints system as a whole'. The protocol refers to the roles and responsibilities of the two organisations when communicating with the media and the public, specifically when the IOPC is conducting an independent investigation or managing an investigation under the Police Reform Act 2002.
147. When a referral is made to the IOPC, the protocol states that the police force should 'restrict their comments at this early stage to matters of fact which cannot become disputed during any IOPC investigation'. The force should not use the fact a referral has been made to the IOPC as justification for not providing any comment or response to the media or public.
148. The protocol recognises that the decision to independently investigate may not be immediate. An example of this is when incidents 'occur in public places and are witnessed and/or filmed by members of the public', the protocol states 'in the absence of any further context, the police force is responsible for issuing factual information'. This includes:
 - Why something has been referred to the IOPC/ reassurance that incident has been referred to an independent body
 - Information and circumstances around a pre-planned or Intelligence-led operation that has led to a referral to the IOPC/ IOPC investigation
 - Factually correct information about – (for example) – why police were in the area or numbers of police in the area
 - Commentary on any parallel criminal investigation by the police
 - Other matters impacting on local people or the wider public interest.

149. When an investigation has been declared as independent or managed, the protocol states that the IOPC will ‘take the media lead’ specifically on what it is investigating. It is therefore important for the police force and the IOPC to establish ‘exactly what is being investigated and by whom’.
150. The protocol recognises that in the initial stages of an IOPC investigation, ‘the information which is available to it is likely to be incomplete and/or not independently verified’, and so the IOPC will only ‘state as face that information which it has independently verified or is clearly irrefutable’.

> Other relevant guidance and policies

Fingerprints

151. Under s61 of the Police and Criminal Evidence Act 1984 (PACE), a suspect’s fingerprints may be taken without consent if:
- they are detained for a recordable offence;
 - they are charged with a recordable offence;
 - are informed that they will be reported for such an offence;
 - a constable reasonably suspects them of committing or attempting to commit an offence, or they have committed or attempted to commit an offence, and: the name of the person is unknown to, and cannot be readily ascertained by, the constable; or the constable has reasonable grounds for doubting whether a name given by the person is their real name.

Safety hammers

152. Certain police vehicles including TSG vans are equipped with a life hammer⁴. The Life Hammer products website⁵ recommends that life hammers are an emergency escape tool to break car windows and cut through seat belts.

Personal Protective Equipment (PPE)

153. The MPS issued advice on 26 June 2020 in relation to the use of masks to keep safe from Covid. This advice was current on 4 July 2020 when Ms Williams and Mr Dos Santos’ were stopped and searched. The document states: “*Officers and staff should expect that they may need to don PPE quickly in some situations and take reasonable precautions to enable this. PPE should be ‘readily available’, for example on the officer’s person rather than in the back of the car.*”

The most effective protection from infection is social distancing of at least two metres from members of the public, and where possible

⁴ Throughout the report, life hammers (product name) will be referred to as safety hammers for consistency as this is how the MPS refers to this tool.

⁵ <https://www.lifehammerproducts.com/en/>

colleagues. And ensure you are regularly washing your hands with soap and water for at least 20 seconds (or using hand sanitiser where not possible). The following guidance is for those circumstances where this is not possible. Ensure you have your PPE readily available on your person so it can be quickly put on.

Protective face masks

Surgical IIR Face Mask/FFP2/FFP3

Face masks need to be close fitting. Facial hair will compromise the efficiency of the mask.

If you cannot stay two metres away from members of the public the advice is now to wear a protective face mask (surgical IIR or FFP2) whilst you are in that situation. This could include travelling on public transport whilst on duty if you cannot maintain a two metre distance. Remember: as from 15 June, wearing a face covering (not protective face mask) is mandatory on public transport – see below.

You should, however try wherever possible in your interactions with the public to maintain the two metre gap which means you will not need to wear a mask - for example maintaining distance at victim or witness appointments or interviews or doing them over the phone where appropriate, or as you engage and encourage the public to abide by the government restrictions. The face masks available to you are suitable for this purpose.

The guidance doesn't require the wearing of face masks for:

- *Double crewing or multiple person travel together in carriers or vehicles.*
- *Working near colleagues or suppliers where maintaining 2 metre distance isn't always possible. However, even internally do try to practice social distancing wherever possible.*

When to wear a protective face mask

If officers and staff make an active decision to intervene and be within 2 metres of a member of the public they should wear a protective face mask. Examples include:

- *Making an arrest*
- *Performing first aid*
- *Interviewing*
- *Using public transport that is very busy where you cannot socially distance or where you believe you are likely to have to deal with an incident within two metres*
- *Where dense crowds make it impracticable to maintain a social distance of two metres*

Remember: Wearing a protective face mask (PPE) is for your protection and is to be worn in accordance with the existing PPE guidelines e.g.

because you have to be within two metres of a member of the public and a risk of infection exists.”

154. These instructions were also available on the MetBATS⁶ provided to TSG officers on 4 July 2020. The MetBATS are a set of slides describing areas and individuals of interest to the police because of their involvement in criminal activities in London. In relation to COVID-19, the slides state:

COVID-19 Daily Top Lines

Social Distancing and wearing PPE
To maintain public confidence and maintain our own resilience we must all role model social distancing behaviours:

- Even if you're spending time in close proximity to your immediate team while in vehicles etc you must socially distance when you can
- The advice on PPE remains and you must wear it when you need to, especially if you cannot socially distance.
- 2 Metre social distancing applies in [Met buildings](#) wherever this is possible. Signs and guidance is in place and must be adhered to

Unlicensed music events (UMEs)

- UMEs (also known as raves or block parties) have increased due to factors such as lockdown and the hot weather.
- We're committed to protecting the safety of our officers and tackling the anti-social behaviour and violence related to these illegal events.
- Unlicensed music events (UMEs) should be handled sensitively and professionally alongside local partners in line with the policy.
- The [UME policy](#) outlines our powers, the roles of different teams and the role of the local authority. A [questions and answers](#) section is also available.

COVID-19 legislation update
As of Saturday 4 July 2020, nearly all of the Coronavirus legislation has moved to unenforceable guidelines, we are now unable to issue FPNs and enforce the legislation in the vast majority of cases. **The only legislation that we will enforce is:**

- International Travel Regulations – [more info](#)
- Wearing of Face Coverings on Public Transport - [more](#)

It is possible that the Government will soon be making a decision around the number of people allowed to gather. Details will be published when confirmed. Please continue to check the [Police powers advice page](#) for the latest updates.

Licensed premises are changing the way they're operating from Saturday 4 July

- 2 metre social distancing guidance replaced by 1 metre plus guidance
- 2 households (any size) can meet inside or outside of premises. Not recommending multiple meetings between households.
- [Restaurants and pubs](#) - **All indoor hospitality limited to table service only (guidance only)**. Social clubs and community centres can open.
- Nightclubs, gyms, indoor play areas, swimming pools etc **will remain closed***Night clubs may use their licence for off sales / table pub style operation.

155. According to an email sent on 17 August 2020 from MO6 Public Order Planning, MPS advice on the wear of Personal Protective Equipment (PPE) changed to “*must*” wear a mask week starting 10 August 2020. The email stated that before this, “*it was down to each officers dynamic risk assessment. This was also guidance which stated that if they think that they would come into contact with someone and could not socially distance then they should be wearing a face Mask.*”

> Summary and analysis of the evidence

156. In order for the decision maker to prepare/draft their opinion, I have presented a summary and analysis of the evidence. During this investigation, a volume of evidence was gathered. After thorough analysis of all the evidence, I have summarised that which I think is relevant and answers the terms of reference for my investigation. As such, not all of the evidence gathered in the course of the investigation is referred to in this report. However, the methodology of the investigation,

⁶ MetBATS: Metropolitan Police Briefing and Tasking System

including key decisions made, strategies that were set, and details of people referred to in this report, are included in the attached appendices. The terms of reference having been discussed with both complainants should in turn address the points they raised in their complaint.

157. Although this report is concerned with the incident that took place on 4 July 2020 involving Mr Dos Santos and Ms Williams, the IOPC also obtained evidence related to other stop and searches conducted by the officers before Mr Dos Santos and Ms Williams' incident. These stops and sometimes searches of other members of the public on 4 July 2020 were all completed in less than 20 minutes.
158. It is important to note that this report summarises body worn footage of the incident. I have attempted to fairly represent what happens in the footage below, but the tone, manner and behaviour of the individuals involved is best judged by viewing the actual footage itself.
159. Six of the officers involved in this incident provided responses under misconduct caution relating to the allegations against them (see Subjects of the investigation). Every response is lengthy and should be read in full.
160. The incident that took place on 4 July 2020 will be examined in five parts:
 - The decision to follow Mr Dos Santos' vehicle
 - The decision to stop and search Mr Dos Santos and Ms Williams
 - The decision to use force during the stop and search
 - The decision to write a Merlin report
 - The communications by MPS senior officials with the media

> Decision to follow Mr Dos Santos' vehicle

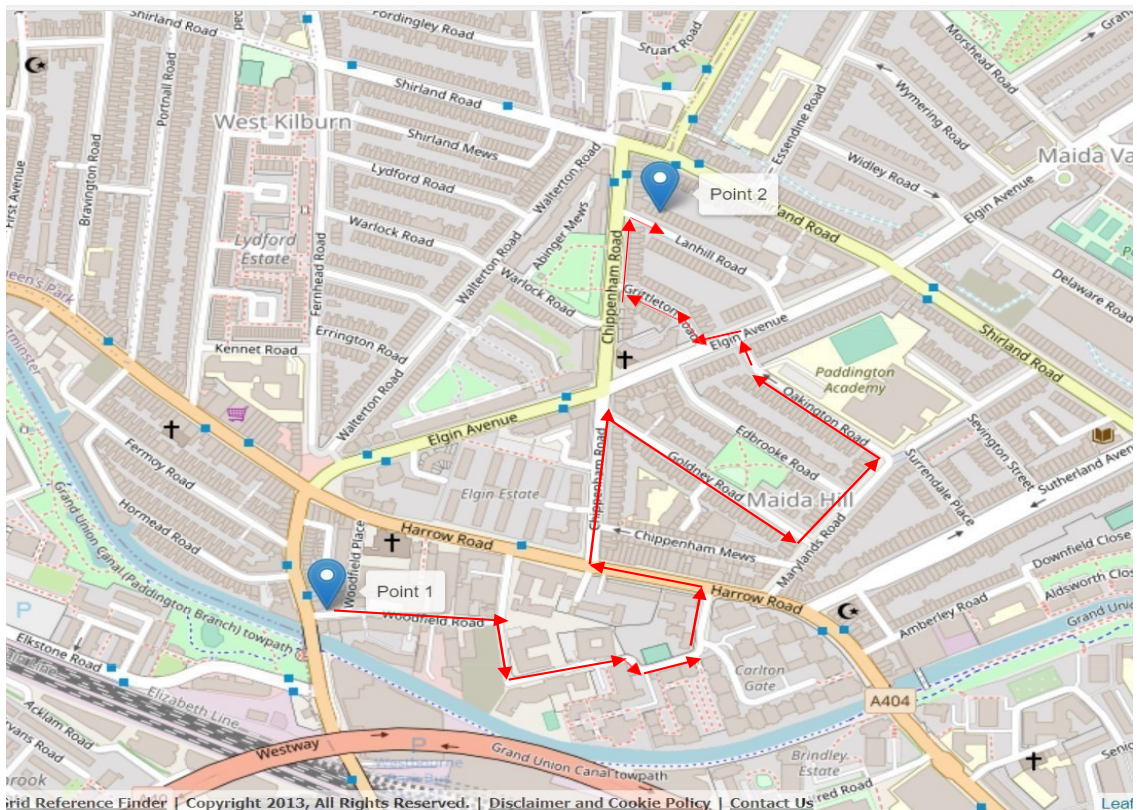
> Summary of evidence

161. On 4 July 2020 at approximately 1.22pm, Mr Ricardo Dos Santos was driving his black Mercedes A class on his way back from athletics training. The Mercedes had dark tinted windows on the sides and at the back. Also in the car were Ms Bianca Williams who was seated in the rear right passenger seat behind Mr Dos Santos, and their son, who was about three-months old at the time and was in the rear left passenger seat. In his witness statement, Mr Dos Santos confirmed that he and his partner, Ms Williams, were athletes, and had been training at a sports centre in Putney. Mr Dos Santos confirmed he was driving a Mercedes-Benz hatchback, and was driving them home, after their training session had ended at around 1pm. The incident was captured on the Territorial Support Group (TSG) van video footage, the officers' Body Worn Video (BWV) and on Mr Dos Santos and Ms Williams mobile phones. The first minute of the BWVs did not record any audio as was standard with all

BWVs. When Ms Williams shared her mobile phone footage with Mr Linford Christie, her coach, the video was altered before being shared on social media. Every effort was made to obtain the original footage of the incident as filmed by Mr Dos Santos and Ms Williams with their mobile phones, but the IOPC was not able to obtain them⁷. The edited version of the footage was not used in this report due to the modified nature of the video.

162. The Mercedes was travelling northbound along the Great Western Road (A4207) towards Elgin Avenue, W9, whilst a TSG van (U535) was travelling southbound on Great Western Road in the opposite direction from Elgin Avenue across Harrow Road. The TSG van was driven by Police Constable (PC) Allan Casey. There were eight other officers travelling in the carrier, all wearing full uniform. PC D the Operator was in the front passenger seat. Acting Police Sergeant (APS) Rachel Simpson, was the supervisor on the van, PC Sam Franks, PC Jonathan Clapham, PC Michael Bond, PC A, PC B and PC C were also in the van. All the officers were on duty in the London borough of Westminster for a period of four weeks.

163. The map below showed the roads followed by Mr Dos Santos' Mercedes and the TSG van from the junction between Great Western Road and Woodfield Road where the van turned behind the Mercedes to Lanhill Road where the vehicles stopped. In total, the vehicles travelled 1.6 kilometres in 3 minutes.



⁷ Mobile phone footage were requested to Mr Dos Santos and Ms Williams through their Solicitor, and also via DEMS (Digital Evidence Management Software) on several occasions.

164. PC Casey stated that at the time of the incident, they were patrolling the area, *“due to an increase in violent crime involving weapons”*. In his statement, PC Franks said they were working on Operation Prolix, which he described as, *“a response to increasing gang violence, robberies and young violence in the area”*. He said there had been, *“recent Intelligence about rival gang members”* in the area, and that the gang they were particularly interested in, *“have been arming themselves with weapons and have been using tactics to avoid being stopped by the police”*. Territorial Support Group Incident / Deployment record (Form 502) dated 4 July 2020 confirmed that the areas the TSG van was assigned to patrol included Ladbrooke Grove, Shepherd’s Bush, White City, Edgeware Road and Lisson Green. PC Bond recorded on the form that their intervention was related to youth and gang violence in these areas and listed a number of people of interest, none of them being Mr Dos Santos or Ms Williams.
165. The screenshot below of the TSG van’s video footage showed the position of the TSG van when the Mercedes turned into Woodfield Road, followed by the TSG van at 1.22.43pm (data extracted from the TSG van Incident Data Recorder, IDR). The van’s video showed that PC Casey stopped before a ‘keep clear’ box to let a vehicle turn right and another go straight before he turned into Woodfield Road after Mr Dos Santos’ Mercedes. PC Casey stated that the TSG van was stopped at the junction between Great Western Road and Woodfield Road and *“allowed a number of cars to turn into this junction before turning onto Woodfield Road.”*



166. Mr Dos Santos said in his statement that whilst on his way home, he *“noticed several police vehicles”*. He said one was a TSG van which gave way to him so he could turn right onto Woodfield Road after giving way for the car in front of him. Mr Dos Santos told the IOPC that when he

approached the junction with Woodfield Road to turn right, he noticed the TSG van driven by PC Casey coming from the opposite direction on Great Western Road. Mr Dos Santos stated that he found it “*strange*” that the TSG van would let his vehicle go after he had already let two cars go passed. Mr Dos Santos said that his car was still approaching the turning and that he did not expect the TSG van to let him go through. According to him “*it is usual for a car to let one vehicle in front go and then to carry on driving, rather than wait for traffic to approach a turning.*” PC Casey provided a response to caution on 2 June 2021 where he told the IOPC that “*It was not strange that I allowed Mr Dos Santos to turn in front of me, I was in no hurry and was just being courteous because I could see that he was signalling.*” PC Casey noted in his response to caution that he always intended to turn left in Woodfield Road “*because if I had gone over the bridge it would have taken me away from the sort of area we were meant to be patrolling and so after he turned, I turned.*” On PC Clapham’s BWV, it was shown that after Mr Dos Santos had been stopped, Mr Dos Santos explained that the officers had no reason to follow him on Woodfield Road other than for the fact that he was a Black man in a nice car. He told PC Franks that he “*turned down a road the only people who come home come to these areas know about. So you man were coming after me.*”

167. The van’s video clearly showed that Mr Dos Santos indicated to turn right into Woodfield Road and momentarily drove on the other side of the road. IDR data recorder showed PC Casey indicated to turn left.



168. Mr Dos Santos said that he saw the TSG van turn onto Woodfield Road after him. He said, “*when I had passed the van it had not been indicating to turn into Woodfield Road*” and so, “*I had a sense that this van was now following us*”. Ms Williams also said this in her statement, and said Mr Dos Santos communicated this concern to her whilst they were in the car. Ms Williams said: “*I believed at the time (and still do) that we were being*

followed by the police because they saw Ricardo driving, who is a young Black man in an expensive car, and they made assumptions about him, thinking that he must be a criminal to be able to afford a car like this”.

169. Mr Dos Santos described how he *“made eye contact with the driver of the police vehicle who was a White male”* and *“had a sense at this moment that the police van was going to follow our car. Perhaps it was a sense from the way the driver looked at me.”* Mr Dos Santos added that he *“was racially profiled by the police officers, who had decided to follow our car from Woodfield Road because they saw me, a 25 year old Black male driving a nice car”*. Ms Williams stated, *“As Ricardo turned onto Woodfield Road, I could see two White male police officers in the TSG vehicle looking at Ricardo from the front of the van. I noticed that the way they looked was strange and with hindsight I think these officers were discussing whether they should follow us.”* PC Casey did not mention looking at Mr Dos Santos or noticing his ethnicity in his statement. In his response to caution PC Casey further stated that he did not remember making eye contact with Mr Dos Santos or noticing anything about his ethnicity. PC D who was seated beside PC Casey told the IOPC that he was not able to see Mr Dos Santos’ ethnicity at this stage but that like PC Clapham, PC C, PC B and PC A, he saw that Mr Dos Santos was a Black man when, later on, their van pulled alongside the Mercedes on Oakington Road at the junction with Elgin Avenue. PC Franks stated that he could only see Mr Dos Santos’ silhouette at this stage. A/PS Simpson’s BWV showed that she told Ms Williams that they saw a car with *“blacked out tinted windows”* and that she *“couldn’t see in it at all”*, she then also said, *“we thought young lad in a car, I couldn’t see who was actually driving it”*. PC Bond stated that due to the *“heavily tinted windows”*, he could not see inside. In response to Mr Dos Santos and Ms Williams’ allegation that the police van followed because Mr Dos Santos was a young Black man in a nice car, PC Casey said, *“The idea that Mr Dos Santos was “racially profiled” by me and that my actions may have been due to racial bias, conscious or unconscious on the grounds of race is as offensive as it is absurd.”* PC Casey said that he did not know the ethnicity of Mr Dos Santos and that he followed the Mercedes because of its *“appalling, bizarre driving”*. He added that he behaved towards Mr Dos Santos, Ms Williams and members of the public in a polite and courteous manner. PC Casey concluded his response to the IOPC by denying breaching the Standards of Professional Behaviour namely Duties and Responsibilities and Equality and Diversity.
170. PC Casey described in his response to caution Mr Dos Santos’ driving as he turned into Woodfield Road. He stated that he noticed Mr Dos Santos’ right turn was done *“very abruptly”* and that he almost went *“into the offside carriageway”*. He then *“saw that he [Mr Dos Santos] accelerated very quickly upon completion of the turn.”* PC Casey told the IOPC that one of his colleagues made a comment on the way Mr Dos Santos turned into Woodfield Road and on the following acceleration, saying that this was *““worth a look” or something of that kind.”* PC Franks mentioned in his response to caution that he heard an officer say, *““that A Class is going for it””*. A/PS Simpson also noted that an officer said, *““look what he’s just done” or “that was quick””*. None of the officers present in the

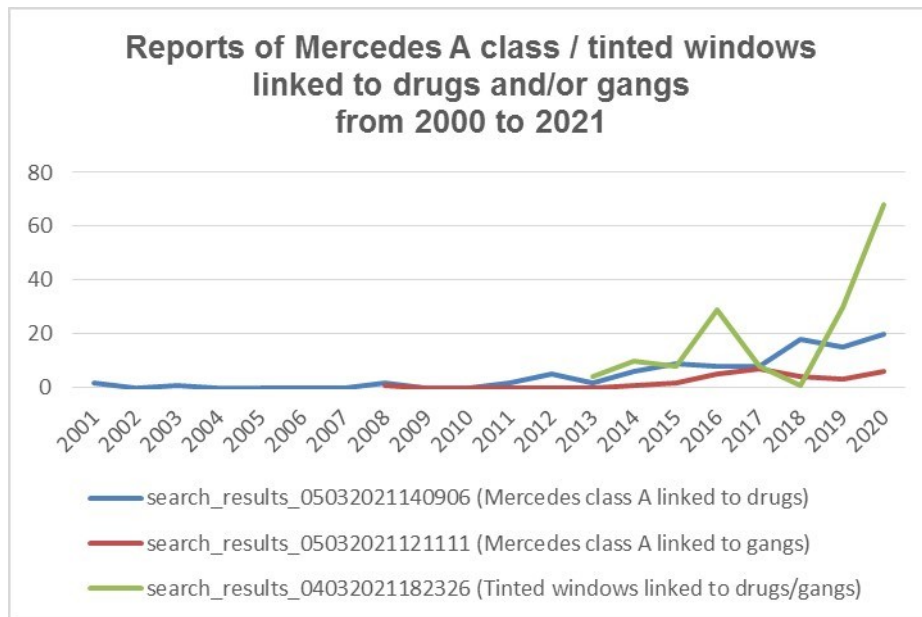
van mentioned this in their first accounts and none of them confirmed saying something similar themselves. PC Casey told the IOPC in his response to caution that he was not accelerating to close the gap with the Mercedes at this stage because he had not yet formed a “*definite intention to stop the vehicle*”, otherwise he would have done so. In her statement dated 4 July 2020, PC A wrote that “*PC CASEY sped up the police carrier, in order to get closer to the vehicle which was on GREAT WESTERN ROAD. The vehicle appeared to speed up even more and it turned off into WOODFIELD ROAD.*” In her response to caution she contradicted herself by saying that the Mercedes first came to the attention of her colleagues after it had turned into Woodfield Road. She admitted though that she might have gotten some of the names of the roads wrong between Woodfield Road and Lanhill Road.

171. Despite saying that he was not aware of Mr Dos Santos’ ethnicity at the time, PC Casey stated that he believed he “*did notice the model of a car [Mr Dos Santos’ Mercedes A class] and the tinted windows which may have triggered thoughts of whether the car might be gang related.*” In his statement, PC Clapham said, “*in my experience, criminals and gang members commonly acquire vehicles with tinted windows to avoid being seen by police and travel undetected*”. He also said Mercedes A Class cars, “*are regularly used by gang members and criminals as they have a high performance, quick acceleration, are fairly small and compact and are aesthetically pleasing*”. A/PS Simpson also made reference to the tinted windows and type of car in her statement as being “*used by*” or “*popular*” with “*gang members*”, as did PC A and PC Bond. Most officers mentioned in their statements that Mr Dos Santos’ Mercedes had tinted windows and that this make and model combined with tinted windows was often used by criminals to evade police and hide their identity. PC D, PC Franks, PC A and A/PS Simpson referred to the Mercedes’ windows as “*heavily tinted*”. PC Clapham however told the IOPC in his response to caution that the window on the driver’s side was not tinted. The Government Guidance on window tinting stated that the front windscreen must let at least 75% of light through and the front side windows must let at least 70% of light through⁸, the windscreen being clear for visibility. The weather in London on 4 July 2020 was cloudy. The van’s video footage captured when the Mercedes first came in view of the TSG van and showed that the side driver and passenger’s windows appeared clearer than the back windows.
172. When asked about the reasons why they associated Mercedes A class and tinted windows to criminality and gangs, officers cited their experience of it. MetBATS slides (a set of slides containing specific Intelligence about known criminals, gangs and criminality in the areas covered by the van at the time) did not make any mention of Mercedes A class or tinted windows. Intelligence on a number of Mercedes cars was on the slides provided to TSG U53 units in relation to Op Prolix between 8 June and 5 July 2020. On one occasion, a man was chased by a “*dark BMW/Mercedes*” in May 2020 and on another occasion, the victim of a

⁸ Tinted vehicle windows: the law accessed via Tinted vehicle windows: the law - GOV.UK (www.gov.uk)

shooting on 16 June 2020 on Harrow Road was identified in a “*black Mercedes*”. The Met Intelligence Daily GRIP document (another source of Intelligence at the disposal of TSG officers that described hot spots for violence and possible sources of public disturbances in London) did not refer to Mercedes cars or tinted windows. Territorial Support Group Incident / Deployment Record (Form 502) did not mention any Mercedes cars as part of the briefing provided to the officers on 4 July 2020.

173. The IOPC asked the MPS to provide data on the number of Mercedes A class and cars with tinted windows reported to be linked to criminal activity in London. The chart below showed that there was a significant increase in reporting of tinted windows being linked to drugs and gangs and a higher number of Mercedes A class reported as being linked to drugs and gangs since 2018.



Auto Express referred to the Mercedes A Class as “*Britain’s best-selling premium car in 2020*”⁹ with 37,608 registrations.

174. As PC Casey drove into Woodfield Road, he stated that he heard one of the officers in the van ask for a check to be made on the Mercedes using its registration number. The IOPC was not able to establish who this officer was because when asked whether they had made the request, officers could either not remember, did not hear it or declined to answer in interview.
175. PC D provided two statements one on 5 July 2020 and one on 20 April 2021. In his further statement, PC D told the IOPC that his role consisted in assisting “*the driver with directions and navigating around boroughs we are assigned to patrol*” and in “*completing the log and conducting checks on the IVMA¹⁰ within the carrier, including running vehicles and persons through PNC when conducting stops for instance.*” In his first account, PC D stated that, “*as the operator of the carrier,*

⁹ Auto Express: <https://www.autoexpress.co.uk/news/94280/best-selling-cars-2021>

¹⁰ IVMA (In Vehicle Mobile Applications) are installed on the dashboard of almost all marked MPS vehicles. IVMA replaced MDT ((Mobile Data Terminal) in these vehicles.

I would use the IVMA device to run the VRM [Vehicle Registration Mark] of the vehicle through the PNC database and likewise obtain details of the vehicle, its registered keeper and address etc. as well as if it was known to our CAD systems. However on this occasion, I was unable to do so because the device had overheated and was not operational, therefore we were unable to obtain any Intelligence of the vehicle.”

176. PC D and other officers including PC Clapham stated that the IVMA was not working because of overheating. The IOPC contacted the MPS to ask if any TSG officer on this unit had reported faulty equipment. An email dated 1 July 2021 reported the following fault, *“The nature of the fault is where more than one person updated CAD remarks within the same second then the new CAD remarks would be visible to all CAD users except for on IVMA. This is a rare scenario but is less rare during critical or major incidents when Met CC, various Ops Rooms and officers using IVMA could all be updating the same CAD around the same time.”* It was unlikely however that this specific fault affected the IVMA on 4 July 2020 considering that the incident was a standard stop and search that did not require many CAD updates to be done at the same time. The IOPC also obtained the BWVs of previous stop and searches conducted by the unit on 4 July 2020 from approximately 10am to 11.30am. BWV showed that the officers did not seem to have any issues with IVMA or their tablets that could have caused delays with Intelligence checks conducted on the people stopped and searched.
177. In his further statement, PC D told the IOPC that he did not see the Mercedes full vehicle registration until they stopped in Lanhill Road and was therefore unable to complete any checks before then. PC D further explained that checks could be carried out by other officers than him but that it could be *“impractical if they are suddenly required to exit the carrier and deal with a vehicle stop or persons and may end up missing something whilst conducting those checks. The other options were to speak with the Met Control Room, however this was again impractical in the circumstances, given the rapidly developing nature of the incident.”* PC D concluded that *“Based on the above it would not have made operational sense to request a PNC check on a vehicle via our support channel and is not standard practice to request on the main working channel, particularly whilst the control room are otherwise occupied with borough officers and circulating calls.”* PC D commented that he did not remember any other officers making any checks.
178. PC Bond completed Form 502 which showed that the van was equipped with an Automatic Number Plate Recognition (ANPR) that read vehicles’ registration numbers when activated. According to the National Police Chief’s Council (NPCC)¹¹, this information was then matched to a database of ‘vehicles of interest’ (VOI) and if *“the vehicle is listed as a VOI Police officers can intercept and stop a vehicle, check it for evidence and, where necessary, make arrests.”* Form 502 showed that ANPR was

¹¹ Automatic Number Plate Recognition (ANPR) factsheet, NPCC, April 2016: [ANPR Factsheet.pdf](#) ([npcc.police.uk](#))

activated at 1.06pm and again at 3.23pm. The record also showed that between these times, ANPR was out of service because of what PC Bond described as “*MDT issues*”. PC Bond stated that he attempted to complete some checks on his tablet whilst in the TSG van before they reached Lanhill Road. When the IOPC asked the MPS to verify what checks had been made on Mr Dos Santos vehicle registration number, Intelligence confirmed that the first vehicle check was made by PC Bond on his tablet at 1.23pm (approximately 1 minute and 20 seconds after they turned into Woodfield Road) with the mention “*Harroe*” which seemed to be a reference to Harrow Road, indicating the location of the TSG van at the time of the request. In his response to caution, PC Bond stated that he could see on BWV that he “*had my radio and my tablet in my hand and I think I was trying to do some sort of checks on the VRM of the vehicle, once we had seen it driving erratically and clearly moving away from us at some considerable speed. PC D the operator I think was unable to use the IVMA.*” The IOPC were unable to confirm what data PC Bond received further to these checks. IDR data confirmed that the TSG van was on Harrow Road at 1.23.59pm. The road map showed that the vehicles drove through Harrow Road and that by then PC Casey had already started to follow Mr Dos Santos.

179. In his response to caution, PC Casey told the IOPC that his suspicions increased as his “*attempts to get behind the car failed, primarily due to the manoeuvres it performed and the speed at which it was driven*”. PC Casey stated that he attempted to keep up with the Mercedes but lost it before the junction with Harrow Road. At the junction with Harrow Road, PC Casey wrote in his response that a motorcyclist arriving from his right signalled for him to go first. PC Casey and PC Clapham said that Mr Dos Santos’ quick accelerations were an attempt to lose the van. PC Casey said in his response to caution that Mr Dos Santos continued to drive in excess of the 20mph speed limit. IDR data showed that the TSG van reached a maximum speed of 33.5mph as it headed west on Harrow Road. Mr Dos Santos said he continued to drive normally, as the police van stayed behind his car. He said: “*At times (such as on Goldney Road) [the police van] was quite some distance away from our car. The van did not have its light or sirens on and did not signal for us to pull over, but I believed that it was following us because it turned down every road that we did and kept within eye distance from us*”. BWV showed that Ms Williams and Mr Dos Santos explained that they had a reservation to eat at 3pm and were in a hurry. The IOPC conducted local enquiries to identify traffic cameras and speed signs along the roads travelled by Mr Dos Santos, but there were no cameras as Mr Dos Santos mainly drove through back streets to his home address. There were however speed signs along the way and Westminster Council introduced a 20mph borough wide speed limit in 2019. However, the IOPC was not able to ascertain Mr Dos Santos’ speed.
180. In his statement, PC Casey confirmed that he did not have his lights or sirens activated at this stage as he followed the Mercedes. He told the IOPC that he started to “*formulate a plan for a stop to speak to him primarily due to the manner of his driving but also because I was becoming concerned that the concerted attempt that was being made to*

avoid us might be related to the possession of drugs or weapons in the vehicle or on any of the occupants of the vehicle, not that at that stage I knew how many occupants of the vehicle there were.” PC Casey stated that when he saw the car approaching a red light at the junction with Elgin Avenue: *“I continued to accelerate towards the car hoping that it would be held in traffic by the red [light], at which point I would activate my ancillary lights and siren to indicate for the vehicle to stop”*. PC Casey said, *“as I was gaining on the [Mercedes] I saw the car move onto the offside of the road, overtaking a number of cars being held at the red [light]”*. PC Clapham wrote that he too saw the Mercedes go on the offside of the road before turning right into Goldney Road. The TSG van’s video showed that Mr Dos Santos remained in his lane and never went on the other side of the road. The van’s video also showed that Mr Dos Santos did not overtake any vehicles being held at the traffic light but instead that there were a number of parked vehicles on the left hand side of the road. The van’s video footage showed that the traffic appeared to be fluid on Elgin Avenue but that the traffic light at the junction between Chippenham Road and Elgin Avenue was red and would have required Mr Dos Santos to wait at the traffic light before crossing Elgin Avenue onto Chippenham Road. A/PS Simpson’s BWV showed that when Ms Williams was asked why they went *“offside on the road, you’ve almost gone through a red light, you’ve sped up”*, Ms Williams answered that they did not want to be stopped and were trying to avoid the traffic. In her response to caution, A/PS Simpson admitted being mistaken about Mr Dos Santos going through a red light and told the IOPC that her comments reflected a comment made in the van by another officer.

181. The Mercedes then turned right onto Goldney Road before reaching the traffic lights. PC Casey stated that his concerns increased at this point because it seemed to him that Mr Dos Santos *“had deliberately taken a right to avoid being held at the red traffic lights that can be seen in front of him.”* The road map showed that the Mercedes seemed to take a detour when it turned on Goldney Road instead of continuing straight on Chippenham Road across Elgin Avenue, and that it went through back streets avoiding Harrow Road and Elgin Avenue. PC B stated that Mr Dos Santos went back on himself at least once during the journey to evade police. A/PS Simpson’s BWV showed that she asked Ms Williams, *“You’ve done a whole route that comes back on yourself, you’ve come off the main road, you’ve done a loop round, and you’ve come back on yourself, why would you do that?”* and accused Ms Williams and Mr Dos Santos of antagonising the officers *“So you basically antagonised us? It’s almost like you’ve wanted us to stop you then.”* The road map showed that Mr Dos Santos did not go back on himself.
182. IDR data recorded the van’s maximum speed on Goldney Road as 47.3mph. PC Casey explained in his response to caution that his speed was indicative of how fast he had to drive to keep up with Mr Dos Santos. PC Casey described following the Mercedes down more roads, stating, *“I lost sight of the car a number of times due to bends in the road and junctions”*. In Oakington Road, PC Casey said that the Mercedes was about one hundred meters ahead of the van and continued to pull away before stopping to turn right into Elgin Avenue. PS Gary Cotton was a

Tactical Pursuit and Containment (TPAC), PSU carrier driver for the MPS and sat on the MPS Pursuit Working Group as the Subject Matter Expert at the time of the incident. In his statement, PS Cotton said that it was clear to him that PC Casey was in excess of the speed limit but given that he was trying to catch up with the Mercedes, it would have been reasonable and acceptable to do that under these circumstances. He stated, *“I see no issue with this it did not appear excessive nor was it dangerous.”* PC Casey was disclosed PS Cotton’ statement and provided the following response that *“at all times I drove in accordance with my training and I believe safely and responsibly making appropriate use of the statutory exemptions which I am entitled to in the circumstances.”*

183. Mr Dos Santos explained in his statement that at the end of Oakington Road, he indicated to turn right into Elgin Avenue, which was close to his and Ms Williams’ home. The screenshots below from the van’s video showed the moment when the TSG van maneuvered to drive beside the Mercedes.

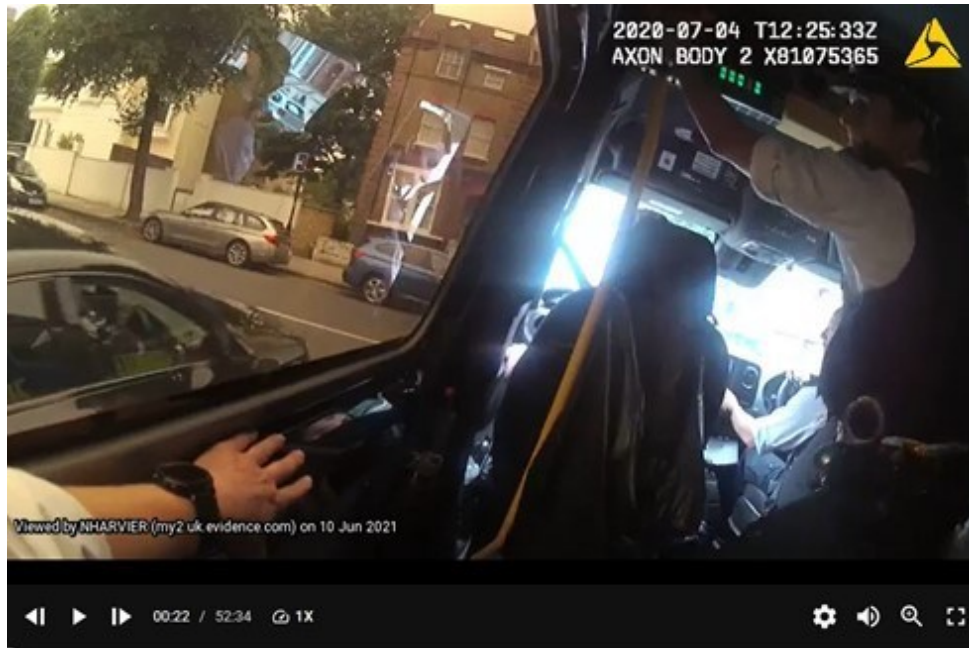


Mr Dos Santos could be seen driving in the middle of the road indicating right to turn into Elgin Avenue whilst PC Casey drove on the offside of the road and possibly on the pavement in front of a pedestrian on the right hand side to block the Mercedes. PC Casey stated that Mr Dos Santos’ driving at this point seemed strange and dangerous and indicated to him that he was in a hurry and wanted to avoid the police.

184. Mr Dos Santos stated that the police van *“drove up beside us and stopped in the road on Elgin Avenue”* which stopped him from being able to turn right. He said, *“this was a really confusing and aggressive move by them”* and added that the officers *“had driven on the wrong side of the road and had now stopped their vehicle next to us.”* Ms Williams described the police van as, *“swooping past us on our right hand side and stopped abruptly just ahead of us in the middle of Elgin Avenue”*. She said she felt, *“alarmed by this because the police vehicle had driven at speed and on the wrong side of the road”*. The van’s video confirmed that the TSG van approached the Mercedes on the offside of the road. PC Casey stated that he attempted to do a reinforced stop to block the Mercedes. Although PS Cotton confirmed that with his current driving qualifications as response driver (non-pursuit) PC Casey was competent to perform a reinforced stop, this was not a suitable location to stop the

Mercedes. The reason for this PS Cotton explained was that there was nothing to stop Mr Dos Santos from turning left.

185. The screenshot below from A/PS Simpson's BWV showed the moment when the TSG van stopped alongside the Mercedes.

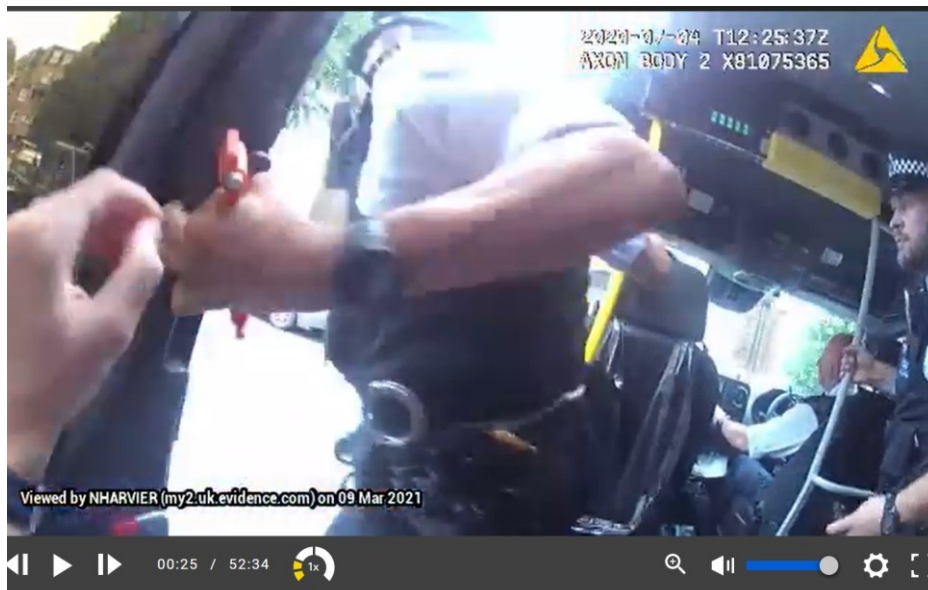


186. In his statement, Mr Dos Santos told the IOPC that the police van did not have its lights or sirens activated. PC Franks stated the police van drove alongside the driver's side of the Mercedes and activated their blue lights to indicate that they wanted the Mercedes to stop. PC B also stated that PC Casey signalled for Mr Dos Santos to stop his vehicle. In his statement, PC Casey confirmed that he *"attempted to activate my ancillary blue lights and siren whilst pulling out alongside the car blocking it from turning right"*, and added in his response to caution that this location was the only opportunity he had to activate his lights and siren because Mr Dos Santos had slowed down. He explained that he *"had put the rear lights on as the IDR indicates simply to make it clear to any vehicle behind me that I was about to perform a manoeuvre, but I had not put front headlights or blue lights on as I was trying to avoid Mr Dos Santos panicking or reacting further to our presence."* The IDR data analysis report confirmed that at 1.25.09pm, *"the rear blue and rear red lights were turned on with the police vehicle located in Oakington Road south of the junction with Elgin Avenue."* The IDR data analysis report explained that a few seconds later, *"At 13:25:13, the rear blue and rear reds were turned off with the police vehicle located at the junction of Oakington Road and Elgin Avenue, one second later the front blue and rear blue lights were turned on as well as the headlight flash. In considering the data, I would suggest this was due to a depression of the '999' button."* In his response to caution, PC Casey wrote *"the body worn in the van shows my left-hand fiddling with the controls which was me trying to put those lights on or pressing the 999 button"*.

187. The screenshot below showed that Mr Dos Santos had already initiated his left turn before PC Franks opened the door of the van, as demonstrated by the Mercedes' wheels turned towards the left.



188. PC Franks said in his statement that he began to exit the van and shouted, "police, stop the car". A/PS Simpson's BWV showed that as PC Franks went to step out of the van, he grabbed a safety hammer located on the top right hand corner of the van and placed it back there seeing that Mr Dos Santos had turned left into Elgin Avenue. Form 502 that provided a list of the equipment on board of the van did not show that a safety hammer was logged as part of the van standard equipment.



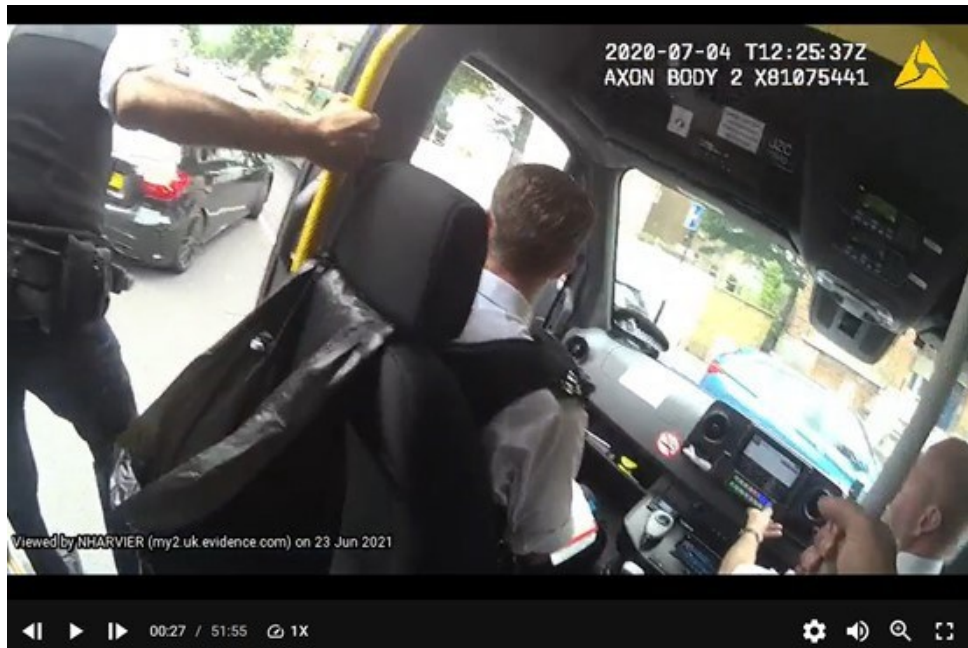
189. PC D, PC Clapham, PC C, PC B and PC A stated that they saw that Mr Dos Santos was a Black man when their van pulled and stopped alongside the Mercedes. PC A's BWV showed that Mr Dos Santos' window was partly open. She stated that she saw that the Mercedes was driven by a young Black man because his window was

down. In her statement, PC A wrote, *“At this point we were level with the vehicle and I could see the driver, who was a Black male in his 20’s who had his window open.”* PC A seemed to contradict herself when she later stated that she *“had heard either the driver or Bianca say that we had only stopped them because we saw a Black person in a car. I explained that we had not seen the colour of the occupants of the vehicle until the end and it was the manner of driving that had alerted us to the vehicle.”*

190. PC Clapham stated that Mr Dos Santos looked at them and then the officer saw that the Mercedes was driven by a young Black man. In their statements, A/PS Simpson, PC C and PC Clapham said they saw Mr Dos Santos look at the police van and drive away. PC C said he *“looked directly at us”*. PC Bond on the other hand said in his response to caution that his vision was obstructed by PC Franks who was stood at the door.

191. PC Franks said, *“before I have even managed to step off the carrier after pulling back the door the vehicle has sharply turned left at the junction and has sped off”*. PC Clapham stated that he saw Mr Dos Santos turn his steering wheel to the left to change direction. PC A said that Mr Dos Santos *“swerved onto the wrong side of the road, manoeuvring around stationary traffic, to fail to stop for police.”* PC C told the IOPC that Mr Dos Santos did not stop but instead *“frantically turned his steering wheel to the left so that he can drive in the gap in the traffic and has quickly driven off”*. A/PS Simpson said that Mr Dos Santos *“spun the wheel, manoeuvred sharply away and sped off”*. PC Bond stated that his risk assessment heightened at this point. PC Franks who was the best placed to observe Mr Dos Santos’ driving did not have his BWV on at the time.

192. PC Bond’s BWV offered the best view of Mr Dos Santos’ Mercedes. Mr Dos Santos turned left into Elgin Avenue following PC Casey’s attempt to stop the Mercedes.



From the footage, it could be observed that Mr Dos Santos did not “*swerved onto the wrong side of the road*” as suggested by PC A, that he had not “*spun the wheel*” and maneuvered around stationary traffic as stated by A/PS Simpson and that he had not “*frantically turned his steering wheel to the left so that he can drive in the gap in the traffic*” as PC C reported in his statement. Instead, it could be observed that the Mercedes front wheels did not go over the white line separating both sides of the road and that there was no traffic in front of him apart from a green Conway van that stopped to let the TSG van make its left turn.

193. PC Casey stated that as he became aware of his colleagues exiting the van to speak to the driver, he saw that the Mercedes had turned left. He said he continued to follow the car. According to PS Cotton, a “*spontaneous pursuit albeit very short began at about 13:25:33 hours when the driver of the black Mercedes failed to stop and ended at 13:26:08 hours some 35 seconds long. This is when the police vehicle pulled up on the right hand side of the black Mercedes which was indicating to turn right and then turned left and making a conscious decision to drive off failing to stop for a constable in uniform. Had the black Mercedes pulled over and stopped having been asked to by police verbally or whether blue lights alerting the black Mercedes as to the presence of police for the driver to stop this would be deemed a routine stop.*”
194. A/PS Simpson told the IOPC that in their opinions there was no doubt that Mr Dos Santos was deliberately avoiding to be stopped by police. PC Clapham’s BWV showed that Mr Dos Santos told the officers that he was not trying to evade police. Mr Dos Santos stated he thought he heard the van door slide open but as they were close to home, had their baby with them, and he was concerned, “*that the officers were going to be aggressive towards me from that point*”, he decided to drive home and, “*pull up outside our house so that if the police did want to talk to me, then at least Bianca and the baby could go indoors*”. Ms Williams also made

reference in her statement to wanting to, “*get my baby home and safe*” in her statement, as they were so close to their home. She said Mr Dos Santos told her he would pull over outside their home, “*so that one of us could take the baby into the house whilst the other spoke to the officers about why they were pulling us over*”.

195. PS Cotton stated that although the control room should have been informed on the pursuit channel that a pursuit was developing so that it could be authorised, 35 seconds may not have been enough for PC D, the Operator in the van, to relay the information. PS Cotton added that in this case, PC Casey could have self-authorized and justify his decision later using the National Decision Model (NDM). PS Cotton also said that “*Warning equipment should be engaged but can be turned off during a pursuit depending on the road layout and whether you seek to take any undue pressure of the vehicle being pursued or to alert other road users of your presence.*” He explained that in any way, none of the training PC Casey had at the time “*gives PC Casey the qualification to pursue, it offers mitigation with the assistance to prevent or assist bringing a pursuit to a conclusion but not to actually engage in the pursuit itself. PC Casey would have to complete the three day Initial Phase Pursuit (IPP) training in order to pursue.*”
196. PC Bond told the IOPC in his response to caution that officers were trying to contact the control room to inform them that the Mercedes had failed to stop. He said that his colleagues were also attempting to communicate on the INTOP channel (dedicated pursuit radio channel) to request assistance. Airwaves showed that PC B contacted the INTOP channel that led to the creation of CAD 3524 at 1.26pm. The recording showed that PC B reported the Mercedes’ failure to stop and stop in Lanhill Road. He also gave the Operator the correct Mercedes’ registration number.
197. PC Casey concluded in his response to caution, “*In reality from my perspective, given the problems I have had with activating the lights this only really arose as he [Mr Dos Santos] approached and turned into Lanhill Road, a matter of seconds before he actually stopped and I pulled up adjacent to his near side. I had heard PC B transmitting and, therefore, aware that I could not engage in a pursuit in the marked vehicle I was driving was thinking that after that turn I would have to back off and trust that other vehicles were on their way to assist who were more qualified to become involved in following the vehicle and as necessary a proper pursuit that might become engaged if he continued in the manner of his driving and continued to demonstrate the same remarkable determination to avoid police that he had with me in the preceding few minutes.*” PS Cotton told the IOPC that in his opinion, “*as soon as PC Casey knew that the black Mercedes was making off from him he should have disengaged from the vehicle, I cannot speak for PC Casey but it is not unreasonable to say he may not have formulated this opinion straight away hence wh[y] he continued to follow the vehicle.*”

198. The screenshot below from A/PS Simpson's BWV showed that a green Conway van was forced to reverse to let the TSG van follow the Mercedes left onto Elgin Avenue.



PS Cotton said that in his opinion this was not a dangerous manoeuvre from PC Casey as the Conway van had room to reverse but that it was nevertheless an unsuitable location to conduct a reinforced stop.

199. The van's video showed that PC Casey continued to drive after Mr Dos Santos following the Mercedes from a distance. The TSG van IDR data analysis report stated that the van reached a maximum speed of 25.2mph on Grittleton Road at 13:25:26 before stopping on Lanhill Road. The van's video showed that from Oakington Road to Lanhill Road, the van did not seem to use any police exemptions.
200. In their statements, all of the officers referred to Mr Dos Santos' manner of driving as being "*erratic*", "*evasive*", "*dangerous*" or "*suspicious*". The officers described the Mercedes taking sharp turns, braking sharply and accelerating at speed. PC Franks said the car, "*carried out a number of turns in quick succession... followed by heavy breaking and accelerating and the route the vehicle took brought the driver back on himself instead of any clear direction of travel*". PC Casey described Mr Dos Santos' driving as "*erratic*" in his response to caution. PC Franks said he was "*reckless*" and "*erratic*". A/PS Simpson's BWV showed that she described Mr Dos Santos' driving as "*horrendous*". PC A and A/PS Simpson told the IOPC that Mr Dos Santos' driving was "*dangerous*". The van's video, A/PS Simpson's and PC Bond's BWV footage did not appear to confirm the "*horrendous*", "*dangerous*", "*frantic*" and "*erratic*" manner of driving described by the officers. PC Franks stated the manner of driving, as well as his tasking on Operation Prolix, "*made me believe that the driver may be in possession of items, such as weapons that they did not want found by the police*".

201. Mr Dos Santos said that after turning left down Elgin Avenue, he saw in his mirror that the police van had now turned their blue lights on. He said he still planned to pull over on his road outside his home, so Ms Williams could take their baby indoors, which is what he did. In his statement, PC Casey said that he saw Mr Dos Santos pull up and park on a clear road. He said that he stopped the van beside the Mercedes, whilst his colleagues exited to speak to the driver. He stated, *“I had concerns that the occupants of the [Mercedes] were involved in criminality due to the manner of driving”* and due to the, *“volume of violent crime in the area”*.
202. In his further statement, PC Clapham said that the Mercedes was stopped under s163 of the Road Traffic Act with their blue lights on *“to determine whether he [Mr Dos Santos] was lawfully insured and had a correct driving licence under section 164 and 165 Road Traffic Act and establish whether he was in lawful possession of the vehicle in doing so.”*
203. PC Franks’ BWV showed that at the end of the incident, the officer asked confirmation from PC Casey that Mr Dos Santos had committed a traffic offence in relation to his manner of driving. The footage showed that PC Casey responded negatively. BWV showed that the following conversation between PC Franks and PC Casey took place:
- PC Franks: *“Hiya, still recording, talking along the lines of processing the dangerous driving etcetera. I didn’t, from memory, about the route and his manner of driving”*
- PC Casey: *“I don’t think you have that Matt.”*
- PC Franks: *“It was excess speed for the conditions but wouldn’t necessarily be excess speed for the speed limit.”*
- PC Casey: *“And we can’t say what speed he was doing.”*
- PC Franks: *“Yeah”*
- PC Casey: *“You know what I mean? There was heavy acceleration and heavy braking but whether that was actually an excess...so no, mate, I think for driving I don’t think you’ve got anything.”*
- PC Franks: *“That’s what I was sort of thinking but I just wanted to discuss because obviously you’re driving and keeping an eye on the vehicle.”*
- PC Casey: *“Yeah I don’t think you’ve got anything for driving, although yeah maybe if”*
- PC Franks: *“I’ve just been speaking to Rach [A/PS Simpson]. He’s stated to us he was driving like that to avoid being stopped.”*
- Mr Dos Santos and Ms Williams were later detained for a search using powers under s1 PACE Weapons, Point and Blades and s23 of the Misuse of Drugs Act 1971.

PC Casey’s stop and search data

204. Although PC Casey did not specifically state in his accounts that he stopped Mr Dos Santos’ vehicle under the Road Traffic Act, PC Clapham’s statement indicated that Mr Dos Santos was stopped under

s163 of the RTA. When the IOPC requested PC Casey's stop and search data for a period of one year, there was no record of any stop made under s163 RTA that would enable the IOPC to make a comparison but this would be because officers were not required to record stops of vehicles under the Road Traffic Act. PC Casey's general stop and search data was however still relevant to highlight possible patterns of behaviour but did not provide an exact comparator to which Mr Dos Santos' stop could be matched. The focus of the summary and analysis of PC Casey's stop and search records were on stop and search under s1 PACE and s23 MDA because Mr Dos Santos and Ms Williams were searched for weapons and drugs following their stop under s163 RTA.

The table below summarised the most relevant data extracted from the stop and searches that PC Casey conducted in London for the period of 13 August 2019 to 12 May 2020.

Table 1: Summary of PC Casey' stop and search data from 13 August 2019 to 12 May 2020

Summary of PC Casey's relevant stop and search data	White	Black	Asian	Middle-Eastern	Unknown	Total
S1 PACE	5	4	1	5	0	15
S23 MDA	3	1	0	2	1	7
Other grounds	2	2	0	0	0	4
Total number of stop and search	10	7	1	7	1	26
% of stop and search	38%	27%	4%	27%	4%	n/a

205. PC Casey's stop and search records showed that in the 26 stop and searches that PC Casey conducted in the 10-months period, 10 (38%) were on White people and 7 (27%) were on Black people. The Office of National Statistics (ONS) data¹² showed that in London, White people represented 59% and Black people 12%. PC Casey conducted a total of 15 searches for weapons (s1 PACE) and 7 for drugs (s23 MDA). In the 15 searches he conducted under s1 PACE, 5 (33%) were on White people and 4 (27%) were on Black people. In the 7 searches PC Casey conducted using his powers under s23 MDA, he stopped and searched 3 (43%) White people and 1 (14%) Black person. 2 of the 8 White people PC Casey searched for weapons and drugs resulted in a further action being taken. 1 of the 5 searches of Black people for weapons and drugs PC Casey conducted resulted in a further action being taken.

206. PC Casey's 'find rate' was extracted from his stop and search records for the period stated above. Using the 'find rate' assisted in assessing the effectiveness in the use of stop and search powers. It was particularly

¹² ONS figures in 2018 are accessible here: <https://data.london.gov.uk/dataset/ethnic-groups-borough>

relevant to consider in discrimination cases such as this one as it could help to provide an indication of how strong the objective grounds for reasonable suspicion were. Relevant patterns of behavior might also be evident by comparing the ‘find rate’ across different ethnicities.

207. HMICFRS¹³ explains, “*The rate of finding the item searched for (the ‘find rate’) is a more reliable measure of effectiveness than the outcome rate on its own, because the latter includes outcomes that are not linked to the reason for the search – for instance when nothing is found but the person is arrested due to being wanted for another offence, or becomes aggrieved at being searched and is arrested for a public order offence... Forces should monitor the find rate to help them understand how effectively the power is used and identify inappropriate use. For example, when an officer has carried out several searches but found nothing, a force may wish to assess the officer’s understanding of what constitutes reasonable grounds, as well as their understanding of the purpose of stop and search and, where necessary, seek to improve them.*”
208. Table 2 below was formulated to represent PC Casey’s ‘find data’ per ethnicity and whether he found the exact item he was looking for when searching people under s1 PACE for weapons and s23 MDA.
209. Table 2: PC Casey’ stop and search ‘find rate’ for weapons and drugs: exact object found from 13 August 2019 to 12 May 2020

Did PC Casey find exactly the object he was looking for?	White	Black	Asian	Middle-Eastern	Unknown	Total
Yes	1	0	0	1	1	3
No	7	5	1	6	0	19
Total	8	5	1	7	1	22
Find rate	12.5%	0%	0%	14%	n/a	14%

210. The above table showed that the number of cases where the object searched for was found was small, particularly when segmented by ethnicity. PC Casey found a weapon or drugs on 1 occasion when searching White individuals for weapons or drugs. When searching Black individuals for weapons or drugs, PC Casey did not find any weapons or drugs. Overall, PC Casey found drugs or weapons on 3 occasions (14%) out of 22 s1 PACE and s23 MDA searches he conducted. This appeared to be a low find rate overall (across all ethnicities) which might indicate that PC Casey had a pattern of stop and searches without strong objective grounds. PC Casey’s stop and search records showed that the officer found a total of 2 unlawful items to possess when searching White

¹³ Disproportionate use of police powers: Spotlight on stop and search and use of force, HMICFRS, 2021: <https://www.justiceinspectrates.gov.uk/hmicfrs/publications/disproportionate-use-of-police-powers-a-spotlight-on-stop-and-search-and-the-use-of-force/>

people and only 1 when he searched Black people under s1 PACE and s23 MDA. Across all ethnicities, PC Casey found an illegal item on 6 occasions (27%) out of 22 s1 PACE and s23 MDA searches he conducted. This appeared to be a low find rate overall which might be indicative of a pattern of stop and searches without strong objective grounds.

211. The IOPC also analysed PC Casey's grounds to stop vehicles and to search people under s1 PACE for weapons and s23 MDA. These scenarios were based on the records of the stops made by the officer and included judgement about the behaviour of the person stopped. Some examples were:

- His stop of a vehicle driven by a White man seen stopped on a red route outside Vauxhall Bus Station on 22 August 2019. When stopped and spoken to, the front passenger became verbally hostile. The man had a number of previous convictions for firearms and weapon offences. The man was searched under s1 PACE for weapons. The search resulted in no further action.
- His stop of a White man on 22 November 2019 seen driving a vehicle at speed from an estate which was subject to recent violent offences (murder of a local youth) involving weapons. The man was immediately hostile and confrontational, facing up to officers as if to intimidate them, and cause them to back down. The man was stopped and searched for weapons. The search resulted in no further action.
- His stop on 30 April 2020 of a vehicle with Black occupants in an area known for drug and gang crime as part of Operation Fahrenheit. People were agitated and hostile. Two phones in possession of one subject along with quantity of cash were recovered. Dealers known to carry a number of "burner" phones to conduct deals. None of the occupants had good reason for being in the area. Occupants stopped and searched under s23 MDA. The search resulted in no further action.
- His stop on 12 May 2020 of a vehicle driven by a White man in high crime area as part of Operation Road Challenge. *"Very strong smell of herbal cannabis coming from the vehicle. Subject initially appeared as if he was going to run off from police."*

212. The IOPC analysed PC Casey's BWV of another incident where a black Mercedes with tinted windows was stopped and a Black man and a White man were searched earlier on 4 July 2020. The IOPC also analysed PC Casey's BWV and his interactions with Mr Dos Santos and Ms Williams on 4 July 2020. In both video recordings, PC Casey had minimal contact with the individuals being searched and did not appear to display any unexplained hostility or unpleasantness towards them or any members of the public he encountered then.

> Analysis

Why Mr Dos Santos' vehicle was followed and stopped

Decision to follow the Mercedes

213. The evidence presented by Ms Williams and Mr Dos Santos indicates that they believe that Mr Dos Santos' vehicle was followed because officers saw that he was a young "*Black male driving a nice car.*" Their evidence for this seems to be related to the fact that they do not think that Mr Dos Santos' manner of driving would warrant any attention from the police and there is no other reason they think the police would want to follow them.
214. The evidence shows that the TSG van was patrolling in the area of Lisson Green due to youth and gangs tension and violence. PC Casey stated that he aimed to turn in Woodfield Road because it led to the areas that they were asked to patrol. Mr Dos Santos' evidence is that he "*turned down a road the only people who come home come to these areas know about*", and that is how he knew that the van was following him.
215. From the evidence that he gave, PC Casey started to become interested in Mr Dos Santos when he "*abruptly turned*" into Woodfield Road. Video evidence does not seem to confirm that Mr Dos Santos "*abruptly turned*" into Woodfield Road. The evidence shows that he indicated to turn but momentarily drove on the other side of the road. This manoeuvre by Mr Dos Santos may have caught PC Casey's attention as the TSG van was stopped opposite the Mercedes when it turned. Several officers provided evidence to say that they heard a colleague raise concerns about Mr Dos Santos' driving but none of them could name the officer who made the comment.
216. PC Casey's evidence is that Mr Dos Santos' car caught his attention because of his "*appalling*" and "*bizarre*" driving. The evidence presented by all officers is that Mr Dos Santos' driving was "*erratic*", "*evasive*" and "*dangerous*". The officers made reference to the Mercedes taking sharp turns, breaking sharply and accelerating at speed. Officers also said that he overtook traffic and went through a red light. The evidence presented in the IDR data analysis report suggests that the TSG van broke the speed limit on a number of occasions to keep up with the Mercedes as explained by PC Casey. This may indicate that Mr Dos Santos was also going faster than the speed limit although the IOPC could not confirm the exact speed of the Mercedes considering the absence of speed cameras on the route taken by Mr Dos Santos.
217. The evidence from Mr Dos Santos is that he was driving in his usual manner to return home from training. Video evidence also confirmed that he did not overtake a line of traffic and go through a red light as stated by the officers. From the evidence contained in this report, there is however a suggestion that Mr Dos Santos' driving may have been heavy on the acceleration at times, that he did stray on one occasion onto the offside, and that he may have gone over the speed limit. The officers' evidence is that Mr Dos Santos' driving was "*erratic*", "*evasive*" or "*dangerous*". There

is evidence to suggest that Mr Dos Santos drove an unusual, circuitous route through back streets, and that they did not want to be stopped, which may be evidence in support of being “evasive”. Similarly, there is evidence suggesting the Mercedes may have been speeding which may then be evidence that Mr Dos Santos was driving dangerously.

218. PC Casey’s evidence suggests that he noticed the model of Mr Dos Santos’ car, a Mercedes A class, and its tinted windows, and made a connection with gangs and criminality. Most of the officers mentioned that the Mercedes A Class is a model linked to gangs. The evidence indicates that there has been a sharp rise in the police reporting tinted windows as being linked to gangs and drugs and a lesser rise in the number of Mercedes A Class being linked to gangs and drugs since 2017/2018. The evidence also shows that the Mercedes A Class was a particularly popular model in 2020 and this may be one reason why the Mercedes A Class may be reported more by police. The evidence shows that Intelligence data available to TSG officers on 4 July 2020 refers to a Mercedes on two occasions but the vehicles were not described as A class models and therefore there is nothing in the documents to link Mr Dos Santos’ Mercedes A class to any gangs or criminal activity.
219. PC Casey’s evidence is that Mr Dos Santos’ ethnicity played no part in his decision to follow but rather it is his car and manner of driving that caught the officer’s attention. In his evidence, Mr Dos Santos said that he was racially profiled. He said that he locked eyes with PC Casey when he turned into Woodfield Road, suggesting that PC Casey looked at him. Both Ms Williams and Mr Dos Santos described PC Casey as a White man at this point. PC Casey said he did not remember looking at Mr Dos Santos and that he did not see what ethnicity he was when the Mercedes turned into Woodfield Road. All the officers stated that they could not see inside the Mercedes at the junction with Woodfield Road. A/PS Simpson’s evidence however suggests that some officers saw that Mr Dos Santos was a young man “*we thought young lad in a car, I couldn’t see who was actually driving it*”. Although A/PS Simpson did not refer to Mr Dos Santos’ ethnicity and said that officers could not see who was driving the Mercedes, there is nevertheless evidence to suggest that if some officers saw that Mr Dos Santos was a young man, they may also have seen that he was Black.
220. Officers’ evidence suggests that tinted windows are features that are favoured by many criminals and that they could not see through the “*heavily*” tinted windows, raising suspicion that whoever was in the Mercedes was attempting to conceal their identity. Government guidance states that the front windscreen must let at least 75% of light through. Video evidence also indicates that the front side windows were clearer than the back windows. The evidence therefore suggests that it may have been possible for PC Casey and some of the officers to see through the windscreen. The clear weather, the front windscreen tint which appeared to be light, the distance as per the BWV and A/PS Simpson’s comments about Mr Dos Santos being a young man indicates that it may have been possible for PC Casey to see Mr Dos Santos’ in the driver seat of the

Mercedes A class and therefore, his ethnicity before the Mercedes turned into Woodfield Road.

221. PC Casey's evidence indicates that he heard a colleague ask for a check on the Mercedes' registration number whilst he was behind the vehicle on Woodfield Road. There is evidence to indicate that officers discussed the manner of driving of Mr Dos Santos at this stage but none of the officers stated that they specifically asked for a vehicle check to be completed. There is no recording of the conversations that took place in the van. The evidence from the IDR data indicates that the TSG van turned into Woodfield Road at 1.22pm and that PC Bond completed the first vehicle check on his tablet on Harrow Road at 1.23pm. Video evidence indicates that it took approximately 1 minute and 23 seconds for the van to travel from Woodfield Road to Harrow Road where PC Bond completed his check.
222. In summary, from the evidence presented above Mr Dos Santos said he was racially profiled because he believes that PC Casey saw that he was a Black man in a nice car and because there is no other reason why the police would want to follow them. There is some evidence to indicate that PC Casey was aware Mr Dos Santos was Black. PC Casey denied following Mr Dos Santos' car because he was Black. There is evidence to suggest that Mr Dos Santos' driving may have caught PC Casey's attention. There is evidence to indicate that Mr Dos Santos went on the other side of the road when he made his turn into Woodfield Road. There is an indication that PC Casey and all the officers may have made assumptions about Mr Dos Santos being linked to criminal activities based on the model of car he was driving and because it had tinted windows. The analysis of PC Casey's find rate suggests that his low find rate overall across all ethnicities may indicate a pattern of stop and searches without strong objective grounds.
223. The IOPC guidelines for handling allegations of discrimination states, *"Direct discrimination includes actions that are informed by biased assumptions or prejudice in respect of a protected characteristic – even if this is done unconsciously."* In *Nagarajan v London Regional Transport* [1999], the courts said *"Many people are unable, or unwilling, to admit even to themselves that actions of theirs may be racially motivated. An employer may genuinely believe that the reason why he rejected an applicant had nothing to do with the applicant's race. After careful and thorough investigation ... [a panel] may decide that the proper inference to be drawn from the evidence is that, whether the employer realised it at the time or not, race was the reason why he acted as he did"*¹⁴.
224. The decision maker may wish to consider using the above information to help inform an assessment of whether the decision to follow Mr Dos Santos' Mercedes was reasonable on the basis of his driving, whether the evidence suggests that a car being driven in a similar way by a young man who was not Black.

¹⁴ This guidance has been given largely in the context of employment, but the concepts are the same outside of the employment sphere.

whether the decision to follow Mr Dos Santos was based on strong objective reasons.

Decision to use police exemptions

225. The use of police exemptions is regulated by the Road Traffic Regulations Act 1984 which exempt emergency vehicles to comply with speed limits, keep left/right signs and red traffic signals if it hinders the use of the vehicle for policing purposes.
226. Evidence shows that PC Casey made use of police exemptions on a number of occasions when following Mr Dos Santos by driving faster than the 20mph speed limit in operation in the Borough of Westminster and by going offside to conduct a reinforce stop at the junction of Oakington Road and Elgin Avenue. The evidence also indicates that he did made use of any exemptions from Oakington Road to Lanhill Road where it stopped.
227. The guidance states that Response drivers are authorised to use exemptions and are required to justify their use of exemptions. PC Casey's training indicates that he is a trained Response driver (non-pursuit) and is therefore authorised to use exemptions for police purposes. The evidence presented by PC Casey indicates that he stated that he was suspicious of Mr Dos Santos' driving from Woodfield Road, that he started to suspect that the vehicle carried drugs or weapons and that he started to formulate his plan to stop the Mercedes as set out above. The evidence therefore suggests that PC Casey made use of police exemptions for his belief that it was for the purpose of detecting crime which is in line with Regulations.
228. The guidance requires police drivers to ensure that their manner of driving did not put members of the public at risk. BWV showed that PC Casey's speed reached 47.3mph in Goldney Road. The footage showed that the road is a residential street and that there were few people out at the time. PS Cotton also presented evidence to indicate that PC Casey's driving was not dangerous and could be justified as he was trying to catch up with the Mercedes. In regard to the reinforced stop conducted by PC Casey, PS Cotton's opinion is that this was not a dangerous manoeuvre although unsuitable at this location. BWV showed that the TSG van went offside and possibly on the pavement in front of a pedestrian with a walking stick. Although the footage does not show the pedestrian's reaction, PC Casey's actions at this time may be deemed inappropriate in the circumstances, however, it is noted that no pedestrians were harmed as a result of his driving. PC Casey's evidence is that he drove safely at all times.
229. In view of the presented evidence, the decision maker is invited to consider whether PC Casey's driving demonstrates sufficient consideration towards public safety or whether there is evidence of unsatisfactory performance.

Decision to engage in a pursuit

230. The APP states that *“A spontaneous pursuit occurs when the actions of the subject driver in deciding to flee are triggered by the presence of a patrolling vehicle without warning or sufficient time for the development of specific strategy and plans.”* The MPS pursuit policy also states that a police driver is deemed to be in pursuit when a driver indicates by their actions or continuance of their manner of driving that they have no intention of stopping for police. The police driver must believe the driver of the subject vehicle is aware of the requirement to stop and decides to continue behind the subject vehicle with a view to either reporting its progress or stopping it.
231. Evidence indicates that at the junction between Oakington Road and Elgin Avenue, Mr Dos Santos indicated to turn right when the TSG van drove alongside the Mercedes on its right hand side and blocked its way in an attempt to stop the vehicle. There is also evidence to show that Mr Dos Santos was aware that PC Casey wanted him to stop but that he continued due to his home being close by as he suggests. Although PC Casey seems confused about whether he put the van’s blue lights on, his actions demonstrated nevertheless a clear instruction for Mr Dos Santos to stop. Video evidence shows that Mr Dos Santos did not stop and continued by turning left instead. This is a clear indication that Mr Dos Santos did not stop at the time he was instructed to do so. The SOP points out that if the driver of a vehicle fails to stop and the police vehicle continues to maintain contact with this vehicle, the police vehicle is deemed to be in a pursuit. The evidence indicates that officers reported that Mr Dos Santos had failed to stop and that PC Casey continued to follow the Mercedes.
232. The evidence presented by PS Cotton suggests that PC Casey was engaged in an initial pursuit for 35 seconds. PC Casey’s evidence is that he was aware that he could not engage in a pursuit and was thinking of disengaging after turning in Lanhill Road. PS Cotton’s evidence indicates that from his point of view, PC Casey should have disengaged immediately seeing that Mr Dos Santos had not stopped at the junction with Elgin Avenue.
233. The APP states that the initial phase of a pursuit starts when a driver fails to stop and that a Response Driver may undertake an initial phase pursuit in a marked vehicle only. PC Casey’s training history shows that he is a response driver – non pursuit which means that he did not complete the pursuit component of his training and therefore that he cannot take part in any phase of a pursuit, and must therefore act within the limits of his role.
234. The APP is clear that vehicles that can transport a large number of personnel such as people carriers are prohibited from undertaking any phase of a pursuit. The SOP confirms that PSU personnel carrier marked or unmarked are specifically excluded from undertaking pursuits. Evidence shows that PC Casey was driving a TSG van with 8 officers on board making it an unsuitable vehicle to be engaged in a pursuit.

235. The SOP states that seeing that there is a fail to stop, the driver should inform Met CC via the INTOP channel and tell them the vehicle's last known direction of travel. PS Cotton's evidence suggests that 35 seconds may not have left PC Casey sufficient time to inform the control room. There is however evidence to suggest that PC B spoke on the INTOP channel to report a failed to stop when the TSG van turned in Lanhill Road.
236. The MPS policy states that "*Officers should give consideration to the location of a stop and should not stop in a dangerous position such as the brow of a hill, bend in the road or near a junction.*" The evidence presented by PC Casey is that he used a reinforced stop to block the Mercedes at the junction between Oakington Road and Elgin Avenue. Although PS Cotton's evidence indicates that he believes that PC Casey was authorised to carry out such a tactical option, the evidence presented in this report also indicates that this was an unsuitable location to do it.
237. The evidence indicates that from Oakington Road to Lanhill Road (35 seconds) the van went over the speed limit by 5.2mph to reach a maximum speed of 25.2mps. The van followed the Mercedes from a distance and did not seem to put any undue pressure on Mr Dos Santos' which could have risk his safety, the safety of his passengers or of members of the public. The evidence also showed that during this time, PC Casey did not seem to make use of any police exemptions.
238. Despite the fact that it only took 35 seconds for the vehicles to travel from the junction with Elgin Avenue to Lanhill Road and considering the evidence presented above and by PC Casey that he was aware that he could not engage in a pursuit and that he was going to disengage shortly, there is nevertheless evidence to indicate that PC Casey was in fact technically engaged in the pursuit of the Mercedes for at least 35 seconds, that he was in an unsuitable vehicle and untrained to engage in a pursuit and therefore that he may have been in breach of policy and guidance.
239. In view of the above evidence, the decision maker may wish to consider whether there is an indication that PC Casey may have behaved in a manner which would justify the bringing of disciplinary proceedings.

Decision to stop the Mercedes

240. According to s163 of the Road Traffic Act (RTA) 1988 the police have powers to stop vehicles as follows:
- "(1) A person driving a motor vehicle on a road must stop the vehicle on being required to do so by a constable in uniform.*
- (2) A person riding a cycle on a road must stop the cycle on being required to do so by a constable in uniform.*
- (3) If a person fails to comply with this section he is guilty of an offence"*

241. The UK Government publishes guidance online to support members of the public in understanding the law. On its page entitled 'Being stopped by the police while driving'¹⁵, the government states, "*The police can stop a vehicle for any reason. If they ask you to stop, you should always pull over when it's safe to do so. You're breaking the law if you do not stop.*"
242. According to PC Clapham's evidence, it appears that the Mercedes was stopped under s163 RTA which explains that a car must stop if asked to do so by a PC in uniform. The evidence indicates that all police officers on board of the TSG van were in uniform at the time. The evidence also suggests that PC Casey indicated to Mr Dos Santos that he should stop his Mercedes by using his rear lights and a reinforced stop at the junction between Oakington Road and Elgin Avenue and that Mr Dos Santos acknowledged in his evidence that he was aware of the requirement to stop but thought that the location was unsuitable and due to the proximity of his home, continued until he could stop in front of his home so that his partner and baby could go home. The UK government online guidance recommends that members of the public should stop their vehicle "*when it's safe to do so*". The evidence showed that the TSG van was blocking on-coming traffic on Oakington Road. According to PS Cotton, the location of the reinforced stop conducted by PC Casey was unsuitable suggesting that it was also an unsuitable location for both vehicles to stop.
243. The second part of s163 RTA states that a person failing to comply with a requirement to stop "*is guilty of an offence*". Even if the junction between Oakington Road and Lanhill Avenue was an unsuitable location to stop, Mr Dos Santos had opportunities to pull over safely before stopping at his home address a few roads away. The decision maker may wish to consider whether it was reasonable for the officers to conclude that Mr Dos Santos had acted in a way that constituted a failure to stop for police.
244. PC Clapham's evidence suggests that he was going to stop Mr Dos Santos under s164 and s165 RTA to ask for his valid driving licence as the driver of the Mercedes. Mr Dos Santos having failed to stop following a police request to do so, it appears to be a valid request for police officers to ask Mr Dos Santos for his driving licence once they had caught up with him.
245. From the evidence presented by the officers, it would appear that the decision to stop the Mercedes was also based on a suspicion that Mr Dos Santos broke the speed limit and went through a red light and therefore might have committed further traffic offences under the Road Traffic Act.
246. The evidence presented in this report indicates that PC Casey could not confirm whether Mr Dos Santos had gone over the speed limit and it was later ascertained that Mr Dos Santos did not go through a red light although the officers seemed to think the contrary at the time. The evidence further indicates that the officers decided that their suspicions

¹⁵ UK government online page 'Being stopped by the police while driving' available on: <https://www.gov.uk/stopped-by-police-while-driving-your-rights>

could not be verified. There is however evidence to indicate that Mr Dos Santos went through back streets and took a detour to go home despite traffic appearing to be light on main roads such as Elgin Avenue and Harrow Road.

247. The evidence suggests that officers were already concerned that the occupants of the Mercedes were involved in criminal activity because of the alleged evasive manner of driving. The evidence presented by PC Casey indicates that he was concerned that the occupants were involved in criminality due to the manner of driving and to the “*volume of violent crime in the area*”. The decision maker may wish to consider whether it was reasonable for PC Casey to be concerned that Mr Dos Santos was possibly trying to evade police and whether the stop was reasonable in these circumstances.

Whether Mr Dos Santos was treated less favourably because of his race

248. S163 RTA does not require reasonable grounds and police officers do not therefore, need reasonable grounds to follow a vehicle – they would however need to show that it was not discriminatory.
249. The Equality Act 2010 states direct discrimination is when someone is treated less favourably than another person because of a protected characteristic. In this instance, the protected characteristic Ms Williams and Mr Dos Santos may have been treated less favourably because of is their race as they are Black.
250. The IOPC guidelines for handling allegations of discrimination states less favourable treatment “*means being treated differently or worse. It is not necessary to show actual harm – it only needs to be shown that it is reasonable that the person would prefer not to have been treated differently in that way*”. The less favourable treatment must have been caused by the protected characteristic, although this characteristic does not need to be the only or main cause of said treatment. In their statements and complaints against the officers, Ms Williams and Mr Dos Santos clearly state that they were racially profiled because they are Black.
251. The APP guidance on stop and search emphasises that: “*Fair decision making in stop and search matters because it affects how people perceive the police – not just the individual who is searched, but also groups and wider communities of which that individual is a member*”.
252. The APP guidance stresses that: “*The presence or absence of procedural justice (ie, fair decision making and respectful treatment) during stop and search can affect whether people perceive the police to be legitimate. When a person or particular group does not understand the reason for the police stopping or searching them, or feels unfairly singled out, it can damage their trust in the police and increase resentment.*”
253. The SoPB on equality and diversity requires officers to act with fairness and impartiality, and to not discriminate unlawfully or unfairly. In the Code

of Ethics, an example of meeting the standard is given as when you “*act and make decisions on merit, without prejudice and using the best available information.*”

254. Regulations confirms that all stops must be done fairly, effectively, with respect and without discrimination. APP guidance further confirms “*biases can have discriminatory effects, whether that bias is conscious (explicit) or unconscious (implicit).*”
255. Although PC Casey and the other officers presented evidence to indicate that they did not notice Mr Dos Santos’ ethnicity until their van stopped alongside the Mercedes at the junction between Oakington Road and Elgin Avenue, Mr Dos Santos’ evidence suggests that he made eye contact with PC Casey earlier on when he was about to turn right into Woodfield Road. The evidence also suggests that PC Casey may have seen Mr Dos Santos’ ethnicity.
256. Although the roads taken by Mr Dos Santos to go home may have seemed unusual, unclear or strange to the officers, Mr Dos Santos’ evidence is that this is their usual journey when coming back from training because they try to avoid traffic and therefore go through back streets which according to Mr Dos Santos is the way local people go. This of course was not to be known by the officers especially since they did not seem to be particularly familiar with these roads as they were posted in the area for four weeks only. The evidence in this report indicates that contrary to what some officers stated, Mr Dos Santos did not go back on himself to deliberately try to confuse them but that the route taken did zig zag back and forth which is possibly what officers meant by “*going back on himself*”.
257. There is an indication that Mr Dos Santos went offside when turning into Woodfield Road and may have gone over the speed limit in parts of his journey home. There is an indication that Mr Dos Santos could have stopped sooner when he became aware of the requirement to stop at the junction with Elgin Avenue instead of continuing home. Although the police do not need a reason to stop a vehicle under the Road Traffic Act, PC Casey may have been justified to stop Mr Dos Santos for a suspected traffic offence.
258. Officers’ evidence indicates that Mr Dos Santos’ manner of driving raised their suspicions that Mr Dos Santos was trying to evade police. Ms Williams’ evidence is consistent with Mr Dos Santos’ evidence in that they always stated that they did not aim to evade police, their evidence suggests that they did not want to be stopped before reaching their home. The evidence presented by the officers refers to Mr Dos Santos abruptly braking, overtaking a line of traffic, going through a red traffic light, frantically and quickly changing direction, swerving, going through gaps in traffic, spinning the wheels, his driving being erratic, evasive, dangerous and bizarre, these, according to the officers, being signs of Mr Dos Santos evading police and of possible criminal activity. Although there is some evidence which may reasonably support the suspicion formed by officers that Mr Dos Santos was trying to avoid or, indeed

evade, police and that his driving (e.g. going over the speed limit) may have been dangerous although there were few people in the streets and that no one was injured, the evidence does not support much of the way the driving was characterised, and the evidence suggests that the officers seemed to have exaggerated their descriptions of Mr Dos Santos' manner of driving.

Comparator evidence

259. The IOPC discrimination guidelines recommends that comparator evidence be used to understand whether assumptions, prejudice or bias might have informed the police officer's decisions, actions or behaviour. It says that, *"In most cases, deciding a case to answer for discrimination will involve comparing how the complainant was treated against how a person who does not have the same protected characteristic would have been treated in the same situation. Investigating officers should look for evidence that supports this type of comparison."*
260. The guidelines say that patterns of behaviour are important to consider for discrimination as an instance of discrimination may reflect an attitude or underlying prejudice that may arise in the person's behaviour across a range of situations. These patterns of behaviour evidence could include an officer's complaint history or an analysis of stop and search records to identify if there is a pattern of the disproportionate use of stop and search against a particular ethnic group.
261. The HMICFRS' report¹⁶ states *"When the police use their powers disproportionately – in differing proportions on different ethnic groups – it causes suspicion among some communities that they are being unfairly targeted."*
262. The most up-to-date data on ethnic demography in London can be found from the 2018 population data. The Office of National Statistics (ONS) data¹⁷ showed that in London, White people represent 59% and Black people 12%. As PC Casey is a TSG officer, he is not based in one borough, and therefore his stop and searches over the 10-months period had taken place in a number of London boroughs.
263. When the IOPC analysed the data relating to stop and searches of Black people for weapons and drugs by PC Casey in Table 1, it could be observed that the officer stopped and searched more White people than Black people (10 compared to 7).
264. Using PC Casey's stop and search records for 10 months, the analysis detailed in the summary of evidence indicates that overall, his stop and searches of Black people are disproportionate compared with the ONS statistics for London.

¹⁶ Disproportionate use of police powers: Spotlight on stop and search and use of force, HMICFRS, 2021: <https://www.justiceinspectors.gov.uk/hmicfrs/publications/disproportionate-use-of-police-powers-a-spotlight-on-stop-and-search-and-the-use-of-force/>

¹⁷ ONS figures in 2018 are accessible here: <https://data.london.gov.uk/dataset/ethnic-groups-borough>

265. The Equality and Human Right Commission 2010 research report ‘Stop and think: A critical review of the use of stop and search powers in England and Wales’ refers to evidence of the types of discriminatory assumptions that may impact on police decisions to stop and search: *“In the area of stop and search, there is good evidence that stereotyping – making an automatic assumption that individuals from particular groups are more likely to be involved in crime – affects police officers’ decision-making... Research evidence shows that police officers routinely use skin colour as a criterion for stop and search based on stereotyping and over-generalisations about the involvement of different ethnic groups in crime. Stereotypes shape the formation of suspicion and affect police officers’ decision making.”*
266. The data analysis indicates that PC Casey has a higher find rate for searching weapons and drugs on White people than on Black people. This does not speak to whether there are objective reasonable grounds for finding a weapon or drugs. Whether a weapon or drugs were found is a better indicator for this purpose.
267. There are however significant issues with the relevance of the data set because the powers used by PC Casey to stop Mr Dos Santos under the RTA are not the same as the powers used in the data set (i.e. s1 PACE and s23 MDA) because there is no requirement to record stops conducted under the RTA. The summary of PC Casey’s stop and search data also reveals issues with the reliability of the data when the data set is quite small. Although the evidence from Table 2 seems to suggest a low find rate overall which may indicate that PC Casey had a pattern of stop and searches without strong objective grounds, the evidence does not seem to suggest a pattern of behaviour that is sufficiently pronounced, given the small size of the data set, to provide strong evidence either for or against discrimination in this case. The same concerns about reliability and relevance are present in relation to the data when broken down into the stop and search for weapons and drugs and in the find rate.
268. The IOPC guidelines for handling allegations of discrimination confirm that where an actual person can be identified who can be used as a comparator, this can be useful evidence when considering whether a person was treated less favourably because of a protected characteristic. An ‘actual comparator’ would be a person who:
- was in the same or very similar circumstances as Mr Dos Santos
 - was treated differently to Mr Dos Santos
 - does not share the protected characteristic of Mr Dos Santos
269. The evidence from PC Casey’ stop and search slips indicates that there are examples of similar stops happening for White people where decisions have been made around similar concerns about the manner of driving and general Intelligence about the area and nothing was found.

The evidence therefore does not suggest a clear propensity by PC Casey to target Black people.

270. The IOPC obtained PC Casey's conduct history to assess whether patterns of behaviour could be identified through past complaints made against the officer. The evidence indicates that there were three direct complaints made for discrimination or in relation to equality and diversity which appeared to have been resolved by local resolution on 20 July 2004 and on 15 September 2008, and that there does not seem to be further related complaints after this date.
271. Overall, the data set being small may impact on reliability (particularly on the find rates) and is less relevant because it does not include vehicle stops under the RTA – given this context, it would need to be a very persuasive pattern to be reliable evidence which could inform an assessment of whether race was likely to be a factor in PC Casey's decision to follow and stop the vehicle. The decision maker may wish to consider the above together with the non-discriminatory reasons raised by PC Casey to help inform an assessment of whether Mr Dos Santos' race was a factor in the decision to stop him.

> Stop and search

272. The summary of evidence below makes reference to use of force by officers on Mr Dos Santos and Ms Williams including pulling, grabbing, restraining and handcuffing. However, the below section describes and analyses the stop and search of Mr Dos Santos and Ms Williams only. All use of force by any of the officers will be described and analysed in detail in the summary of evidence relating to the use of force.

> Elements of stop and search

273. People can be stopped and searched by police in a variety of different ways utilising different pieces of legislation. However, when assessing a stop and search complaint, there are specific points which are likely to prove relevant to the vast majority of cases. These are:
- **Legality of the search** – what lawful powers were being used and were they being used correctly?
 - **Grounds and reasonable suspicion** – what drew the officers' attention to the person being searched and was this reasonable? This may be of particular importance should the complainant believe their race influenced the stop and search.
 - **Conduct of the officers** – did the officers conduct themselves in line with local and national police policies and was their behaviour in line with the Standards of Professional Behaviour?

These will be looked at in detail in the below summary and in the analysis of the evidence.

> Summary of evidence

Stop and search of Mr Dos Santos

274. BWV footage showed that at approximately 12:26:09¹⁸, Mr Dos Santos parked in front of their house, in Lanhill Road, followed by the TSG van that stopped alongside the Mercedes. PC Franks and PC Bond were the first officers to exit and ran towards the Mercedes. PC Franks stated that when he approached the Mercedes, he *“heard the central locking in the car activate”*. He said this concerned him, as *“whilst locked inside the car the person could arm themselves or try to destroy or discard evidence by concealing it or trying to swallow it”*. A/PS Simpson also said in her response to caution that she went round the vehicle and heard the vehicle being locked. In his statement, PC Franks said that after asking Mr Dos Santos to leave his car, *“I have tried the door handle but as I suspected the car was locked”*. In his response to caution, PC Franks explained that as he *“went round the back of the Mercedes I heard the doors locked. I cannot remember if I heard the engine running.”* In his response to caution, PC Franks further stated *“Hearing the automatic locking go on and then there being a delay with the driver getting out of the vehicle only increased those concerns.”* An internet forum part of the Mercedes A Class Club mentioned that Mercedes A Class cars had an auto locking system that could be set to a number of functions, some included auto re-locking when driving and after parking¹⁹. PC Franks said that he was concerned because he could not see who else apart from Mr Dos Santos was in the car although PC A had shouted twice, *“there’s a baby in the car”* as shown on BWV.

Section 1 PACE for weapons

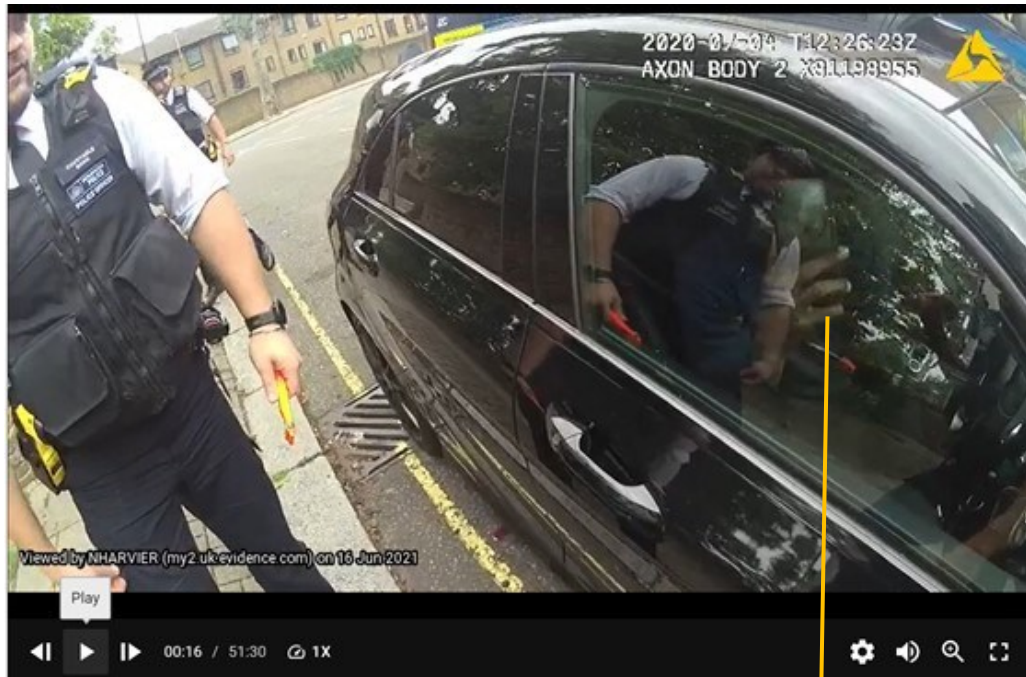
275. BWV showed that Mr Dos Santos was still in his vehicle when PC Franks shouted *“You’re detained under Section 1 PC Franks, get out the car, get out the car!”*. PC Bond instructed PC Franks to detain Mr Dos Santos and PC Franks said to Mr Dos Santos *“You’re detained Section 1 of PACE...”*. PC Clapham then encouraged PC Franks to go through GOWISELY by saying *“Go through it all”*, and PC Franks told Mr Dos Santos through the car window *“PC Franks, [inaudible] police station. You’re detained for a Section 1.”*

276. PC Franks’ BWV showed that Mr Dos Santos did not immediately exit the Mercedes but remained inside filming the officers. Mr Dos Santos explained in his statement that he started to film because he *“was concerned about how they were going to treat us given their aggressive manner and I wanted to have a record of it.”* BWV showed that PC

¹⁸ BWV timestamp: due to the hour difference between GMT and BST, for an accurate indication of time, an extra hour needs to be added to the time indicated on BWV.

¹⁹ <https://www.aaclassclub.co.uk/threads/auto-locking-question.15327/>

Franks held a baton and PC Bond a safety hammer “as a precaution that force may have to be used to remove DOS SANTOS SOARES from the vehicle.” Ms Williams stated “An officer (who I now know to be PC Franks) stood at the driver’s side door with a baton in his hand which was fully raised over his shoulder, which was really intimidating and aggressive. I saw another male police officer was standing next to him, closer to my door (the back driver’s side door) and I saw him pull out an orange glasscutter from his front pouch. On seeing this I worried that the officer might try and break our windows and the glass may shatter onto my baby. I felt really panicked by this and I was scared by what they were about to do.” (all force used by the officers during the incident will be addressed in detail in the next section on use of force).



Mr Dos Santos held his mobile



PC Franks held a baton and PC Bond held a safety hammer.

277. BWV also showed that Mr Dos Santos exited the vehicle after approximately 15 seconds and explained to the officers that he was in front of his home and that his child was in the car. PC Bond and PC Franks handcuffed Mr Dos Santos (this will be looked at in more detail in the use of force section of this report). PC Clapham's BWV showed that whilst doing this, PC Clapham instructed PC Franks to "go through GOWISELY".

PC Franks: "My name's PC Franks [inaudible] police station. You're detained under Section 1 of PACE."

Mr Dos Santos: "What the fuck are you guys doing?! For what reason?!"

PC Clapham: "Just go through it."

PC Franks: "Because you've avoided police multiple time while driving your car, we've been tasked to this vicinity because of youth violence and gang crime, ok, you're entitled to a copy of the search"

Mr Dos Santos: "I haven't avoided police [inaudible] you started following me, for what reason?"

PC Franks: "while driving your car. We've been tasked specifically to the area for youth violence and gang crime, okay? You're entitled to a copy of the search at the end of this."

Mr Dos Santos: "Oh my God! [Inaudible] I am outside my house, I am outside my house! Fucking hell, I've got two cars, bruv!"

PC Clapham: "Just keep going through it mate."

PC Franks: "It's all done mate."

278. According to PC Franks in his response to caution, he continued to provide GOWISELY to Mr Dos Santos who would not listen to him. BWV showed Mr Dos Santos speaking with a raised voice on top of PC Franks'. PC Franks added, *"I continued to try and calmly explain to him what was happening, and why it was happening but he was swearing and shouting, and not really listening."* In his response to caution, PC Franks said that he heard Mr Dos Santos say that he did not understand the situation and PC Franks explained again the reasons why he was detained under s1 PACE.
279. PC Clapham explained in his response to caution that PC Franks was the lead officer and *"would have been under a lot of pressure, and simply wanted to ensure that he had fully covered GOWISELY to enable him to then lawfully search Mr Dos Santos."* According to PC Bond's response to caution, PC Clapham was mentoring PC Franks at the time. Although asked when interviewed, PC Clapham did not provide any details on what mentoring PC Franks entailed.

Section 23 MDA

280. PC Bond's BWV showed that at 12:27:52²⁰ on the video, PC Bond said *"smell of weed"* while Mr Dos Santos was restrained against the wall. PC Clapham said to PC Franks *"detain him for 23 as well"* and warned Mr Dos Santos *"You are tensing up. Until you calm down, until you calm down you're gonna stay like this!"* PC Clapham told the IOPC that when he was near Mr Dos Santos, he could *"smell fresh herbal cannabis"* and in his response to caution that he *"clearly smelt what I believed to be the odour of cannabis on him. At that point (02.43^[21]) I told PC Franks to detain him for S.23 MDA as well, and PC Franks does so"*. Mr Dos Santos told Ms Williams to film and when he said to PC Franks that he was allowed to film, PC Franks responded that he was not. PC Franks continued *"I can also smell cannabis coming from the car, so you're further detained for section 23"*. PC Franks' BWV showed the following conversation took place:

PC Franks: *"You're further detained for Section 23 misuse of drugs act 1971."*

Mr Dos Santos: *"You can smell cannabis?"*

PC Franks: *"Because I can smell cannabis coming from that car and you tried to avoid us as police."*

Mr Dos Santos: *"I have not tried to avoid you. Don't touch my leg bruv."*

PC Clapham: *"You're not in charge here mate, you're not in charge."*

In his statement, PC Franks said that, being an experienced officer, he recognised the distinctive smell of cannabis on Mr Dos Santos and that together with Mr Dos Santos' driving and behaviour led him to further detain him for a search under s23 MDA. PC Franks explained that he

²⁰ All BWV times do not take into account British Summer Time and are therefore one hour behind real time.

²¹ This is a reference to the BWV and means 2 minutes and 43 seconds into the footage.

“reiterated that I had smelt cannabis on him and from the vehicle; at the time I was not really sure where the smell had come from. He then became agitated about that and stood up.”

281. PC Bond did not mention in his first account dated 4 July 2020 that he could smell cannabis but confirmed in his response to caution that he smelt cannabis when he was in close proximity of Mr Dos Santos, *“After a short while he [Mr Dos Santos] stood up again, when he was in discussion with PC Franks, who had smelt cannabis, as a result of which I was aware that the search was being conducted under s.23 MDA. This did not surprise me as when I had been in close proximity to Mr Dos Santos I smelt cannabis; I had heard him clearly being told by other officers that that was the case and had believed from the outset that the search would also be carried out under the provision of s.23 MDA.”* In his second response to caution dated 20 July 2021, PC Bond explained *“My MG11 witness statement on 4th July 2020 was comparatively short and I have to had to recognise, after watching body-worn footage, that there were errors in it. It was primarily written to deal with the use of force, by me, on Mr Dos Santos. Within the statement, I make reference to the fact that the vehicle was searched for weapons and drugs. It is only when I watched the body-worn footage that I remembered that other officers had indicated that Section 23 MDA was engaged, and that I was not surprised at that myself, at the time, as I was at the beginning, and thereafter, in close proximity to Mr Dos Santos, and the vehicle, and had smelt cannabis.”*
282. In his response to caution, PC Franks explained, *“Myself and PC Clapham had been close to Mr Dos Santos at that stage and PC Clapham told me to detain him for S.23 MDA as well. There was a smell of cannabis coming from Mr Dos Santos that I had noticed and I can only assume that had been picked up by PC Clapham as well as somebody told me to do that, I did because it seemed consistent with what I had smelt as well”*. PC Bond, PC Franks and PC Clapham were asked in interview to provide further details about the smell of cannabis they had encountered when close to Mr Dos Santos but they declined to respond. None of the other officers including PC A, A/PS Simpson, PC C, PC D, PC Casey and PC B said in their first accounts that they could smell cannabis. When specifically asked in interview whether they smelt cannabis at any point on Mr Dos Santos, Ms Williams or in the vehicle, A/PS Simpson, PC Casey and PC A declined to make any comments. PC D, PC C and PC B told the IOPC in their further statements that they did not smell anything.
283. In the stop and search slip and computer record created by PC Franks, he recorded his grounds for stopping and searching Mr Dos Santos as: *“Tasked to area due to increased youth violence involving weapons. During patrols vehicle has been seen to speed off away from a marked police vehicle and turn back on itself numerous times with heavy breaking and heavy acceleration seen. Belived [sic] that this was to intentionally avoid police. Once the carrier has pulled alongside the vehicle I have stepped out of the carrier and loudly instructed the driver to stop the vehicle however he has suddenly turned the steering wheel away from*

me and sped off. Once the car was located parked up further down the road I have approached the drivers side door and seen the occupant lock the door. Believing this behaviour was to prevent items being discovered in the vehicle I have detained him for a section 1 PACE 1984 search. Once out of the vehicle I could smell cannabis coming from the person and based on this and the males behaviour I believed he had cannabis on him. Further detained for section 23 Misuse of Drugs Act 1971.”

284. PC Franks explained the discrepancy between what he told Mr Dos Santos at the scene i.e. that he could smell cannabis from his car, and what he wrote in his stop and search record, i.e. that he could smell cannabis from Mr Dos Santos. The officer told the IOPC, *“In reality, the smell of cannabis had emanated primarily from him and I can see that it might have been better if I had made it clearer that that was what had caused me to think that he might be in possession of cannabis, but in the somewhat difficult and confused scenario that we were still dealing with I mistakenly made a reference to car, instead of him. I sought to correct this in the stop slip where I make it clear that once out of the vehicle I could smell cannabis coming from the person. His reaction to this was to ask me “do you know who I am”*
285. Regarding the allegation made by the officers that Mr Dos Santos smelt of cannabis and might have had some hidden on his person, Mr Dos Santos and Ms Williams responded in their statements that they were *“outraged”* that an officer could intentionally lie about this. Mr Dos Santos said that it was an attempt to *“justify stopping our vehicle and searching us when we had done nothing wrong. I am an athlete. I don’t take drugs and neither does Bianca. I don’t even drink alcohol and I am regularly drug tested as part of being an athlete. Every time I race, I am drug tested. Sometimes our drug tests are spontaneous.”* Ms Williams added, *“It was absolutely shocking that he would make up an allegation of drug use. I felt like he had lied in order to try and justify treating us in this way, when we had done nothing wrong. I felt like we had been stopped and were being searched because we were Black and drove an expensive car.”* The UK Anti-Doping Agency (UKAD) stated on their website²² that any athletes could be tested at any place at any time in and out of competitions. The site also provided a list of prohibited substances including tetrahydrocannabinol (THC), a compound found in the cannabis plant. Mr Dos Santos said to officers that he would lose his sponsors should he be found with drugs. UKAD website also explained that sanctions depended on the type of violation and substance in question but could range from a fine to a lifetime ban. Although PC Franks could have required Mr Dos Santos to provide a preliminary drug test under s6 of the Road Traffic Act 1988, he did not do this despite Mr Dos Santos requests. Ms Williams said that in her opinion, not testing Mr Dos Santos for drugs, was a confirmation that officers had lied about the smell of cannabis.
286. At 12:30:32, PC Franks’ BWV showed that PC Franks searched Mr Dos Santos who was by then handcuffed in a front stack position. PC Franks started by checking Mr Dos Santos pockets. Mr Dos Santos told the

²² <https://www.ukad.org.uk>

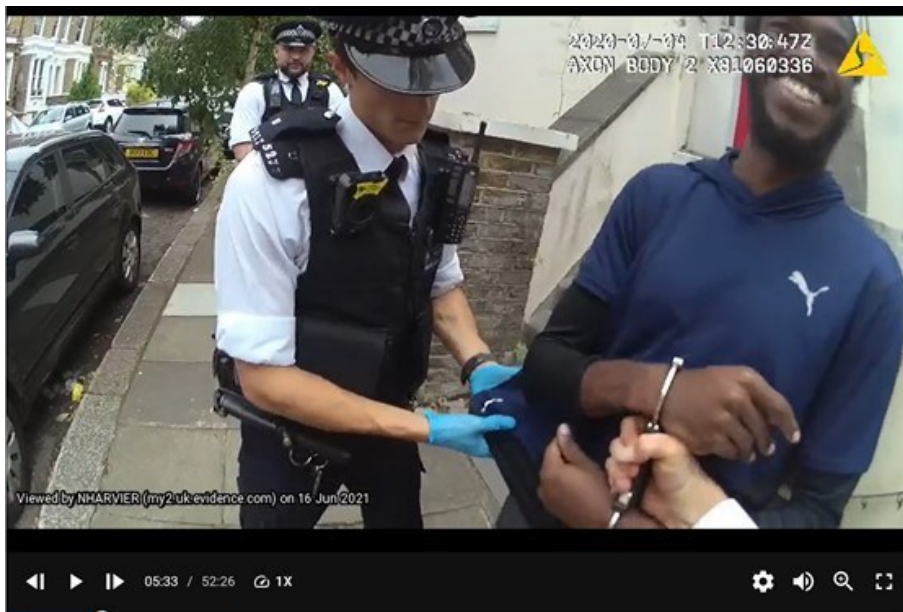
officers on a number of occasions that they would not find anything because both Ms Williams and him were athletes and that they were wasting their time.

Mr Dos Santos: *“Bro we’re both professional athletes, you ain’t got shit on me.”*

PC Bond: *“Why don’t you act like one then?”*

PC Franks then instructed Mr Dos Santos to turn round so he could finish the search whilst PC Clapham held the handcuffs. Mr Dos Santos stated that he was searched twice, the first one for weapons, *“I was searched by an officer, who patted down my entire body”* and the second time for drugs, *“It was a pat down search but it was done more aggressively this time by the officers”*. PC Franks described the search he made as a *“pat down search”*. BWV showed that there was only one search conducted by PC Franks and that it did not appear to be made in an aggressive manner. The footage showed that PC Franks seemed to be calm at the time and that Mr dos Santos continued to speak with PC Clapham.

287. The screenshot below showed that PC Franks searched Mr Dos Santos at 12:30:47.



On the footage, Mr Dos Santos was still wearing his training clothes when he was searched. BWV showed the search was negative for weapons and drugs. PC Franks could be seen wearing blue gloves but no mask during this time.

288. PC Clapham’s BWV showed that at 12:31.29, PC Clapham attempted to further explain to Mr Dos Santos the reasons for their suspicions but that Mr Dos Santos did not want to listen to them saying that he heard it before:

PC Clapham: *“So, would you like me to explain, why we think it’s suspicious?”*

Mr Dos Santos: *“Bro, it’s not suspicious because its”*

PC Clapham: "Would you like me to explain?"

Mr Dos Santos: "you don't need to explain, to be honest with you I don't really give a fuck bro."

PC Clapham: "Okay that's fine if you don't give a toss then fine, we've explained why we've stopped you, if you don't agree with that"

PC Clapham also warned that Mr Dos Santos could be arrested for obstructing a drug search if he continued to move.

289. PC Clapham's BWV showed that Mr Dos Santos requested to be drug tested at 12:41:20 but that this was never followed up by any of the officers:

Mr Dos Santos said, *"All you lots are fucked, you racist bastards. That's what you lots are, carry on, you lots are absolutely fucked. Every single one of you is a racist police officer chasing after...it wasn't even chasing, I don't know why you guys stopped me, for what reason? For what reason? None of you guys actually gave me a reason."*

PC Franks: *"I gave you a reason and you talked over me."*

Mr Dos Santos: *"You gave me 164 and 165?"*

PC Franks: *"No, section 1 of PACE and section 23 of the misuse of drugs act."*

Mr Dos Santos: *"Misuse of drugs act? Bro, hold on, one second, do a drug test, do a roadside drug test. Have you done a roadside drug test? Do it."*

PC Franks: *"I could smell cannabis. Not yet because you're sitting on the floor and we're still doing a name search."*

Mr Dos Santos: *"Let's stand up, do it. Do it, do a drug test my guy."*

PC Franks: *"No because we're still doing a search and we're trying to figure out who you are."*

Mr Dos Santos: *"Do a drug test! You smell cannabis? Why the fuck would I have cannabis in a car when I got a little boy in the car, I'm a professional athlete."*

PC Franks: *"Well I don't know if you're a professional athlete do I?"*

Mr Dos Santos: *"I'm a professional athlete, my guy, both of us are professional athletes, do a drugs test! Do a drug test! Why are you stalling?"*

PC Franks: *"We're not stalling, we're still doing the search [inaudible] ascertain who you are."*

Mr Dos Santos: *"Dude, I want a drug test. I want a drug test."*

PC Franks: *"No because we're still doing a search and we're trying to*

290. PC Franks' stop and search slip (form 5090) completed on 4 July 2020 and the full stop and search record confirmed that PC Franks searched him under s1 PACE and s23 MDA. The records also showed that the

search was negative and that no weapons, drugs or any other illegal items were found in his possession.

291. In response to the allegations that PC Bond, PC Franks and PC Clapham deliberately lied about the smell of cannabis on Mr Dos Santos or in his vehicle, the officers denied breaching the Standard of Professional Behaviour namely Honesty and Integrity.

Stop and search of Ms Williams

292. According to A/PS Simpson's response to caution, it was her opinion that Ms Williams was in a vehicle that had tried to avoid being stopped by the police and *"it was likely that there were drugs or weapons in the car they did not want us to find, or maybe on them. The time it had taken the pair of them [Ms Williams and Mr Dos Santos] to unlock the vehicle and come out was sufficient time to certainly be involved in hiding items in the vehicle."* In her statement, A/PS Simpson wrote that she got hold of Ms Williams and immediately told her that she was detained for a search for weapons under s1 PACE. She also stated her name and the station she was from, Larkhall Lane TSG Base. The officer described Ms Williams' behaviour as *"loud"* and *"shouting"* at them which according to A/PS Simpson increased her risk assessment that she could be in possession of a weapon. According to PC A's statement, she too believed that Ms Williams *"was attempting to conceal dangerous items or potentially reaching for a weapon to assault us. As we were trying to extract Bianca from the vehicle, AP/S SIMPSON informed Bianca that she was detained under S.1 PACE for weapons and gave full grounds and GOWISLEY."*

293. This was confirmed in A/PS Simpson's BWV that showed that at 12:26:31, Ms Williams was asked to exit the Mercedes. The following exchange took place between A/PS Simpson and Ms Williams:

A/PS Simpson: *"Nobody's gonna be hurt, just get out the car, you're gonna be detained for a search okay? Under section 1 of PACE, you made off from police."*

Ms Williams: *"I didn't do anything!"*

A/PS Simpson: *"Get out the car and we don't need to do this. You've been detained for a search, I'm PC Simpson from Larkhill Lane TSG [inaudible], ok."*

Whilst PC A, PC C and A/PS Simpson grabbed her arms and pulled Ms Williams out of the vehicle, A/PS Simpson explained the reasons of Ms Williams' detention:

A/PS Simpson: *"You're detained under section 1 of PACE in a search for weapons, the reason being, it's alright, just relax, relax"*.

Ms Williams stated that A/PS Simpson told her that she was being searched *"under section 1 of PACE for drugs and a weapon. I recall she told me that I was being detained for this. She didn't explain to me why the police thought we might have a weapon or drugs on us. I didn't believe that they truly did suspect this and I felt like we had been profiled because we are Black."* During her interview, A/PS Simpson was asked to

explain how she used GOWISELY in relation to Ms Williams' search for weapons and drugs. The officer declined to answer.

294. BWV showed that, assisted by PC C, PC A and A/PS Simpson handcuffed Ms Williams in a front stack position. In her statement, A/PS Simpson explained that Ms Williams was non-compliant until she was handcuffed.

A/PS Simpson: *"Madam, you've been detained for a search, that is all, because of the circumstances that just happened with your vehicle making off from our car, alright, this area is very well-known for problems at the minute."*

Ms Williams: *"What? This is ridiculous, we live here, this is our car."*

A/PS Simpson: *"Let me explain. You just saw what happened with the route, you've shot off from police at speed. You've made a definite attempt to try and avoid us, okay, the driver has, which makes us suspected there's something in the car there shouldn't be, okay?"*

295. BWV showed that a conversation followed between A/PS Simpson and Ms Williams about the reasons why the police stopped the Mercedes. A/PS Simpson told Ms Williams, *"To make off from police is very unusual in that manner"* to which Ms Williams responded, *"this is our route home. You were already following us, as soon as we made that turn"*. The officer could be heard saying that Mr Dos Santos drove offside and nearly through a red light to deliberately evade the police. Ms Williams denied A/PS Simpson's allegations that they went through a red light and tried to avoid the police. A/PS Simpson further said that because of this, they thought that *"there's something serious going on because of the way the driver's behaved which is why this is now happening, okay? So that's the reason you've been detained and will be searched, okay?"* A/PS Simpson added, *"I have to tell you everything. No, you're detained under section 1 of PACE okay which is a search for weapons because of the problems in this area and the way the driver's just driven, I suspect there's something going on. If it's just the way you drive which is pretty ridiculous then so be it, but we need to investigate that because we're police officers, do you understand?"* A/PS Simpson also told Ms Williams that she would be entitled to a record of the search (search slip form 5090). Ms Williams complied and told the officers to go ahead with the search and that they would not find anything. She added that they had their son in the car and that neither Mr Dos Santos nor her would be *"stupid enough to do stupid things"* and later added that they were *"innocent"*. A/PS Simpson continued to explain to Ms Williams the reason why the stop and search was taking place and said:

A/PS Simpson: *"You've done a whole route that comes back on yourself, you've come off the main road, you've done a loop round, and you've come back on yourself, why would you do that?"*

Ms Williams: *"There was no need to follow us, because we're innocent."*

A/PS Simpson: *“So you basically antagonised us? It’s almost like you’ve wanted us to stop you then.”* Ms Williams responded negatively and asked the officer why they would want the police to stop them.

As shown on the map in the previous pursuit section of this report, Mr Dos Santos went through back streets taking a circuitous route.

296. In a stop and search record (form 5090) written on the day and in the computer record she subsequently created, A/PS Simpson logged her grounds for stopping and searching Ms Williams under s1 PACE, *“TSG have been tasked to [CW?] specifically due to the spike in crime linked to violent offences with weapons mainly. The vehicle had sped off from a marked police carrier at several junctions. When police carrier came alongside he made eye contact, swung steering wheel and made deliberate attempt to again avoid being stopped. The route the car made was almost a full-circle back on itself. This has previously been done to try and [lose?] behind a [car?] and suspicious that something in vehicle illegal. When stopped the driver initially refuses to get out despite clear shouts. Vehicle windows heavily tinted which can be attempt to conceal those inside. One [sic] speaking to her in back she has been resisting getting and [sic] also pulling back”*. In interview, A/PS Simpson was specifically asked how she related each of her grounds to the likelihood of Ms Williams possessing a weapon, the officer declined to comment.
297. Her BWV showed that A/PS Williams provided more details about the current issues with weapons in Westminster, *“We’re having a lot of problems with gangs round here, a lot of gangs fighting, weapons, the amount of stabbings in Westminster alone every day almost. You know, yesterday there was a section 60 here, you know when police can just stop anyone and just search them because they are that worried about people killing each other, that that is the level they’ve got to here at the minute.”*
298. A/PS Simpson told the IOPC in her response to caution that when she heard confirmation by officers that Mr Dos Santos was to be detained under s23 MDA, she explained, *“When I established that he [Mr Dos Santos] had [sic] given the information about the area and the close links there are between gang activity and drug activity I believed I had grounds to detain her under MDA as well.”* BWV showed that A/PS Simpson explained why Mr Dos Santos’ manner of driving raised suspicion but did not explain to Ms Williams why she was also being detained for the purpose of a search under s23 MDA. In her response to caution, A/PS Simpson said *“We did explain why we thought she may have weapons or drugs on her.”* BWV showed that the following conversation took place:
- A/PS Simpson: *“You’ve gone offside on the road, you’ve almost gone through a red light, you’ve sped up. All the points, like why would you want to get away from us?”*
- Ms Williams: *“Because we don’t want to be stopped.”*
- A/PS Simpson: *“Because that makes us wonder who else’s in the car, we didn’t know it was yourself and a baby in the car. To be honest that’s really suspicious, in an area like this at the moment, we’re gonna have to*

investigate that and find out what's going on if you hadn't done that sort of route and that sort of driving, you wouldn't have been stopped. So that's where, we're coming from, okay?"

A/PS Simpson was specifically asked in interview to explain her grounds for suspicion that Ms Williams had drugs on her but the officer declined to respond.

299. Her BWV showed that A/PS Simpson told Ms Williams that she was to be searched. The officer told her *"If this was just because you didn't want us to follow you, then that to me seems like it's wild. These are your actions that's resulted in this situation now. So what I'm going to ask you to do is to stand over here alright, just don't make any sudden movements with your hands, just keep them where I can see them. Have you ever been stopped by police before?"* Ms Williams answered that she had not been stopped by police before. A/PS Simpson explained, *"Okay, what I'm going to do is just pat you down and see that there's nothing on you. Obviously you've got lycra kit on you, there's not like anything we can conceal very much."* BWV showed that Ms Williams wore tight sportswear.
300. BWV showed that before starting the search, A/PS Simpson asked Ms Williams whether she had anything on her to which Ms Williams replied that Mr Dos Santos and her were both professional athletes and that they had no weapons or drugs on themselves or in the car. BWV showed that at 12:31:07, A/PS Simpson started searching Ms Williams' arms and completed her search by patting her legs. A/PS Simpson could be heard telling Ms Williams that Mr Dos Santos and their vehicle were to be searched and that they were waiting for a drugs dog to arrive.
301. A/PS Simpson's full printed record of the stop and search conducted on Ms Williams, and her stop and search slip (form 5090) completed on 4 July 2020 showed that A/PS Simpson wrote that she searched Ms Williams under s1 PACE for weapons. Her records did not show that Ms Williams was also searched for drugs as it appeared to be the case on BWV that Ms Williams was also detained under s23 MDA for the purpose of a drugs search. A/PS Simpson was asked in her interview to explain why her BWV showed that she seemed to have provided grounds for a search under s1 PACE but not for a s23 MDA search for drugs. The officer declined to respond. In her response to caution, A/PS Simpson however stated *"It is incorrect to say that she [Ms Williams] was detained for weapons and drugs; the footage clearly shows that I detained her for a weapons search."* Ms Williams stated that she was not personally searched under s1 PACE although BWV showed that Ms Williams seemed to be aware that the officers were looking for weapons and drugs. The records showed that the search resulted in a negative outcome and that no weapons, drugs or any other illegal items were found on Ms Williams.

Intelligence checks

VRM and names checks

302. PC Clapham's BWV showed that a number of Intelligence checks were conducted during Mr Dos Santos and Ms Williams stop and search on 4 July 2020. The footage also showed that PC Bond spoke to Mr Dos Santos to gain his details and conducted some of these checks using his tablet. PC D told the IOPC in his further statement that he conducted a PNC check on the Mercedes including insurance, a driving licence check on Mr Dos Santos and checked Mr Dos Santos and Ms Williams' names.

- Vehicle registration check: this would have shown whether the Vehicle Registration Mark (VRM) of Mr Dos Santos' car corresponded to the Driver and Vehicle Licensing Agency (DVLA) records
- Name check: this would have shown any convictions Mr dos Santos and Ms Williams would have had under their names
- Police National Computer (PNC) check: this would have provided a record of previous convictions, cautions, reprimands and warnings for any offence Ms Williams and Mr Dos Santos might have committed
- Driving licence check: this would have shown Mr Dos Santos identifying information such as his name, date of birth, eye and hair colour, height and weight, address, license status, previous suspensions and convictions

303. The IOPC requested a list of all checks made on Mr Dos Santos and Ms Williams and their vehicle from midnight to midnight on 4 July 2019. Intelligence received from the MPS Directorate of Professional Standards (DPS) showed that TSG officers completed a number of checks via IVMA, radio (CAD) or tablets between 1.23pm and 5.11pm.

Table 3: summary of Intelligence checks that officers conducted in relation to Mr Dos Santos, Ms Williams and their vehicle on 4 July 2020

Time of check	Completed by	Subject of check	Medium used	Outcome / comments
13:23	PC Bond	Vehicle registration check	Tablet	The check was made when the TSG van was on Harrow Road but there is no record of what information was requested or received
13:27:09	Met CC Operator	Vehicle registration check	Computer Aided Dispatch (CAD)	Confirmation that Mr Dos Santos was the registered keeper of the Mercedes since 23/01/2018, and of his address
13:27:10	Met CC Operator	Vehicle registration check	CAD	Confirmation that Mr Dos Santos was the registered keeper of the Mercedes since 23/01/2018, and of his address
13:27	Met CC Operator	No information	CAD	No information

13:45	PC D	Name check on Ms Williams	IVMA	Check made in Lanhill Road
13:45	PC D	Name check on Ms Williams	IVMA	Check made in Lanhill Road
13:45	PC D	PNC check	IVMA	Check made in Lanhill Road
13:46	PC D	Vehicle registration check	IVMA	The check was made in Lanhill Road but Intelligence obtained did not show a record of what information was requested or received
13:49	Not known	Name check on Mr Dos Santos	Not known	Mr Dos Santos' name was entered followed by ":::::" which seemed to indicate that his date of birth was unknown and not entered
13:49 and 13:53	Not known	PNC check	Via Aware terminal/desk top or CAD	Not known
13:54	Not known	Check on Mr Dos Santos driving licence	Not known	Date of birth appeared to be missing from the request and might not have returned any results due to the missing date of birth
14:00	Not known	Name check on Mr Dos Santos	Not known	Check made in Lanhill Road. Mr Dos Santos' name was entered followed by ":::::" which seemed to indicate that his date of birth was unknown and not entered
14.00 and 14:11	Not known	PNC check	Not known	Check made in Lanhill Road
14:14	PC D	Vehicle check	IVMA	The check was made in Lanhill Road but there was no record of what information was requested or received
14:36:24	Met CC Operator	Vehicle registration check	CAD	Confirmation that Mr Dos Santos was the registered keeper of the Mercedes since 23/01/2018, and of his address
17:06:34	Operator	Mr Dos Santos' PNC check	Via Aware terminal/desk top	Confirmation of last known address and that no DNA held on the system
17:06:39 to 17:11:33	Operator	Mr Dos Santos' PNC check	Via Aware terminal/desk top	Confirmation of PNC details including any previous convictions, arrest and remand history

304. A/PS Simpson's BWV showed that at 12:32:54, Ms Williams was asked for her name, surname, date of birth and address. A/PS Simpson's BWV showed that, at 12:43:37, A/PS Simpson could be heard saying that there were delays on checks and that PC D was still trying to log onto his

tablet and had not yet been able to complete the required checks on Ms Williams' name.

305. PC Clapham's BWV showed that PC Bond was the officer who interacted the most with Mr Dos Santos to gain information and conduct checks on his Mercedes and on his name. The footage showed that PC D took some details from Mr Dos Santos and also conducted checks on his tablet. PC Casey's footage showed that at 12:33:42, a member of the public spoke to him to confirm that Mr Dos Santos and Ms Williams were her neighbours and lived at the stated address. The footage showed that, at 12:34:02, PC Bond asked Mr Dos Santos to provide his name, surname and date of birth. Mr Dos Santos complied and gave his name as "*dos Santos Soares*". Mr Dos Santos repeated several times his first name and surname and told the officers that he had two cars registered under his name and that the key of the Mercedes he was driving was in his gym bag in his car. The following conversation took place between PC Bond and Mr dos Santos at 12:34:02:

PC Bond: "*I'll get my tablet and do a name-check for you. I'll need your full name please and date of birth.*"

Mr Dos Santos: "*Dos Santos...*" [Mr Dos Santos gave his name followed by his date of birth].

PC Bond: "*What was the first name?*"

Mr Dos Santos: "*Dos Santos*"

PC Bond: "*Dos Santos. And what's the surname?*"

Mr Dos Santos: "*Dos Santos Soares*"

PC Bond: "*Soares. Soares is the surname?*"

Mr Dos Santos: "*Dos Santos Soares. Man got both my car, you can run checks on both cars, you lots are wasting time.*"

PC Bond: "*Soares. S...?*"

Mr Dos Santos: "*It's not like the footballer. S-O-A-R-E-S.*"

PC Clapham: "*Which car's yours?*"

Mr Dos Santos: "*Bro you lots are wasting time. Look at the address where the car's registered, look at the address on the building over there, and you'll see man's at home.*"

PC Bond: "*That's great, if that's true, that's not a problem.*"

Mr Dos Santos: "*Bro, look at it.*"

PC Bond: "*Right now, we're looking at you. Your behaviour...*"

Intelligence checks showed that although known at the time, Mr Dos Santos' date of birth was not entered when officers conducted the first name check at 13:49. A leaflet²³ produced by the Mayor of London's office explained what rights members of the public have when the police conducted stop and search. The leaflet pointed out that not providing details when asked for them could lead to a longer detention. Equally, not

²³ Leaflet entitled 'Stop and search: Know your Rights': [know your rights z-card.pdf \(london.gov.uk\)](https://www.london.gov.uk/stop-and-search/know-your-rights)

entering all the known person's information when doing a name or PNC check might have resulted in delays in obtaining the required details.

306. In his response to caution, PC Clapham stated that Mr Dos Santos seemed nervous and repeatedly moved his hands, displaying similar signs to people he had dealt with and who were in possession of illegal items. PC Clapham told the IOPC that he could "*appreciate that he [Mr Dos Santos] did not understand at that moment what our concerns were, equally if he had just done as we had asked him to do in the first place it is likely that matters could have been resolved more quickly as his conduct and behaviour both in terms of his driving, and initially on the street were simply consistent with a man who did not want to be searched, or more particularly have his vehicle searched.*" BWV showed that Mr Dos Santos responded to all the questions asked by police officers providing the required information.
307. PC Clapham's BWV also showed that PC Bond asked if Mr Dos Santos had been arrested before and why. Mr Dos Santos responded positively and said "*Same bullshit. DWB – Driving While Black. Simple, same bullshit*" and explained that he was pulled over by the police whilst driving in central London. Mr Dos Santos also told PC Bond that he went to court, but that the case was dropped. The footage showed that, at 12:34:37, PC Bond told Mr Dos Santos that his PNC check did not come back with a trace²⁴. The footage shows that hearing this Mr Dos Santos specified that his full name was Dos Santos Soares and spelt his name.

Fingerprints

308. BWV showed that at 12:41:21 PC Bond took Mr Dos Santos' fingerprints. PC Bond stated, "*Initially he did not have a driving licence with him so I used a MOBILE INK device Under Sec 61 PACE to scan his fingerprints*". PC Clapham's BWV showed that at 12:37:34 Mr Dos Santos told the officers to check his driving licence in his car. The footage showed that PC Franks did not allow Mr Dos Santos to show them where in the vehicle his driving licence was, explaining that Mr Dos Santos was detained for a search. PC Clapham told Mr Dos Santos that officers would find his driving licence. Nevertheless, PC Bond stated that he would use the 'dabber' or Biometrics finger print readers²⁵ under s61 PACE. S61 PACE defined the circumstances in which a suspect's fingerprints might be taken without consent:
- they are detained for a recordable offence;
 - they are charged with a recordable offence;
 - are informed that they will be reported for such an offence;

²⁴ Criminal Records Office: No Live Trace: There is a criminal record but this information does not appear on the certificate because it has been stepped down. Trace: There is a criminal record and all the information has been disclosed, <https://www.acro.police.uk/Guidance-for-British-embassies>

²⁵ The MPS Force Management Statement published in May 2019 ([bg-to-business-plan-fms-may-2019.pdf \(met.police.uk\)](https://www.met.police.uk/bg-to-business-plan-fms-may-2019.pdf)) states that Biometrics finger print readers "*allows officers to confirm identity and maximise postal charging opportunity thus reducing demand on custody.*"

- a constable reasonably suspects them of committing or attempting to commit an offence, or they have committed or attempted to commit an offence, and: the name of the person is unknown to, and cannot be readily ascertained by, the constable; or the constable has reasonable grounds for doubting whether a name given by the person is their real name.

BWV showed that Mr Dos Santos agreed for PC Bond to take his fingerprints. PC Bond did not explain the reasons why he took Mr Dos Santos' finger prints when his driving licence was in his car.

309. The screenshot below showed that PC Bond took Mr Dos Santos fingerprints at 12:41:20.



310. PC Clapham's BWV showed that at 12:41:20, PC Franks told Mr Dos Santos, "*The details you've given us have not come back on the systems at all. You say you've been arrested and gone to court*". In his response to caution, PC Bond explained, "*As a result of concerns about establishing his correct identity I then talked about using the "dabber" which is obviously the fingerprint machine which we can utilise in certain situations.*"
311. At 12:45:50, BWV showed that Mr Dos Santos again urged the officers to complete the relevant checks because he had a lunch reservation in central London. PC Bond responded "*You swearing will slow it all down*", "*Because my attention's on you now.*" PC Clapham asked PC Casey to check whether Mr Dos Santos' driving licence was in the car and was told that officers were waiting for drugs dogs to search the vehicle for drugs.
312. The footage showed that PC Bond asked Mr Dos Santos to spell his name and said that they might have to confirm it against his driving licence because the name might be hard to find on the system. PC Bond told Mr Dos Santos that he was trying to be quick. In his statement, PC Bond said "*Finally a Driving license was located in the vehicle, which I removed from his wallet which was in a dark coloured jacket in the front passenger well. This was removed in full view of DOS SANTOS SOARES and recorded in my body worn camera. Checks on the Licence were conducted which turned out to be a SUBSTANTIVE license. From doing intelligence checks on DOS SANTOS SOARES his previous arrest was for Obstruction of a search and Assault on an emergency worker. It*

is clear that his behaviour is ingrained to be hostile and aggressive towards Police.”

313. PC Clapham’s BWV showed that, at 12:56:48, PC Clapham enquired about the outcome of Mr Dos Santos’ name check and PC Bond replied that it came back with ‘no trace’ but that Mr Dos Santos was arrested implying that the result should have been that there was a ‘trace’. The footage showed that a conversation followed between Mr Dos Santos, PC Clapham and PC Bond about his previous arrests and convictions. A/PS Simpson’s BWV showed that at 12:57:38, she enquired with PC D whether the results of Mr Dos Santos’ name checks had come back and PC D replied that his records showed one non-recordable offence and confirmed that his vehicle was insured. PC Clapham’s BWV showed that at 12:58:52, Mr Dos Santos disclosed that he was previously arrested in 2018 for obstruction and public order offence. When checking PNC, PC Bond said that the record mentions assault on a constable, this was denied by Mr Dos Santos but PC Clapham explained that he assumed that this would be part of the obstruction. There also seemed to be an offence related to road traffic. There were no previous offences related to drugs. The footage showed that at 12:59:24, PC Bond told A/PS Simpson that Mr Dos Santos was in possession of a full “*substantive*” driving licence. A/PS Simpson also confirmed that Ms Williams’ name check was ‘no trace’.
314. A/PS Simpson could be heard on BWV asking PC Franks whether he wanted to further search Mr Dos Santos in the van, *“Are you happy with the search of this person? As in do you want to jump him on the bus or not?”* and again *“If you wanna jump on the bus and do a bit of a ferret around his groin and his shoes to get that bit covered”* to which PC Franks replied that he was happy with the checks and that it was only Mr Dos Santos manner of driving that *“confused”* him. In her response to caution, A/PS Simpson explained that when she said *“ferret around his groin and his shoes”*, she actually meant searching *“around the inside waistband”* and his shoes. The officer told the IOPC that *“The expression “ferret around” means nothing more, or less, than have a look. This is the simple meaning of the verb to ferret, as is clear from the dictionary.”* When asked in interview to explain the use of this phrase and whether she believed it was professional to use it with a colleague and in front of a member of the public, A/PS Simpson declined to make any comments.
315. At 13:02:31, PC Clapham confirmed that he was happy with the checks on Mr Dos Santos and that they were still waiting for the drugs dogs to arrive. The stop and search of Mr Dos Santos, Ms Williams and their vehicle was completed in approximately 45 minutes.

Search of the Mercedes and attendance of the dogs unit

316. PC A’s BWV showed that at 12:29:04 PC A started the search of Mr Dos Santos’ car. PC B could be heard telling her that she was searching under s1 PACE and s23 MDA implying that she

was searching for weapons and drugs. The following conversation took place between the two officers:

PC A: *“Um, what’s the 23?”*

PC B: *“Smell of cannabis”*

PC A then asked PC B his opinion on the need to call drugs dogs to assist. BWV showed that PC B did not respond but instead went to verify with PC Bond whether there was any progress on the checks done on the Mercedes. The footage showed that PC Bond responded that he did not have time to go through the results and indicated that his tablet was in the van. PC A could be seen interrupting her search of the Mercedes. PC A told the IOPC in her response to caution that she stopped searching the vehicle to *“preserve any scent for the dog, and preventing loss of evidence.”*

317. A/PS Simpson’s BWV showed that at 12:29:08, PC A with the agreement of A/PS Simpson asked PC D to request the assistance of drugs dogs to search the Mercedes. The footage showed that PC D radioed Control and requested drugs dogs at 12:31:45 as confirmed by CAD 3527. On the footage, A/PS Simpson could be seen explaining to Ms Williams that the drugs dogs were called to search their vehicle. This was also communicated to Mr Dos Santos at 12:45:50. A/PS Simpson was asked in interview to explain why she authorised the use of drugs dogs but she declined to answer.
318. A/PS Simpson’s BWV showed that at 12:39:18, A/PS Simpson told PC A and Ms Williams that they were waiting for the dogs to arrive and if there were none available that they would search the car themselves. CAD 3527 showed that the Operator told officers that drugs dogs were not available for assistance in their area at 12:39:02. BWV showed that PC A told A/PS Simpson that drugs dogs were not available and suggested to request general purpose (GP) dogs instead to which A/PS Simpson agreed for the purpose of checking the route. The footage showed that A/PS Simpson did not seem certain that drugs dogs could search the route because it had not been contained and asked PC Casey his opinion. PC Casey responded *“I’ve walked it and there was nothing obvious.”* In his statement, PC Casey stated that he had *“walked the route the vehicle had taken looking for discarded items”*. BWV showed that he told A/PS Simpson that his search of the route was negative.
319. BWV showed that A/PS Simpson asked PC A if GP dogs could search the Mercedes and PC A responded *“I don’t see why not, they might say no, but they’re only in Wembley so…”* BWV showed that PC A requested the attendance of a GP dog at 12:39:36. This is also recorded on CAD 3527 at 13:39:55. A/PS Simpson’s BWV showed that the request seemed to have been made after PC Casey had told A/PS Simpson that he had walked the route and that he had not found anything at 12:39:01. PC A stated in her response to caution that she was not sure whether a GP dog could search a car but *“also thought it might be helpful to have a dog go back over the route of the vehicle to see if any property had been discarded as obviously there had been*

moments when the Mercedes had been out of view.” In interview A/PS Simpson was asked why she waited for a GP dog to come when this could cause delays. The officer did not comment. In her response to caution, A/PS Simpson said that they “had to wait for a dog to ensure there was a thorough search of the vehicle, and then following further discussions, when it became clear that no dog was going to come, review the position in relation to the vehicle search and the route search, and then wait for the GP dog to come. Once it became clear that it was more appropriate for us to carry out the search of the vehicle ourselves, we did so.”

320. A/PS Simpson’s BWV showed that before the police dog handlers arrived at the scene, A/PS Simpson had agreed that Ms Williams could hold her baby in her arms and searched the child seat and around it to ensure there was nothing before Ms Williams picked up her child. PC Bond’s BWV also showed that at 12:48:50, PC Bond looked into the boot of the Mercedes and into his gym bag to find Mr Dos Santos’ driving license. The footage showed that PC Bond found Mr Dos Santos’ driving licence in his jacket on the front passenger seat at 12:53:27.
321. PC A’s BWV showed that at 12:55:44, police dog handlers PC David Jackson and PS Liam Moore arrived at the scene. PC Jackson told the IOPC in his statement that they regularly attended similar calls and that there was nothing unusual in the request. PC A explained to PS Moore the circumstances of the stop and search and that there was a smell of cannabis. A/PS Simpson’s BWV showed that A/PS Simpson asked PS Moore if GP dogs could search the car for drugs to which he responded that they could not. In his statement, PS Moore explained that their unit had responded to a request for a GP dog and that their dog could therefore not search the Mercedes.

PS Moore stated that they were accompanied by their GP dogs. He explained in his statement that this meant that the dogs could, in accordance with the NPCC Manual of Guidance, perform certain tasks that included searching for property. PS Moore told the IOPC that he was asked to search the route for any discarded items but was informed that no items had been seen to be discarded from the vehicle. The officer explained that it was inappropriate to deploy the dogs in these circumstances for the following reasons:

- *“The overall large scale of the search area requested”,*
- *“The busy nature of the vehicular traffic”,*
- *“The lack of certainty as to whether something had actually been discarded in the first place”.*

PS Moore stated that he enquired about the possibility to close the roads to facilitate the search and to keep the dogs safe considering the traffic but was told that this was not appropriate. PS Moore said that he could not deploy the dogs because of safety reasons and because of the multitude of human scents contained in such a large and busy scene which could render the dog search less effective. PS Moore added that he also asked whether a specific location had been identified where it

was more likely that the occupants of the car might have thrown something but as none was identified, PS Moore stated that he could not deploy his dog. A/PS Simpson's BWV showed that the following conversation took place between the A/PS Simpson and PS Moore:

A/PS Simpson: *"Excuse my ignorance, can GP dogs search the car for drugs?"*

PS Moore: *"No."*

A/PS Simpson: *"So the route isn't contained which is our issue, but we didn't know whether it was worth you coming anyway."*

PS Moore: *"What is the route?"*

A/PS Simpson: *"Gentleman at the end, short guy [PC Casey], knows the route and will be able to walk you through it."*

PS Moore: *"What sort of length are we talking about?"*

A/PS Simpson: *"We'll just do the last two streets otherwise we could go on forever. Are you alright to walk the route with the dog?"*

PC Casey BWV showed that at 12:56:41, PC Jackson, PS Moore and PC Casey discussed the route to be searched. PC Casey told the dog handlers that he did not find any discarded items on the route that he had walked. The dog handlers agreed with PC Casey that it might not be realistic for the dogs to search the area especially since PC Casey had confirmed that nothing was seen to be thrown out of the car. A/PS Simpson's BWV showed that at 12:57:38, PS Moore came back towards A/PS Simpson and said, *"It's not feasible without shutting roads and without seeing him [Mr Dos Santos] throw anything we haven't got anything to work with so we'll be here all day basically"*. A/PS Simpson thanked the officer for attending the scene and told PS Moore that they would know for next time. PS Moore and PC Jackson left the scene soon after their arrival.

322. Mr Dos Santos stated *"A second police car arrived with the police dogs. The dogs were not used to search us or the car. The officers got out the car and spoke to the officers at the scene but they didn't remove the dogs. After a while they then returned to the car and left. I asked PC Franks again whether he was going to drug test me and he replied "no we are going to search the car". Two officers then began searching the car. They checked all parts of the car including the boot and the bonnet. They went through the bags, including the changing bag for the baby and also the baby seat."* Officers' stop and search slips showed that during a period of one year, there was no mention of drugs dogs being called when officers stopped and searched vehicles for drugs.
323. A/PS Simpson's BWV showed that at 12:56:50, A/PS Simpson asked PC A to search the Mercedes with PC C. PC C's BWV showed that PC C started searching the back of the vehicle whilst PC B searched the front. BWV showed that a small capsule with a substance was found in Ms Williams' bag. Ms Williams explained that this was a lucky charm given by her mother. The officers appeared to be satisfied with her response. The search of the vehicle was completed at

13:15:52. The outcome of the vehicle search was negative for drugs and weapons.

324. The IOPC asked PC C to explain why he could not conduct the search of the Mercedes as soon as he learnt that it was necessary to search the vehicle for drugs and weapons. The officer explained in a further statement that he believed that requesting a drugs dog was best practice when items might have been concealed or to look for discarded items on the road. He also said that he could not remember what reasons were given to him to justify calling for dogs but that in the circumstances, he would have done the same. He added that *“searching with officers first can frustrate the search by spreading or moving scents”*. PC B told the IOPC in his further statement that he knew from experience that dog handlers would ask the officers not to disturb the vehicle as it *“hinders the work of the search dog”*.
325. The IOPC obtained the electronic records of the stop and search conducted by PC Casey, PC Clapham, PC Bond, PC Franks, PC A and A/PS Simpson for a period of one year prior to this incident taking place. The records did not mention in any of them whether a dog search was conducted in any of these stops and there did not seem to be a requirement for officers to record when a dog unit was called for assistance or attended.
326. BWV footage showed that at the end of the search, PC Bond spoke to PC C and said to him *“it’s thin, we talk after”* and that PC C replied *“yes indeed”*. When PC C was asked by the IOPC to explain the conversation, PC C stated in his further account that he could not remember any specific conversation with PC Bond. In his response to caution, PC Bond said, *“I am aware that a comment was made to PC C by me, after it was all over that “its thin we talk after” which simply meant that at the end of the incident, nothing had been found on either the two persons detained or the vehicle and provided him with confirmation that there will be a full debrief subsequently.”*
327. In her statement, A/PS Simpson said that during the search she liaised with PC Franks to ensure he was *“appraised of the developments regarding waiting for a dog, to establish the results of PNC checks and the search of VICTOR [Mr Dos Santos] and then to discuss potential driving offences VICTOR may have committed.”*

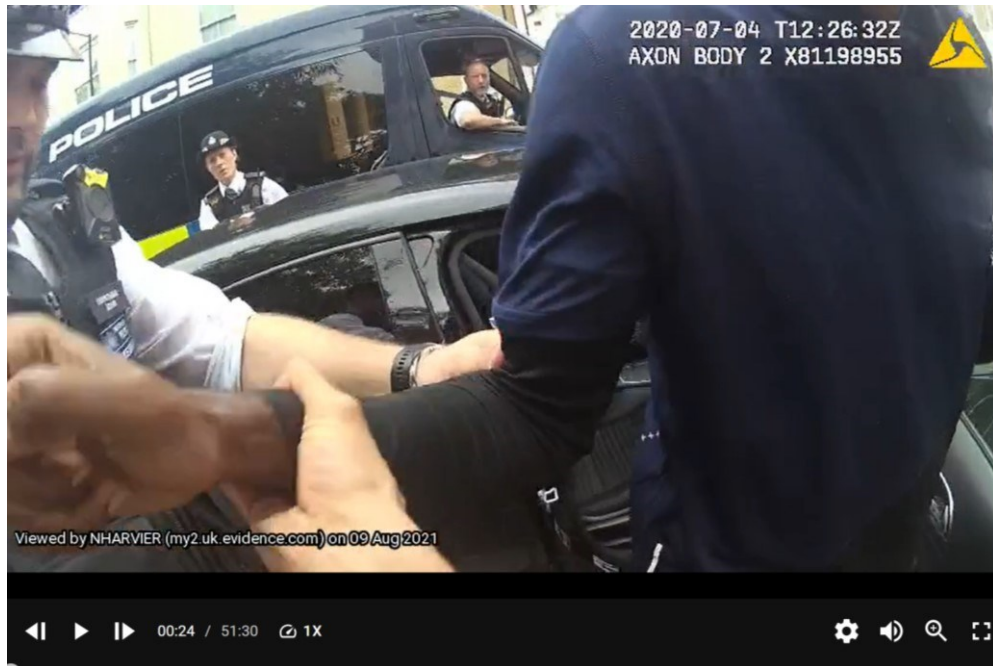
Stop and search receipt

328. BWV showed that at 13:16:26, PC Franks removed Mr Dos Santos’ handcuffs and offered to give him a copy of the search slip. The footage also showed that PC Clapham gave Mr Dos Santos his belongings back including his phone and watch. A/PS Simpson’s BWV showed that Ms Williams and Mr Dos Santos were given copies of the stop and search slip completed by A/PS Simpson and PC Franks at the end of the incident. PC Franks and A/PS Simpson also completed stop and search records once back at the police station. These showed that they were reviewed by a supervisor.

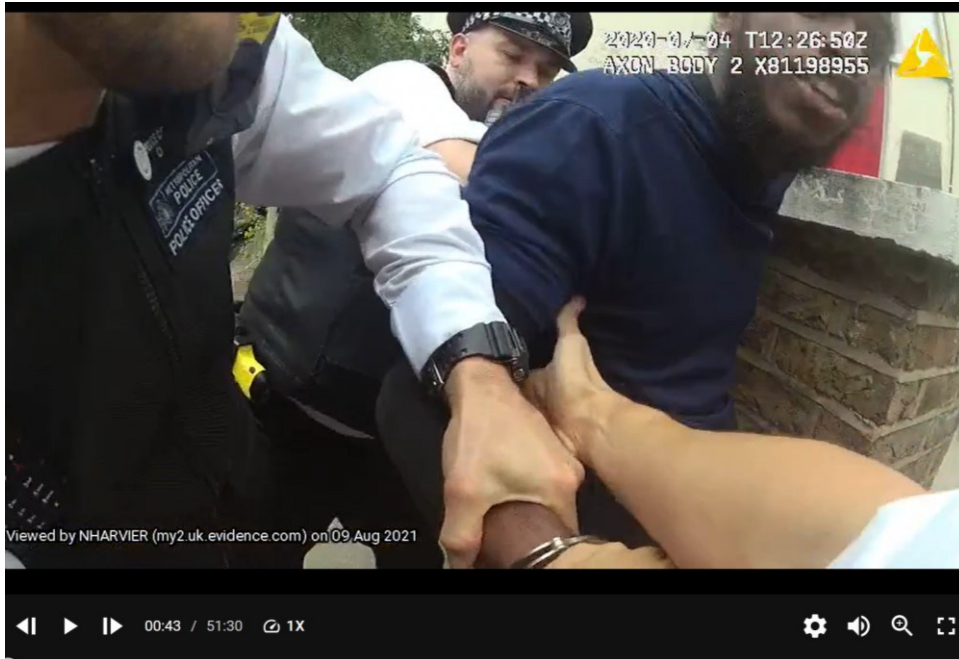
329. A/PS Simpson, PC A, PC Bond, PC Clapham and PC Franks denied breaching any of the Standards of Professional Behaviour and stated that they acted according to their policing duties and responsibilities at all times.

Use of Personal Protective Equipment (PPE)

330. PC Franks' BWV showed that when Mr Dos Santos came out of his car, PC Bond and PC Franks grabbed his right arm making contact with his clothing and skin. The screenshot below showed the moment the officers held his arm.



The screenshot below shows when PC Clapham assisted his colleagues in handcuffing Mr Dos Santos, the footage showed that none of the officers wore gloves and that they touched his skin and clothing:



PC Clapham explained that it was an operational necessity and safer for him and his colleagues to continue to hold Mr Dos Santos' handcuffs. The officer further clarified in his response to caution that in his opinion, there was not policy or SOP that *“documented that such a reasonable excuse relating to operational necessity made Covid-19 related PPE mandatory.”*

331. The footage showed that only PC Clapham wore gloves when he held Mr Dos Santos' handcuffs.



332. A/PS Simpson's BWV showed that neither her nor her colleague PC A wore gloves when they grabbed Ms Williams by her arms and pulled her out of the car. The screenshot below showed that A/PS Simpson and PC A's hands make contact with Ms Williams' clothing and skin.



333. PC Clapham's BWV showed that Mr Dos Santos raised concerns about Covid-19, and the officers being too close to him and his baby:

PC Clapham's BWV showed that at approximately 12:41:23, the following conversation took place between Mr Dos Santos and PC Clapham. Mr Dos Santos could be observed raising his voice towards PC A and A/PS Simpson:

Mr Dos Santos: [Inaudible due to wind] *"you guys have...some Covid shit, so stand back."*

PC Clapham: *"Unfortunately our safety overrules that."*

Mr Dos Santos: *"I don't give a damn bro."*

PC Clapham: *"That's fine but I'm not going to release these handcuffs."*

Mr Dos Santos: *"You're fine, I'm just telling your colleague here, stand back, bro, stand back."*

PC Clapham: *"So he's gonna stand there to make sure I'm safe."*

Mr Dos Santos: *"You're safe bro, you got like 10 man up, you're 10 man up."*

PC Clapham: *"How do I know? Based upon your behaviour..."*

Mr Dos Santos: *"Ah shut up man. Don't be touching my son man. I don't care, don't go near my son. Close the door, do not go near my son. Don't go near my son, yo, don't fucking touch him! Don't touch my son, what the fuck bruv! Don't touch the boy, what the fuck are you lot doing?! Don't touch my fucking kid!"*

In her statement, Ms Williams said that she was also concerned with the risks from COVID infection. She stated that she did not *"want strangers looking after my baby nobody told me what was going on and not one of the officers was wearing PPE to protect us from Covid-19. I was scared and not prepared to put my child under any health or safety risk. I said I*

didn't want them to take care of him. I was crying and I felt really scared. I didn't want to be separated from my baby like Ricardo already had been. I was terrified."

334. BWV showed that all officers wore gloves when they conducted the search of Ms Williams, Mr Dos Santos and around their baby and when they searched their vehicle.
335. BWV showed that none of the officers wore masks when interacting with Mr Dos Santos, Ms Williams and members of the public and did not appear to adhere to social distancing legislation in place at the time.

Officers' stop and search data

336. PC Clapham's BWV showed that the stop and search of Ms Williams, Mr Dos Santos and their vehicle lasted from 1.26pm to 2:17pm or almost 1 hour. The IOPC reviewed the stop and search of a previous stop involving Mr Dos Santos on 13 July 2020, BWV showed that the stop and search was completed in approximately 15 minutes. The footage showed that no force was used by the officers. Form 502, the TSG unit's deployment record on 4 July 2020 showed that the unit completed 5 stops of people and vehicles between 10.32am and 12pm before stopping Mr Dos Santos. The officers stopped 3 people under s163 RTA and 2 individuals were searched for weapons under s1 PACE. Form 502 showed that 3 out of 4 vehicle stopped were Mercedes A class models.
337. The IOPC reviewed the BWVs of some of these searches. BWV showed that the searches resolved much quickly than the stop and search of Mr Dos Santos and Ms Williams, and that the individuals were left to go after vehicle, name and licence checks were completed. The footage showed that the people stopped complied with the instructions given to them by the officers. Some of these checks are summarised below:
- The stop of a Black man in a parked car took less than 7 minutes to establish that he had a full substantive driving licence, that his car was insured and that his name check was 'no trace'.
 - The stop and search under s1 PACE by PC Franks of a Black man on a scooter took 10 minutes to establish that his name check came back with 'no trace'. The man was handcuffed and once checks were completed, the man was left to go.
 - The stop and search by officers of two White men and a Black man in a car under the Road Traffic Act was completed in 18 minutes. No force was used on them. After check were completed, the men were left to go.
338. The IOPC obtained the electronic records of the stop and searches conducted by the officers over the year preceding the incident. The focus of the analysis of the officers' stop and search records was on all stop and searches conducted for one year and particularly those under s1 PACE and s23 MDA because Mr Dos Santos and Ms Williams were searched for weapons (s1 PACE) and drugs (s23 MDA). The selected examples from the officers' stop and search records showed that the

officers conducted a variety of different stop and searches including Intelligence-led stop and searches, self-generated searches and some stop and searches where the information came from a third party.

339. The following paragraph dealt with the officers' stop and search data for Westminster which was relevant to the area where Mr Dos Santos and Ms Williams were stopped and searched.
340. The 'dashboard'²⁶ is a Metropolitan Police search database that collected data for all stop and searches conducted by MPS officers in London. Data could be obtained by selecting specific criteria such as year, search reason and borough of London. The IOPC searched for the total number of stop and searches carried out by MPS officers in Westminster between 17 July 2019 and 4 July 2020 and compared it with A/PS Simpson, PC Clapham, PC Franks and PC Bond's data using their stop and search slips. Their records showed that, in Westminster, A/PS Simpson searched 20 people. Of the 20 members of the public that she searched, 4 (20%) were White, 8 (40%) were Black people, 2 (10%) were Asian people and 6 (30%) were Middle-Eastern. PC Clapham stopped and searched 31 people in Westminster. Of these 31 people, 5 (16%) were White, 16 (52%) were Black, 4 (13%) were Asian and 6 (19%) were Middle-Eastern. PC Franks stopped and searched 1 White man in Westminster and PC Bond stopped and searched a total of 38, 4 (10.5%) of them were of White people, 19 (50%) were of Black members of the public, 1 (3%) were of Asian people and 14 (37%) were of Middle-Eastern people. The MPS dashboard showed that in Westminster, the proportion of White people being searched was 40% and of Black people being searched was 33%. The data showed that A/PS Simpson, PC Clapham and PC Bond searched a higher proportion of Black people and a lower proportion of White people compared to the Met average. ONS²⁷ population estimates from 2018 indicated that Westminster had a 62% White population, 7% Black population, 14% Asian population and 7% Middle-Eastern. However, Westminster, in central London is a highly transient area where many non-resident individuals would also be present. The demographics of the population passing through Westminster was unknown, but might be more diverse than the estimates for the residential population. Nevertheless, the data showed a disproportionate use of stop and search powers on Black people compared to the resident population of Westminster.
341. From the above it could be observed that the data set for Westminster was small and the IOPC decided to analyse the data for London for each officers' stop and search records so that a larger data set could be considered. Where the data set was small, any pattern would need to be very pronounced to be a reliable indicator pointing towards or away from a differential approach between ethnic groups.

²⁶ Metropolitan stop and search dashboard: <https://www.met.police.uk/sd/stats-and-data/met/stop-and-search-dashboard/>

²⁷ ONS figures in 2018 are accessible here: <https://data.london.gov.uk/dataset/ethnic-groups-borough>

342. The IOPC also analysed the officers ‘find rate’ and whether they found the exact object they were looking for or another illegal item to possess. The purpose of the analysis of the officers’ ‘find rate’ was to show how the stop and search data might be compared to the average find rate taken from Home Office data as well as to show how find rate for any unlawful item might be included and explained in the report (alongside find rate for the item searched for – which was the preferred method for assessing effectiveness of stop and search).
343. Consideration was given to the ‘find rate’ across the officers’ stop and searches particularly for weapons and drugs in the 12-month period. ‘Find rate’ was the proportion of stop and searches where the item looked for was found during the search. Consideration of find rates can provide an indication of the effectiveness in the use of stop and search powers. This approach was used by HMICFRS in their 2021 report ‘Disproportionate use of police powers: Spotlight on stop and search and use of force’²⁸. The officers’ find rates were particularly relevant to consider as part of an assessment of potential discrimination, as it could help to provide an indication of how strong their objective grounds for reasonable suspicion were across the stop and searches reviewed. Where stop and search was undertaken without strong, objective grounds for reasonable suspicion, there was arguably greater scope for other factors, which might include discriminatory bias, to have informed decisions to stop and search.
344. There is no established benchmark for what an appropriate find rate should be for stop and search. Analysis undertaken by Home Office across 46 police forces showed that in the year to March 2020, 20% of stops and searches resulted in a positive outcome that was linked to the initial reason for the search. This varied by reason for search, from 25% for drugs to 4% for searches under section 60 of the Criminal Justice and Public Order Act in anticipation of violence.

A/PS Simpson’ stop and search records

The table below summarised the most relevant data extracted from the stop and searches that A/PS Simpson conducted in London for the period of 10 July 2019 to 26 May 2020.

Table 4: Summary of A/PS Simpson stop and search records from 10 July 2019 to 26 May 2020

Summary of A/PS Simpson’s relevant stop and search data	White	Black	Asian	Middle-Eastern	Unknown	Total
S1 PACE	0	4	1	1	0	6

²⁸ Disproportionate use of police powers: Spotlight on stop and search and use of force, HMRCFRS, 2021: <https://www.justiceinspectrates.gov.uk/hmicfrs/publications/disproportionate-use-of-police-powers-a-spotlight-on-stop-and-search-and-the-use-of-force/>

S23 MDA	6	15	4	3	0	28
Other grounds	1	4	0	3	0	8
Total	7	23	5	7	0	42
Total %	17%	55%	12%	17%	0%	n/a

A/PS Simpson' stop and search records showed that in London for the period stated, A/PS Simpson carried out a total of 42 stop and searches. Her records showed that 28 were drug searches of which 6 (21%) were conducted on White²⁹ subjects and 15 (53%) were on Black subjects. When comparing the data for subjects searched for weapons there were 6 in total. 0 of these 6 searches accounted for White people whereas 4 (67%) of these 6 searches were on Black people. According to the ONS, the White population of London is estimated at 59% and the Black population of these boroughs is estimated at 12%³⁰.

345. Table 5: A/PS Simpson' stop and search find rate for weapons and drugs: exact object found

Did A/PS Simpson find exactly the object they were looking for?	White	Black	Asian	Middle-Eastern	Unknown	Total
Yes	2	6	2	1	0	11
No	4	13	3	3	0	23
Total	6	19	5	4	0	34
Find rate %	33%	31.5%	40%	25%	0%	32%

In the data set considered for A/PS Simpson (limited to stop and searches for drugs and weapons), the officer had a higher find rate (32%) to the national average (20% - which included all grounds for stop and search).

346. Consideration was given to whether A/PS Simpson had a different find rate across different ethnic groups which might have indicate a different approach to reasonable suspicion for different ethnic groups.

347. The table showed that A/PS Simpson found the exact illegal item searched for on a White individual on 2 (33%) out of 6 occasions and on 6 (31.5%) out of 19 occasions when searching Black individuals.

348. Consideration was been given to whether A/PS Simpson found an unlawful item that was not the item she was searching for, in the

²⁹ White including North European and South European; Asian including Chinese, Japanese and other South-eastern Asian; Middle Eastern including Arabic and North African

³⁰ ONS figures in 2018 are accessible here: <https://data.london.gov.uk/dataset/ethnic-groups-borough>

searches for drugs and weapons reviewed. Finding an unlawful item that was not the item searched for was not a good indicator of whether the officer's grounds for the search were reasonable and evidence-based as the reason for the search should be specific to the item searched for. However, finding an unlawful item that was not searched for could account for suspicious behaviour which might have been wrongly attributed to concealing a weapon or drugs when it was a different illicit item that was being concealed.

349. Of the 19 Black individuals stop and searched, additional unlawful items that were not the item searched for were found on 3 occasions. This meant that A/PS Simpson found any unlawful item in 9 (47%) of 19 stop and searches of Black individuals. No additional unlawful items were found on the White individuals who were stop and searched. This means A/PS Simpson found any unlawful item in 2 (33%) of 6 stop and searches of White individuals.
350. The data set showing the find rate for A/PS Simpson, when broken by ethnicity, was small – particularly for White individuals. The difference in find rate between White people stop and searched (33%) and Black people stop and searched (31.5%) by A/PS Simpson was not very pronounced, given the size of the data set. The pattern changed when finds of any unlawful object was considered (33% for White people stopped compared to 47% Black people stopped). Taking all this into account, it appeared that no meaningful conclusion could be drawn from a comparison between find rates for different ethnic groups in this case. An overall high find rate however might indicate that A/PS Simpson showed a pattern that indicated a relatively effective approach to stop and search.
351. The IOPC also analysed the grounds A/PS Simpson recorded on her stop and search slips when stopping and searching people under s1 PACE for weapons and s23 MDA. These scenarios were based on the records of the stops that she made and included judgement about the behaviour of the person stopped – which was of A/PS Simpson's view and might not be substantiated. Some examples were:
- Her stop and search of a Middle-Eastern male under s1 PACE. Officers were in the area due to a spike of robberies committed by males with weapons. The description given to officers was: "*black floppy hair, black zip up rain jacket with white writing on, dark slim fitting tracksuit bottoms and green trainers.*" The CAD of a fight in Hyde Park mentioned that a "*knife was seen*". The stopped male was "*very agitated and had clearly been involved in a fight due to muddy clothing and a graze under his right eye.*" The search was positive and the man was arrested.
 - Her stop on 14 December 2019 of an Asian male under s23 MDA. A group of males was approached, the officer described a "*strong smell of cannabis*". Males said they were in West End coming back from Richmond. "*They were not dressed as if they were going into a nightclub which is mainly the only places open at that time of night*". One of the males was searched and taken to police

carrier, his shoes were removed. The outcome of the search was negative and the case was NFA.

- Her stop on 16 November 2019 of a Black male under s23 MDA that was stood at doorway with *“no obvious purpose”*. The outcome of the search was negative and the case was NFA.
- Her stop on 20 September 2019 of a White male under s23 MDA. The officer described a car pulling off and making a sharp right turn with very late indication, then the driver made *“several more quick turns before turning into a dead end”*. The man who was the passenger, appeared nervous and scared. According to the officer, the man was initially reluctant to talk and to get out of the car. *“In the middle of the front of the car were 4 mobile phones but only 2 people in the vehicle”*. The outcome of the search was negative and the case was NFA.
- Her stop on 9 February 2020 of a Black male under s23 MDA, the man was spoken to because his *“behaviour appeared odd”*, when asked to stop he refused to stop and walk past. *“Immediately argumentative, raised his voice.....eyes were bloodshot, the whites has red tinge to them and were streaming with water.”* The man had large rolling paper in pocket. The man was detained for search under s23 MDA. The search was positive and the man was arrested.
- Her stop and search on 26 May 2020 of a Black man under s23 MDA. Officers were given the description of a *“large build, wearing white t-shirt, light grey shorts, black and red socks pulled up with blue sliders”*. The male looked at the officers and sped off *“trying to distance his car from ours”*. The male initially refused to exit the car. The search was positive and the man was arrested.

352. When analysing A/PS Simpsons stop and searches it appeared that some of her grounds to suspect drug possession appeared to be stronger when combined together than on their own, these were *“exchanges were seen”*, *“strong smell of cannabis”* and *“eyes were red and glazed”*. A/PS Simpson’s records showed that 8 out of 28 subjects searched were found in possession of drugs namely cannabis.

353. The strongest grounds A/PS Simpson provided related to a stop and search of a Middle Eastern male on 27 July 2019 where Intelligence was provided that a fight had developed in Hyde Park and a knife was seen. The grounds seemed to be strong for this stop and search as a knife was seen and the male was observed to be *“very agitated and had clearly been involved in a fight due to muddy clothing and a graze under his right eye.”* This search was successful and the man was arrested for possession of a weapon namely a knife. It is also worth noting that this stop was the only one where A/PS Simpson found a weapon during the period analysed. There were a further two stops under s1 PACE for weapons and subjects were arrested for possession of stolen property.

354. Some of A/PS Simpson’ stop and search records showed however that the officer also appeared to use grounds that seemed more subjective,

where the search was self-generated³¹ on the basis of the subjects' behaviour and their appearance: "looking nervous", "behaviour appeared odd", "not dressed to go to nightclub" rather than intelligence or specific information related to the items searched for. A/PS Simpson also referred to vehicles that had "sped off". Outcome for these self-generated stop and search was negative. This might indicate that the officer recorded weaker grounds when she spontaneously stopped these individuals. All of A/PS Simpson stop and search records indicated that they were reviewed by a supervising officer.

355. In her response to caution, A/PS Simpson told the IOPC "I do not intentionally stop and search more people from one ethnic group more than others. I treat all members of the public I come into contact with, in a fair and reasonable manner. Sometimes how they react to me is what causes me to have to perform my duties in a certain way, but this has nothing to do with their race or ethnic background."

PC Clapham's stop and search records

356. The table below summarised the most relevant data extracted from the stop and searches that PC Clapham conducted in London for the period of 23 July 2019 to 29 May 2020.

Table 6: Summary of PC Clapham stop and search records from 23 July 2019 to 29 May 2020

Summary of PC Clapham's relevant stop and search data	White	Black	Asian	Middle-Eastern	Unknown	Total
S1 PACE	2	17	2	7	1	29
S23 MDA	4	9	2	1	0	16
Other grounds	0	1	1	1	0	3
Total	6	27	5	9	1	48
Total %	12.5%	56%	10%	19%	2%	n/a

PC Clapham' stop and search records showed that, for the period stated above, the officer conducted 48 stop and searches in London. The table above showed that of these 48 searches, 6 (12.5%) were of White subjects, 5 (10%) were of Asian subjects, 27 (56%) were of Black subjects and 9 (19%) of Middle Eastern subjects. According to the ONS, the White population of London is estimated at 59% and the Black

³¹ According to the HMICFRS, self-generated stop and search refers to a stop and search that is "initiated spontaneously by the officer in response to what they see or hear, rather than intelligence-led or as a result of information from a third party".

population is estimated at 12%³². It would appear that PC Clapham searches of Black people was disproportionate compared to the resident population of London.

357. The table above also showed that out of the 48 searches conducted by PC Clapham in London, 16 were drug searches of which 4 (25%) were of White subjects and 9 (56%) were of Black subjects. When comparing the data for subjects searched for weapons there were 29 in total. 2 (7%) of the total 29 searches accounted for White subjects whereas 17 (59%) searches were on Black subjects.

358. Table 7: PC Clapham’s stop and search find rate for weapons and drugs: exact object found

Did PC Clapham find exactly the object they were looking for?	White	Black	Asian	Middle-Eastern	Unknown	Total
Yes	2	6	1	1	0	10
No	4	20	3	7	1	35
Total	6	26	4	8	1	45
Find rate %	33%	23%	25%	12.5%	0%	22%

359. In the data set considered for PC Clapham (limited to stop and searches for drugs and weapons), PC Clapham had a similar find rate (22%) to the national average (20% - which included all grounds for stop and search).

360. Consideration was given to whether PC Clapham had a different find rate across different ethnic groups which might have indicated a different approach to reasonable suspicion for different ethnic groups.

361. The table showed that PC Clapham found the exact illegal item searched for on a White individual on 2 (33%) out of 6 occasions and on 6 (23%) out of 26 occasions when searching Black individuals.

362. Consideration was been given to whether PC Clapham found an unlawful item that was not the item he was searching for, in the searches for drugs and weapons reviewed. Finding an unlawful item that was not the item searched for was not a good indicator of whether the officer’s grounds for the search were reasonable and evidence-based as the reason for the search should be specific to the item searched for. However, finding an unlawful item that was not searched for could account for suspicious behaviour which might have been wrongly attributed to concealing a weapon or drugs when it was a different illicit item that was being concealed.

363. Of the 26 Black individuals stop and searched, additional unlawful items that were not the item searched for were found on 6 occasions. This

³² ONS figures in 2018 are accessible here: <https://data.london.gov.uk/dataset/ethnic-groups-borough>

meant that PC Clapham found any unlawful item in 12 (46%) of 26 stop and searches of Black individuals. No additional unlawful items were found on the White individuals who were stop and searched. This meant PC Clapham found any unlawful item in 2 (33%) of 6 stop and searches of White individuals.

364. The data set showing the find rate for PC Clapham, when broken by ethnicity, was small – particularly for White individuals. Where the data set was small, any pattern would have needed to be very pronounced to be a reliable indicator pointing towards or away from a differential approach between ethnic groups. The difference in find rate between White people stop and searched (33%) and Black people stop and searched (23%) by PC Clapham was not very pronounced, given the size of the data set. The pattern changed when finds of any unlawful object was considered (33% for White people stopped compared to 46% Black people stopped). Taking all this into account, it appeared that no meaningful conclusion could be drawn from a comparison between find rates for different ethnic groups in this case. The data did show that, overall, PC Clapham had a find rate which was similar to the national average which could indicate that he took a similar approach to assessing reasonable suspicion compared with other officers.
365. PC Clapham's electronic stop and search records using the powers under s1 PACE Weapons, Point and Blades and s23 of Misuse of Drugs Act 1971 were analysed from 4 July 2019 to 4 July 2020. In these records, PC Clapham referred to the individuals' manner of driving as evasive or at speed and being suspicious in 12 stop and search slips. 0 of these individuals were White, 9 were Black people, 1 was Asian, and 2 were Middle-Eastern people.
366. PC Clapham mentioned as grounds for search that subjects appeared nervous upon contact with the police in 38 cases. Some examples of these grounds included:
- His stop and search on 21 September 2019 of a Black man who was part of a group of young males waiting outside a tube station for no apparent reason and walking slowly and aimlessly down Regent Street on a busy Saturday morning without going into any shops. The record described their clothing as track suits and hoodies too hot for the weather. The man was searched under s1 PACE. The outcome of the search was no further action.
 - His stop and search on 4 September 2019 of a Black man walking on Oxford Street with his face concealed by a hoodie and wearing clothing too hot for the weather. The man was described walking slowly past officers wearing overt Met vests looking back nervously paying unusual amount of attention to police. The man was not walking with any real purpose. When stopped, the man refused to remove his hands from his pockets – believed to be hiding something. The man was evasive to questions. Due to his evasive behaviour, hands in pocket, clothing and presence in hotspot for robberies and knife crime, it was suspected that he had

weapon. The man was searched under s1 PACE. The outcome of the search was no further action.

- His stop and search on 28 July 2019 of a Black man observed to be cycling on the pavement on a SANTANDER bike, regularly used by robbers to rob mobile phones from victims. The man was wearing a tracksuit and thick black body warmer on a warm day. He was described as sweating profusely and his eyes were constantly moving direction as if nervous. The man was said to be speaking very nervously when stopped. The man stated that he had come from Hyde Park, a current robbery hotspot. The man gave a vague account of what he was doing and where he was going. His hands reached towards his pockets as if hiding something. The man was suspected with possession of weapons due to his nervous behaviour, dress and presence in an area well known for knife crime/robberies. The man was stopped under s1 PACE. The outcome of the search was no further action.
- His stop and search of a Black man on 27 July 2019 when he was observed to be pillion on a Santander bike at late hour. The bike turned in the other direction upon seeing the police vehicle as if to evade police. In area well known for robberies and knife crime recently. The man's eyes were described as "*widened as if nervous*". The man was suspected to have weapons. The man was stopped for being in a group of people "*in area known for knife crime recently and drug dealing*". The stop and search was conducted under s1 PACE. The outcome of the search was no further action.
- His stop and search on 31 March 2020 of a White man seen in an area was well known for gangs and knife crime. The man was observed in a vehicle late at night during Covid-19 lockdown with two other young males. His account was vague to explain his presence in the area and he was nowhere near his home address. The man was in an area which is well known gang territory and where there had been recent gang tensions. The man was nervous upon answering basic questions. It was suspected that he had weapons and was searched under s1 PACE. The outcome of the search was no further action.
- His stop and search of a White man on 27 July 2019 under s23 MDA where the man was observed to be in the driver seat of a vehicle with three other people with windows steamed up at late hour in an area well known for drug dealing and drug use. The steamed windows were suggestive of drugs being smoked. There was a strong smell of fresh herbal cannabis coming from the vehicle upon arrival. The man's hands went towards centre of the vehicle upon being stopped, there were quick body movements and his eyes widened as if nervous and hiding something. The man's eyes glazed and pupils were wide as if under the influence of drugs. There was a suspicion that the man had drugs. The search was conducted under s23 MDA. The outcome of the search was no further action.

- His stop and search of an Asian man on 21 August 2019 under s1 PACE and s23 MDA. The unit was patrolling as part of Op Ashburton with recent gang tensions, knife crime and gang related murder on Hammersmith and Fulham. TSG tasked to prevent youth/gang violence. The man was the front passenger of a vehicle that was observed to drive off at speed away from police before doubling back as if attempting to make off. The man immediately got out of vehicle which was a common tactic used to distract police and to potentially escape from police. The man was immediately aggressive and confrontational. His hands moved towards his pockets as if hiding something. His eyes were glazed, his pupils were widened with no smell of alcohol as if under influence of drugs. His behaviour was volatile as if under influence of Class A drugs. The vehicle was in an area well known for knife crime and stabbings. The man was detained for drugs search and weapons search. The search was positive and he was arrested for drugs.
- His stop and search of a Black man on 26 September 2019 in an area well known for drug dealing and drug use. The man was the rear passenger in a vehicle observed by police to drive through a red light when police were behind the vehicle. The vehicle slowed “to stop as if delaying”. The man exited the vehicle. His eyes were described as “widened as if nervous.” Whilst being spoken to the man was observed to move his hands around to the front and back of his body. The man moved his hands out of view despite being told to keep his hands in view. His eyes were glazed and reddened, his lips were dry as if under the influence of substance. The man’s responses to basic questions were slow and he was looking in different directions as if looking for an escape route. Due to his appearance, nervous behaviour and presence in an area well known for drug dealing, the man was suspected to have drugs. The man was searched under s23 MDA. The outcome of the search was no further action.
- His stop and search of a Black man on 13 November 2019. The man was observed by plain clothes officers to be part of group of males making exchanges with members of the public. He was observed making exchange with smartly dressed male. The smartly dressed male was followed immediately afterwards and was found to have a bag of cannabis. The Black man was suspected to have dealt this cannabis to the male in question and to have further drugs. When he saw uniformed police the man attempted to run away. His eyes were widened as if nervous, he appeared to be shocked, his hands moved towards his waistband as if hiding something. Due to his presence in a location extremely well known for drug dealing, his behaviour and being observed to make exchange with a male found with drugs, the Black man was suspected to have drugs. He was also described as smelling of fresh herbal cannabis. The man was searched under s23 MDA. The man was arrested.

367. In 29 out of the 41 stops and searches PC Clapham conducted, he mentioned as grounds that subjects appeared to be overly interested in or evasive of police, for example, by walking or driving slowly past police, taking “unnatural” interest in police officers, walking away or changing direction upon seeing a police carrier, or by driving “evasively”. It seemed that on these occasions, PC Clapham largely used subjective arguments as his grounds to stop and search these individuals.
368. His stop and search records also showed that in the 31 searches under s1 PACE for weapons, PC Clapham did not find any weapons. The officer’s records showed that in 5 searches on Black people, PC Clapham stated that they were wearing what he deemed to be inappropriately warm clothing for the temperature of the day. According to PC Clapham’s records, “inappropriate” clothing included a hood “concealing” the subject’s face, and in another case, PC Clapham suggested that the track suit might be worn “potentially to hide something”. In one of his stop and search slips, PC Clapham referred to the subject being in Chinatown in the evening and “not wearing evening attire or dressed as if on a night out”. PC Clapham did not give any indication of the reasons why ‘inappropriate’ clothing, on a warm day, might constitute grounds for suspicion.
369. According to PC Clapham’ stop and search slips, he seemed to find drugs when stopping and searching people under s23 MDA in almost half of the cases. In two cases the stop was genuinely based on Intelligence where a Black man was identified as selling drugs. PC Clapham’s stop and search records showed that when he stopped and searched people as a result of Intelligence or third-party information, he seemed to find drugs or weapons more often than when his searches were self-generated.
370. In his response to caution, PC Clapham said “*in my personal and professional life I treat people with respect and courtesy and it is immaterial to me what their ethnicity or ethnic background may be.*” He added that “*I found it extremely offensive when Mr Dos Santos falsely stated that I and all my colleagues were racists, when, in my own experience, this is not the case. Not only do I have a professional duty to address, investigate, and deter anything of a racist nature, I personally despise anything related to racism. He had absolutely no evidence to support the ridiculous claim he made against me and my colleagues, and I was offended by this wrongful assertion against me, and against them. On this occasion, speaking for myself, and I think also my colleagues, no one demonstrated any sort of racial bias, as he would have been stopped, spoken to and treated exactly the same if he was a White man, driving like that, and not getting out of his car and then behaving like that in those first few seconds, as he did.*” The officer concluded by saying that he denied breaching any of the police standards of professional behaviour and that “*There is nothing that I have seen or heard that I believe I should apologise for, or that I would do differently if the situation repeated itself in identical terms.*”

PC Franks' stop and search records

The table below summarised the most relevant data extracted from the stop and search that PC Franks conducted in London for the period of 26 August 2019 to 26 June 2020.

Table 8: Summary of PC Franks' stop and search records from 26 August 2019 to 26 June 2020

Summary of PC Franks' relevant stop and search data	White	Black	Asian	Middle-Eastern	Unknown	Total
S1 PACE	0	11	0	0	0	11
S23 MDA	1	2	0	1	0	4
Other grounds	3	3	0	0	2	8
Total	4	16	0	1	2	23
Total %	17%	69.5%	0%	4%	9%	n/a

According to PC Franks' stop and search records, PC Franks conducted 23 stop and searches in London during the period stated above. Out of the 23 people PC Franks searched, 4 (17%) were White people, 16 (69.5%) were Black people, 1 (4%) were Middle Eastern people, and 2 (9%) were people with an unknown ethnicity. ONS data showed that the White population in London was 59% and the Black population represented 12%³³. It would appear that PC Franks' searches of black people was disproportionate compared to the resident population of London.

371. Of these 23 searches, 4 (17%) were drugs searches and 11 (48%) were for weapons. 1 (25%) of these 4 searches under s23 MDA was on White people, compared to 2 (50%) of 4 drug searches conducted on black people. Of the searches under s1 PACE for weapons that PC Franks conducted, 0 were carried out on White people, and 11 (100%) were on Black members of the public.

372. Table 9: PC Franks' stop and search find rate for weapons and drugs: exact object found

Did PC Franks find exactly the object they were looking for?	White	Black	Asian	Middle-Eastern	Unknown	Total

³³ ONS figures in 2018 are accessible here: <https://data.london.gov.uk/dataset/ethnic-groups-borough>

Yes	0	0	0	0	0	0
No	1	13	0	1	0	15
Total	1	13	0	1	0	15
Find rate %	0%	0%	0%	0%	0%	0%

373. In the data set considered for PC Franks (limited to stop and searches for drugs and weapons), PC Franks had a much lower find rate (0%) to the national average (20% - which includes all grounds for stop and search).
374. Consideration was given to whether PC Franks had a different find rate across different ethnic groups which might have indicated a different approach to reasonable suspicion for different ethnic groups.
375. The table showed that PC Franks found the exact illegal item searched for on a White individual on 0 (0%) out of 1 occasions and on 0 (0%) out of 13 occasions when searching Black individuals
376. Consideration was been given to whether PC Franks found an unlawful item that was not the item he was searching for, in the searches for drugs and weapons reviewed. Finding an unlawful item that was not the item searched for was not a good indicator of whether the officer's grounds for the search were reasonable and evidence-based as the reason for the search should be specific to the item searched for. However, finding an unlawful item that was not searched for could account for suspicious behaviour which might have been wrongly attributed to concealing a weapon or drugs when it was a different illicit item that was being concealed.
377. Of the 13 Black individuals stop and searched, additional unlawful items that were not the item searched for were found on 2 occasions. This meant that PC Franks found any unlawful item in 2 (15%) of 13 stop and searches of Black individuals. No additional unlawful items were found on the White individuals who were stop and searched. This means PC Franks found any unlawful item in 0 (0%) of 1 stop and searches of White individuals.
378. The data set showing the find rate for PC Franks, when broken by ethnicity, was small across all ethnicities. Where the data set was small, any pattern would have needed to be very pronounced to be a reliable indicator pointing towards or away from a differential approach between ethnic groups. The difference in find rate between White people stop and searched (0%) and Black people stop and searched (0%) by PC Franks was not very pronounced, given the size of the data set. The pattern slightly changed when finds of any unlawful object was considered (0% for White people stopped compared to 15% Black people stopped). Taking all this into account, it appeared that no meaningful conclusion could be drawn from a comparison between find rates for different ethnic groups in this case. The data did show that, overall, PC Franks had a find rate which was much lower than the national average. The apparent

disproportionality of PC Franks searches of Black people combined with a low find rate might point towards discrimination.

379. PC Franks' electronic stop and search records using powers under s1 PACE for weapons and s23 MDA were analysed from 4 July 2019 to 4 July 2020. In these records, PC Franks appeared to record grounds that relate to the individuals' behaviour, rather than Intelligence or third-party information. Some examples of these grounds included:

- His stop and search of a Black man on 5 November 2019 when, in an area known for youth violence, the subject "*was seen to avoid police, change direction and walk away from carrier*". The search made under s1 PACE for weapons was negative and there was no further action taken.
- His stop and search of a Middle-Eastern individual on 22 August 2020. The unit was "*tasked to area in response to increased gang tensions and youth violence involving weapons. This had culminated in two recent murders. On patrol of mozart estate when the subject, riding a electric scooter has paid close attention to our carrier. On being asked to stop he has turned down an alleyway and made off at speed. A footchase has ensued where he has been detained for a weapons search due to our tasking and his behaviour.*" The search was negative for weapons but the man was arrested for a traffic offence.
- His stop and search of a Black man on 1 April 2020 when, in an area of high levels of gang crime, violence and drug dealing, a vehicle was seen "*driving erratically*". The search made under s1 PACE for weapons was negative and there was no further action taken.
- His stop and search of a White man on 8 October 2019 where the unit was policing an event and the male was identified by member of the public as offering drugs to the crowd. The search was negative for drugs and there was no action taken.
- His stop and search of an Middle Eastern man on 14 October 2020 under s1 PACE. The unit was tasked to the area due to increased violence and gang tensions after fatal shootings and stabbings. The vehicle was seen in an estate late at night where gang tensions were high. On pulling onto the main road the vehicle was driving fast and dangerously overtaking vehicles at speed as if driving evasively. Upon stopping the vehicle, there were three occupants. None of them were from the estate but instead from areas with opposing gang tensions. All three gave differing reasons for being in the area. Believed due to their behaviour and actions that they might be in the area looking to cause trouble for local boys and believed they might be in possession of weapons. The search was negative and nothing was found.
- His stop and search of a Black man on 27 April 2020 where the unit was "*Tasked to area due to high levels of youth violence and*

gang tensions in recent weeks. Subject was seen talking to two other males at a pedestrian crossing. On seeing the police carrier all three males paid a lot of attention. Subject rode off on an electric scooter away from the group who also split up. As we followed the subject on the electric scooter he began putting his hands in his pockets. I believed that he may have a weapon on him which he was trying to discard. I also believed that this had caused him to make off due to the intelligence in the area and therefore detained him for a search.” The search made under s1 PACE for weapons was negative and there was no further action taken.

- His stop and search of a black man on 4 April 2020 where a “Car stopped under Section 163 RTA 1988. Strong smell of herbal cannabis coming from the window of the car. Refused to step out of the vehicle and was rapidly moving around inside the vehicle and kept reaching into the drivers side console. After being detained for a search still refused to step out of the vehicle.” The search was negative for drugs and there was no action taken.

380. During the period of one year, PC Franks did not find any weapons or drugs when searching for them. In the searches that PC Franks conducted on black people under s23 MDA, the officer recorded that he smelt drugs on two instances, saw drugs paraphernalia in one incident and, observed that a vehicle sped away in an area known for drug dealing.

381. PC Franks told the IOPC in his response to caution that “At no stage did I treat him on the basis of racial bias, conscious or unconscious and such an allegation I find both offensive as well as absurd” and denied that he breached any of the standards of professional behaviour.

PC Bond’s stop and search records

382. The table below summarised the most relevant data extracted from the stop and searches that PC Bond conducted in London for the period of 6 July 2019 to 2 July 2020.

Table 10: Summary of PC Bond’s stop and search records from 6 July 2019 to 2 July 2020

Summary of PC Bond’s relevant stop and search data	White	Black	Asian	Middle-Eastern	Unknown	Total
S1 PACE	0	20	1	8	0	29
S23 MDA	6	26	4	8	0	44
Other grounds	2	3	0	0	0	3
Total	8	49	5	16	0	78

Total %	17%	63%	6%	20.5%	0%	n/a
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According to PC Bond's stop and search records, the officer conducted 78 stops and searches in London during the period stated above. Out of the 78 people PC Bond searched, 8 (17%) were White people, 49 (63%) were Black people, 16 (20.5%) were Middle-Eastern people, and 5 (6%) were Asian people. ONS data showed that the White population in London was 59% and the Black population represented 12%³⁴. It would appear that PC Bond's searches of Black people was disproportionate compared to the resident population of London.

383. Of these 78 searches PC Bond conducted, 44 were drugs searches and 29 were weapons searches. 6 (14%) of 44 drugs searches were on White people, compared with 26 (59%) of 44 for Black people. PC Bond's stop and search records also showed that of the 29 weapons searches PC Bond conducted, 0 were on White people and 20 (69%) were on Black people.

384. Table 11: PC Bond's stop and search find rate for weapons and drugs: exact object found

Did PC Bond find exactly the object they were looking for?	White	Black	Asian	Middle-Eastern	Unknown	Total
Yes	2	13	1	3	0	19
No	4	33	5	12	0	54
Total	6	46	6	15	0	73
Find rate %	33%	28%	17%	20%	0%	26%

385. In the data set considered for PC Bond (limited to stop and searches for drugs and weapons), PC Bond had a similar find rate (26%) to the national average (20% - which includes all grounds for stop and search).

386. The table showed that PC Bond found the exact illegal item searched for on a White individual on 2 (33%) out of 6 occasions and on 13 (28%) out of 46 occasions when searching Black individuals.

387. Consideration was been given to whether PC Bond found an unlawful item that was not the item he was searching for, in the searches for drugs and weapons reviewed. Finding an unlawful item that was not the item searched for was not a good indicator of whether the officer's grounds for the search were reasonable and evidence-based as the reason for the search should be specific to the item searched for. However, finding an unlawful item that was not searched for could account for suspicious behaviour which might have been wrongly attributed to concealing a

³⁴ ONS figures in 2018 are accessible here: <https://data.london.gov.uk/dataset/ethnic-groups-borough>

weapon or drugs when it was a different illicit item that was being concealed.

388. Of the 46 Black individuals stop and searched, additional unlawful items that were not the item searched for were found on 4 occasions. This meant that PC Bond found any unlawful item in 17 (37%) of 46 stop and searches of Black individuals. 2 additional unlawful items were found on the White individuals who were stop and searched. This meant PC Bond found any unlawful item in 4 (67%) of 6 stop and searches of White individuals.

The data set showing the find rate for PC Bond, when broken by ethnicity, was small – particularly for White individuals. Where the data set was small, any pattern would need to be very pronounced to be a reliable indicator pointing towards or away from a differential approach between ethnic groups. The difference in find rate between White people stop and searched (33%) and Black people stop and searched (28%) by PC Bond was not very pronounced, given the size of the data set. The pattern changed when finds of *any* unlawful object was considered (67% for White people stopped compared to 37% Black people stopped). PC Bond's 'find rate' was relatively high when searching White people which might indicate that PC Bond showed a pattern that indicated a relatively effective approach to stop and search. The data also showed that, overall, PC Bond had a find rate which was similar to the national average which could have indicated that he took a similar approach to assessing reasonable suspicion compared with other officers.

389. PC Bond's stop and search slips using powers under s1 PACE for weapons and s23 MDA were analysed from 4 July 2019 to 4 July 2020. In these records, PC Bond appeared to record grounds that relate to the individuals' behaviour, rather than Intelligence or third-party information. Some examples of these grounds included:

- His stop and search of a Black man on 23 July 2019 when, in an area known for violence and robbery, he stopped someone for cycling around a residential area. The male became nervous and agitated and didn't give the name of the friend he was going to meet. The search made under s1 PACE for weapons was negative and no further action was taken.
- His stop of two Black men on 11 July 2019 when, in an area where there had been a number of knife point robberies, two vehicle occupants were taken to the side of the road where they started to reach for their waist bands. The search made under s1 PACE for weapons was negative and no further action was taken.
- His stop of a White man on 20 August 2019 where, on patrol in locality due to increased tensions and risk of violence due to a wake of murdered teenager. Officers' attention drawn to subject vehicle due to age and low driving position of male driver and passenger. Vehicle check conducted via PNC which revealed the car had no associated insurance. While talking to driver, another officer spotted a cannabis grinder in front seat area. Both males

detained and vehicle searched under s23 MDA. Class B drugs were seized.

- His stop of a Black man on 24 August 2019 where a vehicle was seen driving in an erratic pattern. Male driver observed to be very young. Vehicle stopped under s163 RTA. As officers approached vehicle, drug deal appeared to take place. The male was detained for a s23 MDA search. The search was positive for drugs.
- His stop of a Black male on 27 September 2019 when on patrol due to increase in violent crime and robbery, plain clothes officers observed the subject making exchanges with members of the public from his mouth. Male arrested under suspicion of being concerned in the supply of class A drugs.
- His stop of a Black man on 10 January 2020 when on patrol due to increase in gang related crime and concerns for reprisals, a heavily laden vehicle with four young males inside was seen. An abrupt change of direction gave officers cause for concern and the vehicle was stopped. The search made under s1 PACE for weapons was positive and the men were arrested.
- His stop of a Black man on 30 April 2020 when on patrol in area due to an increase in violent crime, a vehicle made abrupt turn into petrol station when occupants saw officers. A s163 RTA stop was conducted on the vehicle. As officers approached the vehicle a strong smell of cannabis was coming from vehicle. Both males were detained and searched for drugs. Herbal cannabis and lock knife were seized.

390. A strong theme throughout PC Bond's searches for weapons appeared to be the use of grounds that related to a person's behaviour, rather than intelligence or information. This might indicate that PC Bond sometimes appeared to stop and search for weapons without recording strong, objective grounds. On one occasion, PC Bond found a weapon following a s1 weapons search, his suspicion related to a heavily laden vehicle that made an abrupt change of direction in an area known for gang related crime. PC Bond recorded noticeably stronger grounds for searching people under s23 Misuse of Drugs Act. PC Bond's grounds included the movement of a vehicle, the smell of cannabis coming from the vehicle and the presentation of the individual to officers (i.e. bloodshot or glazed eyes).

391. Overall, the analysis of PC Bond' stop and search slips showed that for the 6 White people the officer searched, he seemed to have recorded strong grounds based on specific intelligence for searching these people. In 2 of these searches the subjects had glazed eyes. In another, PC Bond saw the subject discard something over a fence. Another one of these searches occurred after a member of public reported seeing people dealing drugs and another search followed a car being stopped due to having no insurance. In 9 of the search grounds looked at, PC Bond referred to people wearing hoods. 8 of these grounds were relevant to

Black individuals. PC Bond made no reference to the style of dress of any of the White men he searched.

392. PC Bond stated in his account that *“A crowd from the local area had gathered to which I believe he [Mr Dos Santos] was playing up to and in the current climate DOS SANTOS SOARES was insinuating that Police were racist and targeting him because he was a Black male.”* PC Bond was given the opportunity to respond in writing to the allegation that his actions might be due to bias, conscious or unconscious on the grounds of race. PC Bond stated on 20 July 2021, *“I absolutely refute the suggestion that my conduct, in any way, would have been due to racial bias, conscious or unconscious, on the grounds of race.”*

> Analysis

Whether the stop and search of Mr Dos Santos and Ms Williams was lawful, fair and effective

393. According to Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services, HMICFRS, report (2021) entitled ‘Disproportionate Use of Police Powers – A spotlight on stop and search and the use of force’³⁵, *“The primary purpose of stop and search powers, as set out in Code A of the Police and Criminal Evidence (PACE) Act 1984, is to “enable officers to allay or confirm suspicions about individuals without exercising their power of arrest”. It is an important point to emphasise – stop and search is an alternative to arrest and so requires a similar level of suspicion. The officer must have reasonable grounds to suspect that the person is in possession of a stolen or prohibited item. The suspicion must be genuinely held and objectively based on facts, information and/or intelligence relevant to the likelihood that the object in question will be found. Powers to stop and search must be used fairly, responsibly, with respect for people being searched, and without discrimination.”*

394. The College of Policing’s Authorised Professional Practice (APP) is national guidance, applicable to all police forces in England and Wales. The APP states all stop and searches must be fair and effective. It says a stop and search is, *“most likely to be fair and effective when:*

- *the search is justified, lawful and stands up to public scrutiny*
- *the officer has genuine and objectively reasonable suspicion that s/he will find a prohibited article or item for use in crime*
- *the person understands why they have been searched and feels that they have been treated with respect*

³⁵ Disproportionate use of police powers: Spotlight on stop and search and use of force, HMICFRS, 2021: <https://www.justiceinspectors.gov.uk/hmicfrs/publications/disproportionate-use-of-police-powers-a-spotlight-on-stop-and-search-and-the-use-of-force/>

- *the search was necessary and was the most proportionate method the police officer could use to establish whether the person has such an item”.*
395. The guidance goes on to explain that the four core elements that should underpin a stop and search are that:
- “1. The decision to stop and/or search a person must be fair*
- 2. The search must be legal in basis and in application*
- 3. Interaction with the public during the encounter must be professional*
- 4. Police use of stop and search powers must be transparent and accountable.”*
396. Reasonable steps must be taken to provide certain information to the person to be searched, including a person in charge of a vehicle which is to be searched. These requirements are set out in s.2 of PACE and Code A. If these are not followed in full, any evidence thus obtained could be challenged in court (PACE Code A, para 1.6).
397. The MPS recognises the need to engage with members of the public in a respectful and meaningful way (Quality of Encounters Model) and uses the acronym GOWISELY to outline the steps an officer must take before and during a stop and search. It stands for: Grounds, Object, Warrant, Identification, Station, Entitlement, Legislation and You.
398. The stop and search of Ms Williams and Mr Dos Santos needs to fulfil a number of requirements. The legality of Mr Dos Santos and Ms Williams’ stop and search will be addressed first. The fairness of the stop and search will be addressed in this section of the analysis entitled ‘Whether Mr Dos Santos and Ms Williams were treated less favourably based on their race’. The quality of the encounter and whether it was respectful and professional will also be analysed. The transparency and accountability of the stop and search will be addressed through the appropriate monitoring and recording of the stop and search data.

Whether the stop and search of Mr Dos Santos was lawful

Stop and search under s1 PACE for weapons

399. The evidence indicates that Mr Dos Santos was detained and searched under s1 PACE and s23 MDA. Officers have the power to stop and search members of the public using s1 PACE and s23 of MDA where they have reasonable grounds to suspect the person is in possession of weapons or controlled drugs.
400. Under PACE Code A, officers must satisfy the legal test to detain and search an individual. In the context of this stop and search, PC Franks must (i) have formed a genuine suspicion in his mind that he will find weapons or drugs, and (ii) his suspicion that he will find weapons or drugs must be reasonable which means that there must be an objective basis for that suspicion based on facts, information and/or intelligence which are relevant to the likelihood that drugs or weapons will be found,

so that a reasonable person would be entitled to reach the same conclusion based on the same facts and information and/or intelligence.

401. In his grounds, PC Franks provides intelligence relating to the borough of Westminster and a more specific rationale relating to his suspicion of Mr Dos Santos. The evidence indicates the following in relation to his grounds for suspicion under s1 PACE:

- *“Tasked to area due to increased youth violence involving weapons.”* The SOP states that when reference is made to high crime areas, this must be accompanied by a reference to a specific briefing or tasking location. Whilst the intelligence quoted by PC Franks does cover Westminster borough it is not specific to the area in which Mr Dos Santos was stopped. PC Franks named [redacted], [redacted] and [redacted] as problematic areas for drugs, weapons and gang violence. These are in the vicinity of Mr Dos Santos’ home address. Intelligence briefings relevant to the tasking of the officers on 4 July 20220 provide more information on specific areas of Westminster where weapons and drugs are an issue but none of these relate directly to where Mr Dos Santos was stopped and they are not included in PC Franks’ original rationale.
- *“During patrols vehicle has been seen to speed off away from a marked police vehicle and turn back on itself numerous times with heavy breaking and heavy acceleration seen. Belived [sic] that this was to intentionally avoid police. Once the carrier has pulled alongside the vehicle I have stepped out of the carrier and loudly instructed the driver to stop the vehicle however he has suddenly turned the steering wheel away from me and sped off”:* PC Franks describes that Mr Dos Santos attempted to evade police by speeding away from the TSG van, using heavy breaking and acceleration, turning back on himself and failing to stop for police. All officers present in the TSG van agreed that Mr Dos Santos’ manner of driving raised suspicion. There is evidence to suggest that Mr Dos Santos drove at speed, that Mr Dos Santos and Ms Williams did not want to be stopped by the police, that they had a lunch reservation in a restaurant which they didn’t want to be late for, and that they drove home rather than stop immediately.
- *“Once the car was located parked up further down the road I have approached the drivers side door and seen the occupant lock the door. Believing this behaviour was to prevent items being discovered in the vehicle I have detained him for a section 1 PACE 1984 search”.* The evidence indicates that Mr Dos Santos’ car was locked when the officers told him to come out and, A/PS Simpson said that she heard the car being locked. The evidence suggests that this model of Mercedes has an auto-locking system that locks the doors automatically when not in use. There is evidence to suggest that PC Franks was aware of the vehicle auto-locking system. There is an indication that the locking of the car may not have been deliberate as suggested by PC Franks. Mr Dos Santos’ evidence suggests that he did not exit the Mercedes straight away

because he was concerned about the level of aggression displayed by the officers and wanted to keep a record of it on his mobile phone.

402. The evidence suggests that PC Franks' suspicion that Mr Dos Santos had weapons and drugs on him seems to be triggered by an Intelligence report of gang violence and drugs in the area, Mr Dos Santos' manner of driving, the fact that the car doors were locked and his delay in exiting the vehicle. Although these may be genuine grounds for suspicion, they do not seem to directly or closely link Mr Dos Santos to weapons or drugs.
403. The evidence presented in this report indicates that all officers knew that Mr Dos Santos was a young Black man when they approached the car in Lanhill Road. They also raised the Mercedes A class and tinted windows as being associated with gangs and criminal activity. There is an indication that PC Franks and other officers may have made a generalisation that Mr Dos Santos was involved in criminal activity because of the model of car he drove and because it has tinted windows, because of Mr Dos Santos' manner of driving which they believed was evasive and indicated that he may have weapons, and because of the area he was in.
404. The HMICFRS 2021 report on the 'Disproportionate use of police powers – a spotlight on stop and search and the use of force'³⁶ state that *"encounters are broadly initiated in one of three ways:*
- *self-generated – when the officer proactively initiates the encounter as a result of what he or she sees or hears at that time;*
 - *response to third-party information – when the officer initiates the encounter as a result of reacting to information received, for example from a member of the public or a CCTV operator calling about an incident occurring at that time; or*
 - *intelligence-led – when the officer initiates the encounter as a result of intelligence about an individual. The intelligence must be current and relevant to the circumstances, suggesting that the person is in possession of a stolen or prohibited item at that time.*
- The way searches are initiated indicates how the powers are used and whether they are generally targeted strategically at crime problems and force or local priorities, or if searching decisions are left to the discretion of officers."*
405. There is an indication that the grounds presented by PC Franks for the detention and search of Mr Dos Santos for weapons seem to mainly be self-generated observations rather than Intelligence-led. PACE Code A states that *"reasonable suspicion may also exist without specific information or Intelligence and on the basis of the behaviour of a person. For example, if an officer encounters someone on the street at night who is obviously trying to hide something, the officer may ... base such*

³⁶ The report can be found in its full version on <https://www.justiceinspectors.gov.uk/hmicfrs/our-work/article/stop-and-search/>

suspicion on the fact that this kind of behaviour is often linked to stolen or prohibited articles being carried. An officer who forms the opinion that a person is acting suspiciously or that they appear to be nervous must be able to explain, with reference to specific aspects of the person's behaviour or conduct which they have observed, why they formed that opinion. The evidence suggests that some of PC Franks' grounds might align with Code A, and that the Mercedes was being driven in a way that may be interpreted as evasive – and particularly after the initial request was made to stop when the vehicle pulled away at the junction of Oakington Road and Elgin Avenue however there is little evidence to specifically relate this to weapons. Although there is evidence to indicate that PC Franks may have formed a genuine suspicion in his mind that he would find a weapon when searching Mr Dos Santos and his vehicle, there is also evidence that suggest that PC Franks' suspicion that he would find a weapon may not have been reasonable considering the limited Intelligence and information linking Mr Dos Santos or his vehicle to any weapon.

Stop and search under s23 MDA for drugs

406. The College of Policing's 2017 report on 'Searching for cannabis', recommends that officers consider the circumstances as a whole and context before carrying out a search for cannabis. The same report also finds that factors that significantly increased the likelihood of a cannabis search resulting in a criminal justice outcome were those that, "*refer to behaviour that was directly or indirectly related to drugs (eg, being seen to hide or swallow an object or being intoxicated)*".
407. The APP on stop and search states that, although neither s23 MDA nor PACE Code A makes reference as to whether the smell of cannabis alone provides reasonable grounds to stop and search someone, as PACE Code A confirms reasonable grounds can exist on the basis of someone's behaviour, and searches are more likely to be legitimate and effective where the grounds are based on multiple objective factors, "*this would suggest it is not good practice for an officer to base his or her grounds for search on a single factor, such as the smell of cannabis alone*".
408. Specifically in relation to the smell of cannabis, the APP states officers should consider the following questions:
 - "*Attribution – Can the smell of cannabis be attributed to a specific person? ... OFFICIAL V0.1 16*
 - "*Likelihood – How likely is it that I will find the cannabis I can smell on this specific person?*
 - "*Genuine suspicion – Taking everything into account, do I have a genuine suspicion that I will find cannabis on this person and is there an objective basis for that suspicion based on facts, information and/or intelligence?*

- *Reasonable person – How would my grounds sound to a reasonable person? Would they reach the same conclusion as me, as required by PACE Code A?”*
409. The APP also asks officers to consider what else would indicate that the person is or is not currently in possession of cannabis, and gives an example of their behaviour. Behavioural factors listed by the APP are:
- *“being seen to hide, swallow or discard something*
 - *being seen or found to be intoxicated*
 - *admitted to being in possession of drugs or recently using or being in contact with drugs*
 - *being seen in possession or close to suspected drugs*
 - *smoking, holding or being close to a suspected joint.”*
410. The report has already mentioned PC Franks’ grounds for suspicion relating to Mr Dos Santos’ manner of driving, interpreted as evasive by the officer and that the Mercedes did not stop when required to. The evidence indicates the following in relation to PC Franks’ further grounds for suspicion under s23 MDA:
- *“Once out of the vehicle I could smell cannabis coming from the person and based on this and the males behaviour I believed he had cannabis on him. Further detained for section 23 Misuse of Drugs Act 1971.”* PC Franks mentions that the smell of cannabis together with Mr Dos Santos’ behaviour raised suspicion that he may have drugs however the officer does not elaborate what behaviour PC Franks refers to. According to the MPS SoP, the information recorded by PC Franks seems to be insufficient evidence in itself and PC Franks needed to expand with more details about Mr Dos Santos’ appearance, actions and behaviour.
411. The evidence indicates that although PC Franks said he smelt cannabis on Mr Dos Santos when he was out of the car, video evidence indicates that PC Franks said he smelt cannabis after PC Bond mentioned the smell of cannabis and following PC Clapham who instructed him to further detain Mr Dos Santos under s23 MDA. The evidence therefore may suggest that PC Franks may not have formed a genuine suspicion in his own mind that Mr Dos Santos had drugs on him and that the idea that Mr Dos Santos smelt of cannabis came from PC Bond. The evidence further indicates that no drug was found on Mr Dos Santos and in his car and that being an international athlete, he was unlikely to use drugs due to unannounced drugs testing, although PC Franks may not have known this at the time. The evidence suggests that PC Franks may not have formed a genuine suspicion in his mind that he would find drugs on Mr Dos Santos and in his car, and that the first part of the legal test to detain and search Mr Dos Santos for drugs may not have been met.
412. The APP on stop and search is clear that officers should not be using a single ground to stop and search, and that the smell of cannabis as a single ground is not appropriate. The evidence by PC Franks indicates

that he combined the smell of cannabis to Mr Dos Santos' behaviour but does not provide any description of this behaviour to link it to his suspicion that there may be drugs on Mr Dos Santos and in his vehicle. The evidence provided by PC Franks does not either link Mr Dos Santos driving to possible drugs possession and therefore Mr Dos Santos' manner of driving does not seem to be relevant to the grounds for suspicion that he may have drugs on him and in his car. Considering the lack of detail provided in his rationale in relation to Mr Dos Santos' behaviour and how this relates to him being in possession of drugs, there is an indication that PC Franks' grounds for detaining and searching Mr Dos Santos for drugs under s23 MDA may have been insufficient and that he may not have had an objective basis for that suspicion. There is therefore evidence to suggest that the second part of the legal test to detain and search Mr Dos Santos for drugs may not have been met.

413. The evidence from this report further suggests that once stopped, it was apparent that a couple with their baby were in the Mercedes, that they had stopped outside their home address and that they provided an explanation about where they had been. There is no evidence to indicate that this information was not taken into consideration to inform PC Franks' reasonable grounds for suspicion.
414. In view of the above, the decision maker may wish to consider whether PC Franks had reasonable grounds to detain and search Mr Dos Santos for weapons and drugs, and whether, *"a reasonable person would be entitled to reach the same conclusion based on the same facts and information and/or intelligence"*. The decision maker may also consider whether a reasonable tribunal could find that the stop and search of Mr Dos Santos was not lawful.

Whether the stop and search of Ms Williams was lawful

Stop and search under s1PACE for weapons

415. The evidence indicates that Ms Williams was detained and searched under s1 PACE. Officers have the power to stop and search members of the public using s1 PACE where they have reasonable grounds to suspect the person is in possession of weapons.
416. Under PACE Code A, officers must satisfy the legal test to detain and search an individual. In the context of this stop and search, A/PS Simpson must (i) have formed a genuine suspicion in her mind that she will find weapons, and (ii) her suspicion that she will find weapons must be reasonable which means that there must be an objective basis for that suspicion based on facts, information and/or intelligence which are relevant to the likelihood that weapons will be found, so that a reasonable person would be entitled to reach the same conclusion based on the same facts and information and/or intelligence.
417. In her grounds, A/PS Simpson provides intelligence relating to the borough of Westminster and a more specific rationale relating to her

suspicion of Ms Williams. The evidence indicates the following in relation to her grounds for suspicion under s1 PACE:

- *“TSG have been tasked to [CW?] specifically due to the spike in crime linked to violent offences with weapons mainly”*: Whilst the intelligence quoted by A/PS Simpson does cover Westminster borough it is not specific to the area in which Ms Williams was searched. A/PS Simpson named [redacted] and [redacted] as problematic areas for drugs, weapons and gang violence. These are in the vicinity of Ms Williams’ home address. Intelligence briefings relevant to the tasking of the officers on 4 July 20220 provide more information on specific areas of Westminster where weapons and drugs are an issue but none of these relate directly to where the Mercedes was stopped and they are not included in A/PS Simpson’s’ rationale.
- *“The vehicle had sped off from a marked police carrier at several junctions. When police carrier came alongside he made eye contact, swung steering wheel and made deliberate attempt to again avoid being stopped. The route the car made was almost a full-circle back on itself. This has previously been done to try and [lose?] behind a [car?] and suspicious that something in vehicle illegal”*: Although these grounds relate to Mr Dos Santos’ manner of driving and not to Ms Williams, Ms Williams was in the vehicle driven by Mr Dos Santos and therefore suspicion may have fallen onto her because of this. There is evidence to suggest that Mr dos Santos drove at speed, that Mr Dos Santos and Ms Williams did not want to be stopped by the police, that they had a lunch reservation in a restaurant which they didn’t want to be late for, and that they drove home rather than stop immediately. All officers present in the TSG van agreed that Mr Dos Santos’ manner of driving raised suspicion.
- *“When stopped the driver initially refuses to get out despite clear shouts”*: this ground relates directly to Mr Dos Santos and not to Ms Williams, however, as stated above A/PS Simpson may have factored the driving into her suspicions about all of the occupants of the car.
- *“Vehicle windows heavily tinted which can be attempt to conceal those inside”*: The evidence suggests that the officers linked tinted windows to criminal activity.
- *“One [sic] speaking to her in back she has been resisting getting and [sic] also pulling back”*: PACE Code A states that *“Reasonable suspicion may also exist without specific information or Intelligence and on the basis of the behaviour of a person”* and that if this is the case, the behaviour must be described including *“manner, deportment, conversations and the surrounding circumstances”*. The evidence presented by A/PS Simpson indicates that she described Ms Williams’ behaviour as pulling back and resisting. This combined with Mr Dos Santos’ manner of driving, interpreted as an attempt to evade police and the car’s tinted windows may have understandably raised suspicion but

may not have been the strongest reasons or sufficient to form reasonable grounds that Ms Williams was in possession of a weapon.

418. The evidence indicates that A/PS Simpson's grounds to stop and search Ms Williams appear to predominantly stem from Mr Dos Santos' behaviour as the driver and do not directly relate to her but it may have been reasonable for A/PS Simpson to initially form suspicion about all the occupants of the vehicle and not just the driver. The only grounds that seem to relate directly to Ms Williams refer to her resistance in getting out of the vehicle. The evidence does not indicate a strong link between Ms Williams and the possession of weapons. The evidence presented above seems to undermine the objectivity of A/PS Simpson's grounds.
419. The grounds given by A/PS Simpson to suspect that Ms Williams has a weapon seem to relate to the evasiveness and manner of driving of Mr Dos Santos and her refusal of getting out of the vehicle. The evidence suggests that Ms Williams did not want to exit the vehicle because her baby was in the car. There does not seem to be any consideration by A/PS Simpson that this could be a reason for Ms Williams' behaviour and is not mentioned on the stop and search slip completed by the officer.
420. In view of the above, the decision maker may wish to consider whether A/PS Simpson had reasonable grounds to detain and search Ms Williams for weapons, and whether, "*a reasonable person would be entitled to reach the same conclusion based on the same facts and information and/or intelligence*". The decision maker may also wish to consider whether a reasonable tribunal could find that this stop and search conducted under s1 PACE was not lawful.

Stop and search under s23 MDA for drugs

421. The evidence presented in this report indicates that Ms Williams was also detained by A/PS Simpson under s23 MDA. The evidence indicates that A/PS Simpson's grounds for detaining her because she thought Ms Williams was in possession of drugs were:
- "*[Mr Dos Santos] had [sic] given the information about the area*": although there is evidence to indicate that Intelligence was provided to the officers about some areas of Westminster being under surveillance because of gang violence and drugs, the evidence does not specifically relate to the area where Ms Williams was detained. A/PS Simpson named [redacted] and the [redacted] as problematic areas for drugs, weapons and gang violence. These are in the vicinity of Ms Williams' home address. Video evidence suggests that A/PS Simpson used this to explain to Ms Williams why they were stopped but this is not what she says in her response to caution to explain Ms Williams' detention under s23 MDA.
 - "*the close links there are between gang activity and drug activity*": the evidence suggests that A/PS Simpson seems to consider that the link that she makes between gang activity and drugs is a

reasonable explanation for detaining Ms Williams for drugs. The evidence indicates that this ground does not directly relate to Ms Williams.

422. The evidence from this report further suggests that once stopped, it was apparent that a couple with their baby were in the Mercedes, that they had stopped outside their home address and that they provided an explanation about where they had been. There is no evidence to indicate that this information was not taken into consideration to inform A/PS Simpson's reasonable grounds for suspicion.
423. In view of the above, the decision maker may wish to consider whether A/PS Simpson had reasonable grounds to detain and search Ms Williams for drugs, and whether, *"a reasonable person would be entitled to reach the same conclusion based on the same facts and information and/or intelligence"*.
424. A police officer can only detain a member of the public when carrying out a stop and search meaning that the person is stopped and then searched for the reason she/he was stopped. For A/PS Simpson to not have conducted a search for drugs she would have to not have detained Ms Williams under s23 MDA and as a result the encounter would have been a 'stop and account', and Ms Williams would have been free to go. The evidence however indicates that A/PS Simpson detained Ms Williams for drugs and therefore that the search that followed was also made under s23 MDA although A/PS Simpson did not say so.
425. In view of the above, the decision maker may wish to consider whether a reasonable tribunal could find that the stop and search of Ms Williams under s23 MDA was not lawful.

Whether the stop and search of Mr Dos Santos and Ms Williams was professional and monitored appropriately

Professional

426. The APP guidance on stop and search emphasises that, *"interacting with people in a professional way during stop and search encounters is crucial to maintaining public trust in the police"*. The guidance states that dissatisfaction tends to have a large negative impact on the public's trust, and that members of the public are less likely to be dissatisfied with stop and search when:
- *"they do not feel unfairly targeted*
 - *officers give them a good and credible reason for the encounter*
 - *they are treated politely and with respect by the officers*
 - *the encounter does not last a long time"*.
427. The Quality of Encounter Model states that officers should first of all explain the encounter by providing an *"appropriate introduction"* to explain what is going to happen.

428. GOWISELY is a mnemonic that assists officers in providing appropriate information to members of the public about their stop and search. The conversation that takes place between PC Franks and Mr Dos Santos prior to the search beginning is detailed in the summary of the evidence. Video evidence suggests that the officer has done the following in relation to GOWISELY:

- **G – Yes.** *“Because you’ve avoided police multiple time while driving your car, we’ve been tasked to this vicinity because of youth violence and gang crime, ok, you’re entitled to a copy of the search”* and *“while driving your car. We’ve been tasked specifically to the area for youth violence and gang crime.”* The officer states that Mr Dos Santos is also detained under s23 MDA because he can smell drugs coming from his car.
- **O – Not fully.** There does not appear to be a clear explanation for the object or purpose of the search in terms of the weapons and drugs being searched for prior to the search. From the evidence presented in this report, there seems to be an assumption by officers that Mr Dos Santos knows what s1 PACE is. Mr Dos Santos appears however aware that he is being searched for weapons and drugs by the time the search takes place.
- **W – Yes.** The officer is in full uniform.
- **I – Yes.** PC Franks provides his name.
- **S – Yes.** The officer seems to have told Mr Dos Santos the name of the police station but this was not clear on BWV because of the noise on the recording.
- **E – Yes.** The officer states that Mr Dos Santos is entitled to a copy of the stop and search slip once the search is complete.
- **L – Yes.** The officer correctly states the legal power being used for the search.
- **Y – Yes.** The officer informs Mr Dos Santos is detained for the purpose of a search.

429. Overall the evidence indicates that PC Franks used GOWISELY to provide information before searching Mr Dos Santos for weapons and drugs.

430. The conversation that takes place between A/PS Simpson and Ms Williams prior to the search beginning is detailed in the summary of the evidence. Video evidence suggests that the officer has done the following in relation to GOWISELY:

- **G – Not fully.** *“you’re gonna be detained for a search okay? Under section 1 of PACE, you made off from police.”* The indication however is that she did not provide Ms Williams her grounds for detaining her under s23 MDA.
- **O – Not fully.** There does not appear to be a clear explanation for the object or purpose of the search in terms of the weapons and

drugs being searched for prior to the search. From the evidence presented in this report, there seems to be an assumption by officers that Ms Williams knows what s1 PACE is. The evidence indicates that Ms Williams is aware that the officers suspect her and Mr Dos Santos of possessing weapons and drugs but seems to be confused about the reasons for her personal search.

- **W – Yes.** The officer is in full uniform.
- **I – Yes.** A/PS Simpson provides her name.
- **S – Yes.** The officer gives the name of the police station.
- **E – Yes.** The officer states that Ms Williams is entitled to a copy of the stop and search slip once the search is complete.
- **L – Not fully.** The officer correctly states the legal power being used for a search under s1 PACE but she does not state the legal power that she uses for a search under s23 MDA.
- **Y – Not fully.** The officer informs Ms Williams that she is detained for the purpose of a search for weapons but she does not say that she is also detained for a search for drugs.

431. From the evidence presented above there is an indication that A/PS Simpson may have provided GOWISELY to inform Ms Williams that she was detained and that she was going to be searched for weapons. There is also an indication that A/PS Simpson did not provide GOWISELY for Ms Williams' detention and search under s23 MDA.

432. The Quality of Encounter model states that officers should ensure that members of the public cooperate and understand why they are being stopped. It also states "*Problems often occur when officers use stop and search rather than having a simple conversation first. If someone is behaving suspiciously officers should consider asking them to explain themselves. If they can't give an explanation for their suspicious behaviour, officers should tell them they have real grounds for a search (and explain the grounds) and generally people understand that and will co-operate.*"

433. The evidence indicates that the officers seemed to have already decided that Mr Dos Santos and Ms Williams should be searched for weapons before they even got out of the car because PC Franks shouted to Mr Dos Santos that he was detained under s1 PACE and then told him to get out of the car. The evidence does not suggest that Mr Dos Santos and Ms Williams were asked to explain anything before officers handcuffed them. The officers' actions seem to be at odds with the Quality of Encounter Model.

434. There is evidence to suggest that PC Bond and PC Franks shouted instructions to Mr Dos Santos to get out of the car. The evidence also indicates that PC Franks was holding a baton and PC Bond a safety hammer. The evidence from Ms Williams suggests that she was scared by the aggressive behaviour displayed by the officers. The evidence does

not suggest that the officers sought cooperation from Mr Dos Santos and Ms Williams.

435. The Standards of Professional Behaviour contained in the police Code of Ethics state in relation to Authority, respect and courtesy, *“Police officers act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy.”* Under the same standard of professional behaviour, police officers should *“use appropriate language and behaviour in their dealings with their colleagues and the public. They do not use any language or behave in a way that is offensive or is likely to cause offence.”*
436. The evidence from the officers indicates that officers believed Mr Dos Santos to be in possession of a weapon due to his evasiveness, manner of driving, Intelligence, model of car being driven and its tinted windows. The evidence presented by Mr Dos Santos and Ms Williams is that Ms Williams feared for the safety of their baby. BWV evidence indicates that when the TSG van parked beside the Mercedes in Lanhill Road, PC Franks and PC Bond ran out of the van towards Mr Dos Santos’ door and shouted at him to get out of the car. PC Franks was holding his baton and PC Bond had a safety hammer in one hand. BWV showed that officers tried to open Mr Dos Santos’ locked door. The evidence showed that Mr Dos Santos remained in his vehicle filming the officers until he got out of the car when he was immediately handcuffed in a rear stack position.
437. Video evidence showed that none of the officers used language towards Mr Dos Santos that seemed to be disrespectful. The evidence indicates that A/PS Simpson asked PC Franks if he wanted to *“ferret around his [Mr Dos Santos] groin”*. The evidence presented by A/PS Simpson indicates that she used ‘ferreting’ to mean ‘looking into’ his shoes but failed to explain what she meant by *“ferreting around his groin”*. The decision maker may wish to consider whether this was appropriate language to use to indicate a more thorough search, and whether A/PS Simpson’s language and attitude were professional considering that she used the phrase with a colleague in front of Mr Dos Santos.
438. The Quality of Encounter model states that officers should record the encounter and give an acknowledgment of this to the person stopped. The evidence indicates that PC Franks and A/PS Simpson completed a stop and search slip straight after the encounter with Mr Dos Santos and Ms Williams and provided copies to Ms Williams.
439. APP states that a stop and search conducted in public should not take a long time. There is evidence that Mr Dos Santos was stopped on 13 May 2020 and that the search was completed in approximately 15 minutes. There is also evidence that the stop and sometimes search of other members of the public on 4 July 2020 were completed in less than 20 minutes. The evidence from the search of Mr Dos Santos and Ms Williams on 4 July 2020 indicates that their search was completed in approximately 45 minutes. There is evidence to indicate that their stop and search on 4 July 2020 may not have been completed in a reasonable time.

440. The Quality of Encounter model states that officers should reassure members of the public and leave a positive impression. The evidence indicates that Mr Dos Santos and Ms Williams did not have a positive impression of their encounter with the officers because they made a complaint about them.
441. In view of the above, the decision maker may wish to consider whether the stop and search of Mr Dos Santos and Ms Williams was professional and maintained confidence in the public's trust of the police and therefore whether it was in line with the Code of Ethics and the Standards of Professional Behaviour and APP.

Monitoring and supervision

442. Code A states that supervising officers must monitor stop and search, and:
- *Must consider "whether there is any evidence that they are being exercised on the basis of stereotyped images or inappropriate generalisations"*
 - *"must satisfy themselves that the practice of officers under their supervision in stopping, searching and recording is fully in accordance with this Code"*
 - *"must also examine whether the records reveal any trends or patterns which give cause for concern and, if so, take appropriate action to address this."*
443. PACE Code A suggests that monitoring can be done through:
- *"direct supervision of the exercise of the powers"*
 - *"examining stop and search records (particularly examining the officer's documented reasonable grounds for suspicion)"*
 - *"asking the officer to account for the way in which they conducted and recorded particular searches or through complaints about a stop and search that an officer has carried out."*
444. A/PS Simpson was the most senior officer on the TSG team on 4 July 2020. The evidence indicates that PC Clapham was mentoring PC Franks at the time. MPS local guidance on stop and search confirms supervisors should monitor the, *"use of stop and search powers by individual officers to ensure they are being applied appropriately, lawfully and fairly"*.
445. There is evidence to suggest that PC Franks' grounds to suspect Mr Dos Santos for drugs may not have been reasonable. PC Clapham as PC Franks' mentor seemed to be satisfied that PC Franks conducted and recorded the search in accordance with Code A. There is an indication that the PC Franks and PC Clapham may not understand what constitutes reasonable grounds and how to record them accurately.

446. Although A/PS Simpson described her role during the search as liaising with the officers about the offences and intelligence checks, the evidence presented by A/PS Simpson also indicates that she may not have been aware that officers had smelt cannabis on Mr Dos Santos or in his vehicle and that this was the basis of their search. The evidence indicates that A/PS Simpson stated that she made the link between gangs and drugs and provided this as grounds for Ms Williams' detention and search under s23 MDA, this indicates that she may not have been aware that officers said they smelt cannabis on Mr Dos Santos and in his vehicle.
447. The evidence indicates that A/PS Simpson's practice of stop and search and that her use of legal powers may not have been applied appropriately with Ms Williams. There is an indication that A/PS Simpson may not understand what constitutes reasonable grounds and how to record them accurately. There is therefore an indication that she may not be best placed to monitor the practice of her colleagues against the application of PACE Code A.
448. Code A states that "*Senior officers with area or force-wide responsibilities must also monitor the broader use of stop and search powers and, where necessary, take action at the relevant level.*" The evidence indicates that PC Franks and A/PS Simpson' stop and search slips were reviewed by a senior officer, but the IOPC did not obtain information on whether stop and search records are monitored at a higher level.
449. In view of the above, the decision maker may wish to consider whether Mr Dos Santos and Ms Williams' stop and search was adequately supervised by A/PS Simpson.

Whether the officers' accounts were truthful

450. The police Standards of Professional Behaviour state under Honesty and Integrity that "*Police officers do not knowingly make any false, misleading or inaccurate oral or written statements or entries in any record or document kept or made in connection with any police activity.*" It is also stated that "*Police officers are honest, act with integrity and do not compromise or abuse their position*" and that they "*act with integrity and are open and truthful in their dealings with the public and their colleagues, so that confidence in the police service is secured and maintained*" and that they."
451. Video evidence indicates that PC Bond is the first officer to say that he smelt cannabis on Mr Dos Santos and then told his colleagues. As a result, PC Clapham told PC Franks to detain Mr Dos Santos for a s23 MDA and PC Franks then informed Mr Dos Santos that he was to be searched for drugs. The evidence further suggests that not only PC Franks and PC Clapham agreed with PC Bond that Mr Dos Santos smelt of weed but that they too smelt cannabis on him.
452. The evidence indicates that PC Bond did not mention in his statement that he could smell cannabis and in his response to caution, he said that PC Franks "*had smelt cannabis, as a result of which I was aware that the*

search was being conducted under s.23 MDA.” PC Bond added that he was “*not surprised*” because he had smelt cannabis when close to Mr Dos Santos. From the evidence presented in this report, there is an indication that PC Bond failed to disclose in his statement that he smelt cannabis and that it is only when he was presented with the evidence pertaining to the investigation that he disclosed in his response to caution that he smelt cannabis. Although PC Bond then wrote that he smelt cannabis, the evidence as presented in his response to caution nevertheless suggests that it was PC Franks who smelt cannabis first and triggered a s23 MDA search. There is therefore an indication that PC Bond’s accounts are at odd with BWV evidence. PC Bond presented evidence in his second response to caution to say that in view of the BWV, he recognised that he made some errors in his previous accounts and explained that these were due to him mainly dealing with the issue of use of force rather than his recollection about the smell of cannabis.

453. The evidence indicates that the officers including PC Bond had been close to Mr Dos Santos for approximately 1 minute and 35 seconds before PC Bond said that he could smell cannabis. The evidence indicates that Mr Dos Santos was already handcuffed and detained by PC Franks on s1 PACE when PC Bond said that he could smell cannabis. It could be considered implausible that PC Bond would not have smelt cannabis earlier as he was close enough to Mr Dos Santos when he was handcuffed. The evidence also indicates that there was no cannabis and that neither Mr Dos Santos nor Ms Williams would have been smoking cannabis, therefore again making it implausible that PC Bond smelt cannabis. It is not possible to know with certainty from BWV whether members of the public were in proximity of the scene in Lanhill Road before PC Bond said on the footage that he could smell drugs, and there may still be a possibility that the smell of cannabis may have emanated from another source than Mr Dos Santos.
454. The evidence from PC Bond, PC Clapham and PC Franks indicates that they smelt cannabis on Mr Dos Santos which implied that Mr Dos Santos had consumed or was in possession of drugs. According to s6(1) of the Road Traffic Act 1988, “*a [police] constable may require a person to co-operate with any one or more preliminary tests administered to the person by that constable or another constable*”. It follows that if an officer thinks that a driver is under the influence of drugs or alcohol, the officer can ask the driver to take a drug test or do a physical test (‘field impairment test’). The evidence indicates that when the officers told Mr Dos Santos that they could smell drugs on his person and in the vehicle, Mr Dos Santos asked for a roadside breath test to be administered but that none was. The evidence indicates that Mr Dos Santos was told by PC Clapham that a drug test could not be done until a name search was completed (12:41:20 on BWV), the evidence from Intelligence records suggests that no name search was completed at this time, it seems however unlikely that a road side drug test may be dependent on the individual name check being completed before the test can be administered. Although the evidence indicates that the officers did not administer a drug test that may have clarified whether Mr Dos Santos

time, the test would not have provided any further information as to whether Mr Dos Santos was in possession of drugs.

455. Mr Dos Santos immediately disputed the officers' comments that they could smell drugs on him by pointing out that he and Ms Williams were both professional athletes subject to regular drugs testing regimes. The evidence indicates that being athletes competing at international level means that both Ms Williams and Mr Dos Santos can be tested for a number of illegal substances including cannabis at any time and that testing positive would have serious consequences for them and their careers, including the loss of their sponsorship income. Although the officers may not have known this at the time, there is evidence indicating that no cannabis was found on Mr Dos Santos, Ms Williams and in their vehicle and it would have been very unlikely that they would have taken cannabis. This evidence presented above seems to undermine the officers' accounts that the smell of cannabis came from Mr Dos Santos.
456. Video evidence indicates that PC Bond said that he could smell cannabis from Mr Dos Santos, PC Clapham's evidence also indicates that he smelt cannabis and told PC Franks to detain Mr Dos Santos under s23 MDA after having heard PC Bond. PC Franks admitted in his response to caution that he was mistaken when he said to Mr Dos Santos that he could smell cannabis coming from the Mercedes and corrected himself when he wrote his stop and search slip to say that he smelt it on Mr Dos Santos. The evidence indicates that PC Franks was being mentored at the time by PC Clapham who supervised him during the search and therefore seemed to be a more experienced officer than PC Franks. Although all three officers said they smelt cannabis, there is an indication that PC Franks followed PC Clapham's lead as his mentor. Although PC Franks may have been confused by the situation at the time of the incident about the smelt of cannabis coming from the vehicle or from Mr Dos Santos, PC Franks may also have followed PC Clapham's instructions without having actually smelt cannabis on Mr Dos Santos.
457. The evidence indicates that PC A, A/PS Simpson, PC C, PC D, PC Casey and PC B did not mention in their first accounts that they could smell cannabis. When specifically asked in interview whether they smelt cannabis at any point on Mr Dos Santos, Ms Williams or in the vehicle, A/PS Simpson, PC Casey and PC A declined to make any comments. The evidence presented by PC D, PC C and PC B indicate that they did not smell any drugs. BWV evidence indicates however that none of the officers were as close to Mr Dos Santos as PC Clapham, PC Franks and PC Bond at the time when PC Bond, PC Clapham and PC Franks said they smelt cannabis on Mr Dos Santos.
458. In view of the above, the decision maker may wish to consider whether PC Bond, PC Franks and PC Clapham were in breach of the Standards of Professional Behaviour namely Honesty and integrity. The decision maker may also wish to consider whether there is an indication that they

may have behaved in a manner which would justify the bringing of disciplinary proceedings.

459. The evidence that A/PS Simpson presented indicates that she denied detaining Ms Williams for drugs and that she also denied searching her under s23 MDA, *“It is incorrect to say that she [Ms Williams] was detained for weapons and drugs; the footage clearly shows that I detained her for a weapons search.”* The evidence presented in this report suggests that Ms Williams was in fact detained and searched under s23 MDA as well. Under Honesty and integrity, the College of Policing encourage police officers to:

- *“be honest, act with integrity and do not compromise or abuse their position”*
- *“act with integrity and are open and truthful in their dealings with the public and their colleagues, so that confidence in the police service is secured and maintained”*
- *“not knowingly make any false, misleading or inaccurate oral or written statements or entries in any record or document kept or made in connection with any police activity.”*

There is an indication that A/PS Simpson may not have been honest with Ms Williams because she did not explicitly tell her that she was detained and searched for drugs. There is an indication that A/PS Simpson may not have acted with integrity and that she may not have been truthful with Ms Williams. There is also an indication that A/PS Simpson therefore may have made a false, misleading and inaccurate written account of her encounter with Ms Williams when describing the detention and search of Ms Williams.

460. In view of the above, the decision maker may wish to consider whether A/PS Simpson was in breach of the Standards of Professional Behaviour namely Honesty and integrity. The decision maker may also wish to consider whether there is an indication that A/PS Simpson may have behaved in a manner which would justify the bringing of disciplinary proceedings.

Extent of intelligence checks, fingerprinting and use of search dogs

Intelligence checks

461. PACE Code A states that the, *“thoroughness and extent of a search must depend on what is suspected of being carried”*. The evidence shows that officers suspected Ms Williams, Mr Dos Santos and their vehicle to hide weapons and drugs.

462. The evidence shows that a number of intelligence checks were conducted, together with the fingerprinting of Mr Dos Santos and the request for drugs dogs to search Mr Dos Santos' vehicle.

463. BWV evidence shows that intelligence checks were conducted by officers between 13:23 and 14:14. During this time, a total of 16 checks were made. The evidence shows that at:

- 13:27:09³⁷, officers receive confirmation that Mr Dos Santos is the registered keeper of the Mercedes and of his address.
- 12:32:54, Ms Williams provides her name, date of birth and address.
- 12:34:02, Mr Dos Santos confirms his name, date of birth and address to the officers.
- 12:33:42, a neighbour confirms their address.
- 2:34:37, PC Bond told Mr Dos Santos that his PNC check did not come back with a trace
- 12:43:37, A/PS Simpson told Ms Williams that PC D had not yet checked her name
- 13:45, 13:49, 13:54 and 14:00, Mr Dos Santos' details were entered wrongly or incompletely four times.
- 13:45, the first PNC check was made.
- 12:54, PC Bond locates Mr Dos Santos' driving license in his jacket
- 12:57, Mr Dos Santos' PNC record shows one non-recordable offence and his vehicle insurance is confirmed
- 12:59: 24, checks confirm that Mr Dos Santos has a full substantive driving licence and that Ms Williams' name has 'no trace'.

464. In summary, the officers' presented evidence to indicate that the IVMA had overheated which may have slowed down checks on the VRM, however there is also evidence to suggest that checks could be conducted via radio and tablet. There is evidence to suggest that Ms Williams and Mr Dos Santos' address was established earlier on and was confirmed by their neighbour. The evidence suggests that checks were made using incomplete information (date of birth appeared to be missing from some of the checks when it was known at the time), and that PC Bond seemed to get Mr Dos Santos' name wrong, although in the early stages of the stop, it would appear that Mr Dos Santos missed off the second part of his surname 'Soares'. The evidence indicates that Mr Dos Santos' driving licence was found nearly half an hour after Mr Dos Santos was detained and the evidence does not indicate that there was a justification for the delay in asking and finding his licence. There is evidence to indicate that all checks were completed before 14:00.

465. In view of the above, the decision maker may wish to consider whether any delays with Intelligence checks could have been avoided, and

³⁷ These times are taken from BWV and do not reflect British summer times.

whether the number of checks carried out by PC Bond was necessary and proportionate.

Fingerprinting

466. The evidence indicates that Mr Dos Santos was confirmed as the registered keeper of the Mercedes at 13:27 and that his address was confirmed at the same time. Mr Dos Santos disclosed his name and address several times from 13:34 and told the officers where to find his driving licence. He also said he previously went to court. Despite the check conducted on Mr Dos Santos' name resulting in a 'no trace', the evidence shows that PC Bond seems confused by this as Mr Dos Santos had disclosed that he was arrested and gone to court. PC Bond presented evidence to say that he took Mr Dos Santos' fingerprints to establish his identity at approximately 13:41. The evidence indicates that despite Mr Dos Santos providing his name and address and that these were confirmed by his neighbour, PC Bond did not seem to believe him and may have believed instead that Mr Dos Santos was being deceitful.
467. The evidence PC Bond presented in his response to caution shows that PC Bond stated that he took Mr Dos Santos fingerprints to establish his correct identity. PC Bond however stated in his original statement that he took Mr Dos Santos' fingerprints because Mr Dos Santos did not *"initially"* have his driving licence on him. BWV evidence shows that none of the officers' present at the time asked him to present his driving licence before and that it was Mr Dos Santos who suggested for the officers to check his driving licence. Although PC Clapham replied that his colleagues would find it in the car, PC Bond still insisted to use the fingerprints machine. PC Bond presented evidence to say that he scanned Mr Dos Santos' fingerprints under s61 PACE.
468. S61 PACE states that fingerprints may be taken if the person is:
- *"detained for a recordable offence"*
 - *"charged with a recordable offence;"*
 - *"informed that they will be reported for such an offence;"*
 - *"a constable reasonably suspects them of committing or attempting to commit an offence, or they have committed or attempted to commit an offence, and: the name of the person is unknown to, and cannot be readily ascertained by, the constable; or the constable has reasonable grounds for doubting whether a name given by the person is their real name."*

There is evidence to indicate that Mr Dos Santos' name and address were already confirmed when he was asked for his fingerprints. There is evidence to suggest that PC Bond may have doubted the identity of Mr Dos Santos on the basis of the 'no trace' result on his name, but there is no evidence to suggest that Mr Dos Santos gave false details at any stage. There is however evidence that Mr Dos Santos did not give his full name straight away and missed the second part 'Soares'. The evidence shows that Mr Dos Santos asked the officers to check his driving licence

in his car but that PC Bond said that he would scan his fingerprints regardless.

469. In view of the above, the decision maker may wish to consider whether the request by PC Bond to take Mr Dos Santos' fingerprints was reasonable.

Search dogs

470. The decision to bring drugs dogs seems to have been mainly made on a single ground i.e. smell of cannabis. From the evidence presented in this report, the smell of cannabis on Mr Dos Santos and in his vehicle did not seem to be strongly supported by the fact that nothing was found on Mr Dos Santos, Ms Williams or in their vehicle, and there is strong evidence to indicate that Mr Dos Santos and Ms Williams did not smoke cannabis.
471. The evidence shows that PC A asked PC B whether she should ask for drugs dog to attend and suggested to A/PS Simpson that drugs dog should be called in attendance to search the roads and the vehicle.
472. The evidence shows that when the force control room tells PC A that there is no drugs dog available, she agrees to have a general purpose dog to search for drugs. The evidence indicates that A/PS Simpson agreed with her. The NPCC Police Dogs Manual of Guidance states that general purpose dogs are trained to look for discarded property but that more specialised dogs or drugs dogs should be used to look for drugs hidden in a vehicle. There is an indication that PC A and A/PS Simpson may lack knowledge about drugs dogs and what they can do.
473. The manual states that good practice dictates that *“police dogs may not be appropriate to be used in places of perceived sensitivity. Police dogs should only be used in intelligence-led operations, in cases of extreme urgency or where a clear and credible threats exists.”* The evidence indicates that the stop and search of Mr Dos Santos' did not appear predominantly intelligence-led and it does not appear clear what the credible threat was at that stage or what the urgency was based on the length of time the detention had taken.
474. Guidance states that dogs can be deployed to support frontline policing and that their deployment to search vehicles and scenes is deemed to be appropriate. The evidence however shows that in this incident, the dogs deployed to search for drugs were general purpose dogs that were not trained to look for drugs. The guidance states that general purpose dogs can however look for discarded items. The evidence from PC Casey indicates that before the dogs unit arrived, PC Casey had already walked part of the route and confirmed that there were no indication that any items were discarded by the occupants of the Mercedes. The evidence also shows that the route had not been preserved to facilitate the work of the dogs. The evidence from PS Moore, one of the dog handlers, shows that in his opinion, the deployment of his dogs in these circumstances

was not appropriate because the scene was vast and not secured which posed safety risks to the dogs.

475. The evidence shows that PC A learnt that no drugs dogs were available at 13:39. The evidence indicates that officers waited for the dogs unit to arrive to search the vehicle until approximately 13:55. The evidence does not indicate that delays necessarily occurred because of this since the officers were still conducting checks at that time. Nevertheless, there is evidence to show that officers were trained to search vehicles and that they could have done so without involving a dogs unit. The evidence indicates that PC C and PC B started searching the Mercedes at 12:56:50 and completed it approximately 15 minutes later at 13:15:52.
476. The evidence from the officers' stop and search slips over one year does not indicate that it is regular practice to call for a dogs unit to conduct the stop and search of vehicles for drugs without any specific intelligence however this may be because officers are not recording when a dog unit is called or attends a scene.
477. In view of the above, the decision maker may wish to consider whether the request by PC A for the attendance of a dogs unit and especially general purpose dogs was necessary and proportionate.
478. The decision maker may also wish to consider whether there is an opportunity for learning for PC Bond who carried out the checks, for PC A who suggested the attendance of a dogs unit and for A/PS Simpson as their supervisor.

Personal Protective Equipment (PPE)

479. The MPS Covid-19 advice on 4 July 2021 required officers to respect the 2-metre social distancing and to wash hands. It is recommended that, *"Face masks need to be close fitting. Facial hair will compromise the efficiency of the mask.*

If you cannot stay two metres away from members of the public the advice is now to wear a protective facemask (surgical IIR or FFP2) whilst you are in that situation. You should, however try wherever possible in your interactions with the public to maintain the two metre gap which means you will not need to wear a mask - for example maintaining distance at victim or witness appointments or interviews or doing them over the phone where appropriate, or as you engage and encourage the public to abide by the government restrictions. The facemasks available to you are suitable for this purpose.

The guidance doesn't require the wearing of facemasks for:

- Double crewing or multiple person travel together in carriers or vehicles.
- Working near colleagues or suppliers where maintaining two metre distance isn't always possible. However, even internally do try to practice social distancing wherever possible.

480. An email from MO6 Public Order Planning, MPS advice on the wear of Personal Protective Equipment (PPE) changed to “*must*” wear a mask week starting 10 August 2020. The email stated that before this, “*it was down to each officers dynamic risk assessment. This was also guidance which stated that if they think that they would come into contact with someone and could not socially distance then they should be wearing a face Mask.*”
481. BWV footage of the search of Ms Williams and Mr Dos Santos shows that none of the officers involved in their search, the search around their baby and the search of their vehicle wore face masks. All of the officers do wear gloves when conducting these searches.
482. The MPS guidance around face masks makes clear that officers should be used in circumstances whereby it is not possible to effectively socially distance. Given that the officers make physical contact with Mr Dos Santos, Ms Williams and their baby during his stop and search, the evidence suggests that was the case in this instance and that masks should have been used.
483. None of the officers wore gloves when they grabbed Mr Dos Santos and Ms Williams by the arms to handcuff them. This is of concern given that the officers placed their un-gloved hands on Mr Dos Santos and Ms Williams clothing and skin, risking possible touch transmission of COVID-19 between the officers and Mr Dos Santos and Ms Williams, and vice versa. The evidence presented by PC Clapham indicates that he believed it to be an operational necessity to maintain a hold on Mr Dos Santos for his safety and the safety of his colleagues.
484. PC Clapham’s evidence indicates that he believed that there was no policy or SOP that “*documented that such a reasonable excuse relating to operational necessity made Covid-19 related PPE mandatory.*”
485. The evidence presented in this report however indicates that the officers knew they were going to stop and search Mr Dos Santos and therefore, there is evidence to suggest that they had ample time to wear gloves and masks for their protection and that of Mr Dos Santos and Ms Williams.
486. The evidence highlighted in this case demonstrates that face masks were not used during the stop and search of Mr Dos Santos, Ms Williams and their baby. The Decision Maker may wish to consider the practicability of officers maintaining social distancing during activities such as a stop and search, the fact that the search took place outside and whether the officers acted in line with the MPS advice.
487. The decision maker may also wish to consider the issue of PPE equipment in his overall assessment of whether the stop and search was undertaken in a professional way, and whether the officers were disrespectful in their approach, particularly given that the Mr Dos Santos specifically raised concerns about the lack of PPE when the officers were in close contact with his baby.

Whether Mr Dos Santos and Ms Williams were treated less favourably because of their race

488. The Equality Act 2010 states direct discrimination is when someone is treated less favourably than another person because of a protected characteristic. In this instance, the protected characteristic Mr Dos Santos and Ms Williams may have been treated less favourably because of is their race as they are Black.
489. The IOPC guidelines for handling allegations of discrimination states less favourable treatment *“means being treated differently or worse. It is not necessary to show actual harm – it only needs to be shown that it is reasonable that the person would prefer not to have been treated differently in that way”*. The less favourable treatment must have been caused by the protected characteristic, although this characteristic does not need to be the only or main cause of said treatment. The IOPC obtained statements from Ms Williams and Mr Dos Santos about this incident where they clearly say that they believed that they were treated differently because they are Black.
490. The APP guidance on stop and search emphasises that:
“Fair decision making in stop and search matters because it affects how people perceive the police – not just the individual who is searched, but also groups and wider communities of which that individual is a member”.
491. Part of the incident was witnessed by a small group of people and videos circulated on social media and were watched by a large number of people. Ms Williams and Mr Dos Santos being international athletes, the incident was mentioned in national media and the athletes stated that they received abuse on social media as a result of the incident. The event also follows the Black Lives Matter political and social movement that had organised a series of demonstrations to protest against police brutality targeting Black people. The Black Lives Matter movement aims to bring *“justice, healing, and freedom to Black people across the globe”*.
492. The APP guidance stresses that: *“The presence or absence of procedural justice (ie, fair decision making and respectful treatment) during stop and search can affect whether people perceive the police to be legitimate. When a person or particular group does not understand the reason for the police stopping or searching them, or feels unfairly singled out, it can damage their trust in the police and increase resentment.”*
493. The SoPB on equality and diversity requires officers to act with fairness and impartiality, and to not discriminate unlawfully or unfairly. In the Code of Ethics, an example of meeting the standard is given as when you *“act and make decisions on merit, without prejudice and using the best available information.”*
494. PACE Code A confirms that the powers to stop and search must be used *“fairly, responsibly, with respect for people being searched and without unlawful discrimination”*. APP guidance further confirms *“biases can have*

discriminatory effects, whether that bias is conscious (explicit) or unconscious (implicit)."

Comparator evidence

495. Although PC Franks and A/PS Simpson took ownership of the stop and search of Mr Dos Santos and Ms Williams, PC Bond and PC Clapham were also involved in their stop and search. The allegations made against the officers are that their actions may have been due to racial bias, conscious or unconscious on the grounds of race. Their stop and search records were therefore obtained for a period of one year.
496. The IOPC discrimination guidelines recommends that the use of comparator evidence be used to understand whether assumptions, prejudice or bias might have informed the police officer's decisions, actions or behaviour. It says that, "*In most cases, deciding a case to answer for discrimination will involve comparing how the complainant was treated against how a person who does not have the same protected characteristic would have been treated in the same situation. Investigating officers should look for evidence that supports this type of comparison.*"
497. The guidelines say that patterns of behaviour are important to consider for discrimination as an instance of discrimination may reflect an attitude or underlying prejudice that may arise in the person's behaviour across a range of situations. These patterns of behaviour could include an officer's complaint history or an analysis of stop and search records to identify if there is a pattern of the disproportionate use of stop and search against a particular ethnic group.
498. The evidence indicates that in Westminster during the period of 17 July 2019 and 4 July 2020, A/PS Simpson searched 4 (20%) White individuals and 8 (40%) Black people, PC Clapham searched 5 (16%) White people and 16 (52%) Black individuals, PC Franks searched 1 White man and PC Bond stopped and searched 4 (10.5%) White people and 19 (50%) Black members of the public. The MPS dashboard showed that in Westminster, the proportion of White people being searched was 40% and of Black people being searched was 33%. The evidence suggests that A/PS Simpson, PC Clapham and PC Bond searched a higher proportion of Black people and a lower proportion of White people compared to the Met average. The ONS population estimates from 2018 indicates that Westminster had a 62% White population and 7% Black population. The data indicates a disproportionate use of stop and search powers on Black people compared to the resident population of Westminster. This sample of the officers stop and search data indicates that they stopped Black people more frequently than White people, and that the proportion of their stops of Black people does not correlate with ethnic demographic in Westminster.
499. The decision maker may wish to consider whether the disproportionate approach to stop and search by the officers may suggest that officers are more likely to stop and search Black individuals and whether this may

point towards a discriminatory approach which may similarly have informed the decision-making in relation to stop and search in this case.

500. The HMRCFRS' report on stop and search recommends to monitor find rates of different search types. It states, "*Searches based on weak grounds had lower find rates than those based on moderate or strong grounds*". The officers' 'Find rates' were extracted from their stop and search records as an indicator of the efficacy and strength of the grounds they used when stopping and searching members of the public.
501. The IOPC examined the find rates of A/PS Simpson, PC Clapham, PC Franks and PC Bond for the one-year period for searched made under s1 PACE and s23 MDA. The evidence relating to find rates – exact object found refers to tables 5, 7, 9 and 11 in the summary of evidence.
502. The evidence suggests that overall A/PS Simpson's 'find rate' is relatively high (32%). An overall high find rate (across all groups) may indicate that A/PS Simpson shows a pattern indicating a relatively effective approach to stop and search although the data set is too small and the pattern is not pronounced. The evidence from PC Clapham's records indicates that PC Clapham's 'find rate' is also too small and did not suggest a pronounced pattern but overall his 'find rate' was 22%. The data set is too small and the pattern was not pronounced but overall PC Bond's 'find rate' is relatively high (26%). An overall high find rate might indicate that PC Franks and PC Bond showed a pattern that may suggest a relatively effective approach to stop and search. The analysed data suggests that PC Franks searched Black and White people under s1 PACE and s23 MDA and never found a weapon or drugs. PC Franks' very low find rate overall may indicate that his interpretation and application of reasonable grounds may be affected by bias or that he may not have a good understanding of what reasonable grounds are. Once broken down by ethnicity the data set being so small it would not allow a meaningful comparison to assess the disproportionality in find rate of the officers. The small data set may also impact on the reliability of any comparison being made.
503. The decision maker may wish to consider whether PC Franks' performance may be unsatisfactory. The decision maker may also wish to consider whether there may be an overall concerning pattern for the officer across all ethnicities.
504. The IOPC guidelines for handling allegations of discrimination confirm that where an actual person can be identified who can be used as a comparator, this can be useful evidence when considering whether a person was treated less favourably because of a protected characteristic. An 'actual comparator' would be a person who:
 - was in the same or very similar circumstances as Mr Dos Santos and Ms Williams
 - was treated differently to Mr Dos Santos and Ms Williams

- does not share the protected characteristic of Mr Dos Santos and Ms Williams
505. The following analysis is based on A/PS Simpson's computer records of the stop and search she made. A/PS Simpson recorded the stop of Mr A, a White man seen in a vehicle on 20 September 2019. The similarities between the stops of Mr A and Mr Dos Santos were as follows:
- Both were seen in an area known for gang violence and drugs
 - Both manners of driving raised suspicion: sharp and quick turns
 - Both were reluctant to exit the vehicle
 - Both were searched under s23 MDA
506. In comparing the stop and search of Mr Dos Santos and Mr A, the differences were as follows:
- Mr A was described as reluctant to speak to A/PS Simpson at first whilst Mr Dos Santos spoke to the officers
 - A/PS Simpson found four mobile phones in the Volkswagen when there were only two males in the car, Mr Dos Santos only had his own phone with him
 - Mr A's vehicle was not searched when Mr Dos Santos' Mercedes was
507. The information written on the stop and search is limited and evidence related to Mr A is not sufficient to say whether he was previously known by police.
508. PC Clapham electronically recorded the stop and search of Mr B, an Asian man seen in a vehicle, on 21 August 2019. The similarities between the stops of Mr B and Mr Dos Santos were as follows:
- Both seen in an area with gang violence and tensions
 - Both were searched under s1 PACE and s23 MDA
 - Both vehicles suspected to make off from police by driving at speed and by going back on themselves
 - Both men described as aggressive
509. In comparing the stop and search of Mr Dos Santos and Mr B, the differences were as follows:
- Mr B's eyes were described glazed and widened as if under the influence of drugs, Mr Dos Santos was not
 - Mr B's vehicle was not searched when Mr Dos Santos' Mercedes was
510. The evidence related to Mr B is not sufficient to say whether he was previously known by police. Although suspected of having drugs and

weapons on the basis of the driver's manner of driving, the evidence does not indicate that Mr B's car was searched.

511. PC Franks electronically recorded the stop and search of Mr C, a Middle Eastern man seen in a vehicle, on 14 October 2020. The similarities between the stops of Mr C and Mr Dos Santos were as follows:

- Both seen in an area with gang violence and tensions
- Both were searched under s1 PACE
- Both drivers' manner of driving was described as evasive

512. In comparing the stop and search of Mr Dos Santos and Mr C, the differences were as follows:

- Mr C's vehicle was not searched when Mr Dos Santos' Mercedes was

513. The evidence related to Mr C is not sufficient to say whether he was previously known by police. Although suspected of having weapons on the basis of the driver's manner of driving, the evidence does not indicate that Mr C's car was searched.

514. PC Bond electronically recorded the stop and search of Mr D, a White man seen in a vehicle, on 20 August 2019. The similarities between the stops of Mr D and Mr Dos Santos were as follows:

- Both seen in an area with gang violence and tensions.
- Both were searched under s23 MDA.
- Both vehicle checks conducted.
- Both vehicles were searched.

515. The evidence related to Mr D is not sufficient to say whether he was previously known by police.

516. In interview with the IOPC, PC Franks and PC Clapham were asked to explain whether they would have treated Mr Dos Santos in the same way if he had been White. Both said "*no comment*". In his response to caution PC Clapham however stated that he would have treated Mr Dos Santos the same if he was White. A/PS Simpson stated she treated every stopped person fairly and reasonably. PC Franks stated that he did not treat Mr Dos Santos on the basis of conscious or unconscious racial bias. PC Bond told the IOPC that his actions were not due to racial bias, conscious or unconscious, on the grounds of race.

Analysis of language and assumptions

517. The IOPC guidelines for handling allegations of discrimination state:

"Direct discrimination includes actions that are informed by biased assumptions or prejudice in respect of a protected characteristic – even if this is done unconsciously. An investigation into this type of allegation will need to test whether discriminatory assumptions, prejudice or bias

impacted on police actions or behaviours. To do this the investigating officer will need to have an understanding of what these discriminatory assumptions might be.”

518. The Equality and Human Rights Commission 2010 research report ‘Stop and think: A critical review of the use of stop and search powers in England and Wales’ refers to evidence of the types of discriminatory assumptions that may impact on police decisions to stop and search:

“In the area of stop and search, there is good evidence that stereotyping – making an automatic assumption that individuals from particular groups are more likely to be involved in crime – affects police officers’ decision-making... Research evidence shows that police officers routinely use skin colour as a criterion for stop and search based on stereotyping and over-generalisations about the involvement of different ethnic groups in crime. Stereotypes shape the formation of suspicion and affect police officers’ decision making.”

519. In a 2007 research paper, referenced as part of the evidence base for the College of Policing APP on Stop and Search, academics Ben Bowling and Coretta Philips provide a more specific summary of relevant stereotypes of Black people:

“Research evidence over the past three decades has found that specific stereotypes are commonly used by police officers to classify people on the basis of their ethnic origin. Studies found that Black people were believed to be prone to violent crime and drug abuse, incomprehensible, suspicious, hard to handle, naturally excitable, aggressive, lacking brainpower, troublesome and ‘tooled up’.”

520. In her report, Baroness Lawrence, Shiner et al’s (2018)³⁸ there is evidence to suggest that Black men are seen as criminals i.e. “*over-policed and selectively criminalised*” and that despite being no more likely to be carrying weapons or taking drugs, Black people are arrested and charged more frequently with those crimes, showing that Black people are being targeted.

521. In her report Dr Long³⁹ wrote that when analysing the experiences of Black people, there is an indication that “*racialised stereotypes that construct Black men as ‘big’, extra-ordinarily strong and therefore threatening, contributes to the use of disproportionate restraint...Further, efforts to humiliate suspects are evident... several participants reported that police officers behaved in a rude and authoritarian manner in dealing with routine matters.*”

522. To assess whether Mr Dos Santos was treated less favourably on the basis of his race, it is relevant to consider whether stereotypes of Black people may have informed the actions and decisions of the officers in this case. To do this, it is important to consider the actions and language

³⁸ The Colour of Injustice, Shiner et al’s (2018): [The Colour of Injustice.pdf \(stop-watch.org\)](#)

³⁹ Written evidence submitted by Dr Lisa J Long (MPR0028): [Written evidence - Dr Lisa Long \(parliament.uk\)](#)

used by officers, as well as any non-discriminatory reasons for their decisions.

523. The evidence shows that A/PS Simpson believed that Mr Dos Santos' driving was a deliberate act to antagonise the officers. The evidence shows that Mr Dos Santos did not want to be stopped but it is an assumption to think that he was deliberately acting to antagonise the officers.
524. BWV evidence shows that 7 officers came out of the van when the Mercedes stopped in Lanhill Road. Although they said they could not see who was in the vehicle with Mr Dos Santos, PC A shouted that there was a baby at the back of the car which indicates that PC A could see inside and is therefore possible she could also see that Ms Williams was at the back beside her baby.
525. The number of checks conducted on Mr Dos Santos' name and his vehicle together with his fingerprinting indicates that officers did not believe that Mr Dos Santos had provided correct details although there was a small period when Mr Dos Santos had not provided his full name. The evidence also indicates there was some confusion around Mr Dos Santos previous recorded offences.
526. In relation to A/PS Simpson specifically, the officer stated that Ms Williams was being loud, non-compliant and refusing to get out the car. A/PS Simpson linked Ms Williams' behaviour to her possessing a weapon. Although the evidence shows that Ms Williams first exits the vehicle, goes back in again and seems to tense up when pulled out, there is also evidence to show that Ms Williams says she was scared, that she cries and says that her baby is in the car indicating that she is concerned about her son. The evidence suggests that there was a presumption of suspicion about Ms Williams actions when in fact there were other plausible explanations which may have been apparent had the officers considered the surrounding circumstances more as part of their on-going assessment of the incident.
527. In relation to PC Clapham specifically, BWV evidence indicates that the officers may have behaved in an authoritarian and patronising manner, *"until you calm down you're gonna stay like this"*, *"You're not in charge here mate, you're not in charge"*, *"Are you going to be an adult and behave"*.
528. In relation to PC Franks specifically, BWV evidence shows that when Mr Dos Santos says that he is allowed to film, PC Franks responds that he is not which is incorrect as Mr Dos Santos was entitled to do so.
529. In relation to PC Bond specifically, the evidence shows that PC Bond tells Mr Dos Santos that by swearing he delays Intelligence checks being conducted. He also tells Mr Dos Santos to behave like a professional athlete. There is an indication that PC Bond may have antagonised Mr Dos Santos on a number of occasions.

530. The evidence does not indicate that any of the officers involved in this incident used discriminatory language with Mr Dos Santos and Ms Williams.
531. The HMRCFRS' report states "*Personal biases are influenced by factors such as background, individual experiences and occupational culture, and these can affect decision-making. When people have to make quick decisions, these biases can, without them realising, cause them to treat particular groups of people unfairly.*"
532. In assessing the evidence, the decision maker may wish to consider the cumulative picture/weight of evidence collected and analysed in respect of this allegation. Together with the above evidence, the decision maker may also wish to consider the call for the drugs dog possibly pointing to potential excessive suspicion, the length of time Mr Dos Santos and Ms Williams were detained, the lack of consideration given to the presence of their child, and the lack of PPE as indicators of lack of respect and courtesy which could indicate a discriminatory approach alongside the comparator evidence. In his assessment, the decision maker may wish to consider whether the evidence suggests any negative assumptions were made about Mr Dos Santos and Ms Williams. The decision maker may also wish to consider whether Mr Dos Santos and Ms Williams' behaviour was unreasonably perceived to be suspicious, and whether this provides evidence that they may have been treated less favourably by the officers on the basis of their race. Alternatively, the decision maker may wish to consider whether sufficient non-discriminatory reasons have been provided by the officers for the way in which Mr Dos Santos and Ms Williams was treated. In assessing these, the decision maker may wish to consider Mr Dos Santos' manner of driving, the Intelligence at the officers' disposal at the time, Mr Dos Santos' behaviour, perceived as aggressive, and the language he used when he spoke to the officers. The decision maker may also wish to consider this in light of the use of force allegation and the issues related to the Merlin report discussed below.

> Use of force

> Summary of evidence

Use of force on Mr Dos Santos

Safety hammer

533. A/PS Simpson's BWV showed that PC Franks grabbed a safety hammer held by a bracket in the inside top right hand corner of the TSG van, just before opening the door at the junction between Oakington Road and Elgin Avenue. PC Franks placed the hammer back after closing the door of the van again. The hammer remained there and was not taken by any

of the officers when they exited the van again to detain Mr Dos Santos and Ms Williams.



The screenshot above showed that PC Franks held an orange safety hammer in his left hand when the van stopped parallel to Mr Dos Santos' vehicle at the junction with Elgin Avenue.

534. The IOPC asked the MPS to provide a photo of their official safety hammer. The photo below was sent to the IOPC by the MPS MO11 Operational Support Services. The safety hammer on the photo could be described as being entirely orange and matched the description of the hammer held by PC Franks.



The Met MO11 Operational Support Services confirmed in an email dated 26 February 2021 that, *"it does look as though the officer [PC Franks] is holding our safety hammer. The key distinguishing features are that it is rather small and bright orange ... As an escape tool, the safety hammer*

is for use by those trapped in MPS vehicles following a collision or other incident. It is to help them break out of the vehicle, by breaking the vehicle's side window glass."

535. PC Franks' BWV showed that at 12:26:18, PC Bond retrieved a safety hammer from his vest pocket.



536. On PC Clapham's BWV, PC A could be heard shouting "*there's a baby in the car*" whilst she looked through the vehicle side window. At this time, she was positioned nearly opposite PC Bond and PC Franks.

537. From the screenshot below from PC Franks' BWV, the safety hammer held by PC Bond seemed different (orange handle and a yellow head) from the safety hammer that could be found in the van and which was confirmed as being supplied by the MPS.



PC Franks wrote in his response to caution "*I was conscious that PC Bond was next to me and that he had taken his hammer out as if there was a need to break a window that would be much better than an asp.*"

538. PC Bond stated in his first account that because Mr Dos Santos took time to exit his vehicle, he took the "*glass hammer*" he kept in his vest as a

“precaution that force may have to be used to remove DOS SANTOS SOARES from the vehicle”. In his response to caution, PC Bond explained why he carried a safety hammer. The officer said:

“I did have a glass hammer and I got it out. I do not believe the driver would have seen this. At that time it was crossing my mind that sadly we might have to break the window to facilitate removing the driver as he was showing no sign of coming out of the car. These things have to be determined in a split second, and the decision to get it out did not necessarily mean I was going to use it. It was one of a number of tools that I carry with me such as a seatbelt cutter, a fire key and other bits of useful equipment associated with the type of work that TSG officers routinely have to perform. Using a glass hammer to get into a car is far safer to the occupants as to prevent follow through and striking the driver and showering them with glass. I did not know who was in the car.”

539. On BWV, A/PS Simpson could be heard advising PC Franks to *“take a breath”*. She explained in her response to caution that what she meant by this was that seeing that Mr Dos Santos was not exiting the vehicle, *“it may become necessary in the next few seconds to force the issue by smashing the window of the car. I could see that PC Franks had his asp/baton in his left hand on his shoulder; in the circumstances I was not surprised by that. As far as I can recall I was not aware PC Bond had taken his hammer out; I’m not surprised however that it would appear he did.”*
540. On 22 February 2021, the Met MO11 Fleet Services told the IOPC in an email that a safety hammer was installed in some MPS vehicles for drivers and passengers as an escape tool to exit the vehicle by breaking the side window glass. Fleet Services confirmed that:
- “As its name suggests, the safety hammer is not intended for use as a method-of-entry tool for rescue for arrest purposes. (The manufacturer of the current hammer has confirmed that it is sold specifically for use as a vehicle **escape tool**, and is not recommended for repeat use.)”*
541. The MPS published on 10 December 2019 on its Intranet an Operational Instruction confirming the role of the safety hammer and its use. It stated:
- *“The in-vehicle hammer is safety equipment. It is provided solely as an escape tool for use by Met vehicle occupants.*
 - *It is for use on side windows only. It will not break laminated windscreens.*
 - *To break the glass, swing the hammer against the window with some force. The weakest parts of a window are its corners.*
 - *If used for other purposes, the tip of the hammer could become blunt, and it may be less effective if ever required to aid vehicle escape.”*
542. When presented with the Met Intranet Operational Instructions and BWV, PC Bond explained, *“I am now aware that PC A had made a*

comment that there was a baby in the car but presently I have no recollection of hearing that. I have not seen the MPS intranet document from 2019 as far as I remember. My glass hammer was simply taken out in case I needed to use it; if that can be described as “pre-emptively taking it out” then that is what I did, for good reason.” An email from DPS dated 24 October 2021 confirmed that officers were not allowed to carry safety hammers as part of their kit. An email from PC Chris Phillipson, Public & Personal Safety Instructor, states that *“Police officers are personally issued with the following PPST PPE equipment*

- *Handcuff/ HC Pouch / HC Keys*
- *Positive Lock Baton / PLB Holster*
- *Irritant Spray / Holster*
- *Stab and Firearms resistant vest”*

PC Phillipson also mentioned in his email that *“Officers are allowed to purchase other pieces of equipment to use to aid them in their duties, such as torches and boots.”*

543. PC Casey’s BWV showed that at 12:26:57, PC Casey picked up an entirely orange safety hammer on the pavement, left beside Mr Dos Santos’ feet.



It could be observed that the safety hammer on the above screenshot resembled the MPS safety hammer in the TSG van. BWV did not show whether any other officer apart from PC Franks and PC Bond held a safety hammer when Mr Dos Santos and Ms Williams were detained.

544. A/PS Simpson’s BWV showed that at the end of the search, A/PS Simpson told Ms Williams *“Happy. Appreciate your time, I’m not gonna apologise for stopping you, I think his [Mr Dos Santos] actions are completely unacceptable and dangerous especially with a baby in the car, and if he behaves like that again, he’s gonna get stopped again, and officers would’ve been justified to come and smash that window straight away if he wasn’t getting out. That could happen, I’m just warning you, if you’ve got a baby in the car, we don’t want that to happen.”*

545. PC Clapham's BWV showed that PC Bond held his safety hammer in his hand for approximately 18 seconds until he handcuffed Mr Dos Santos.

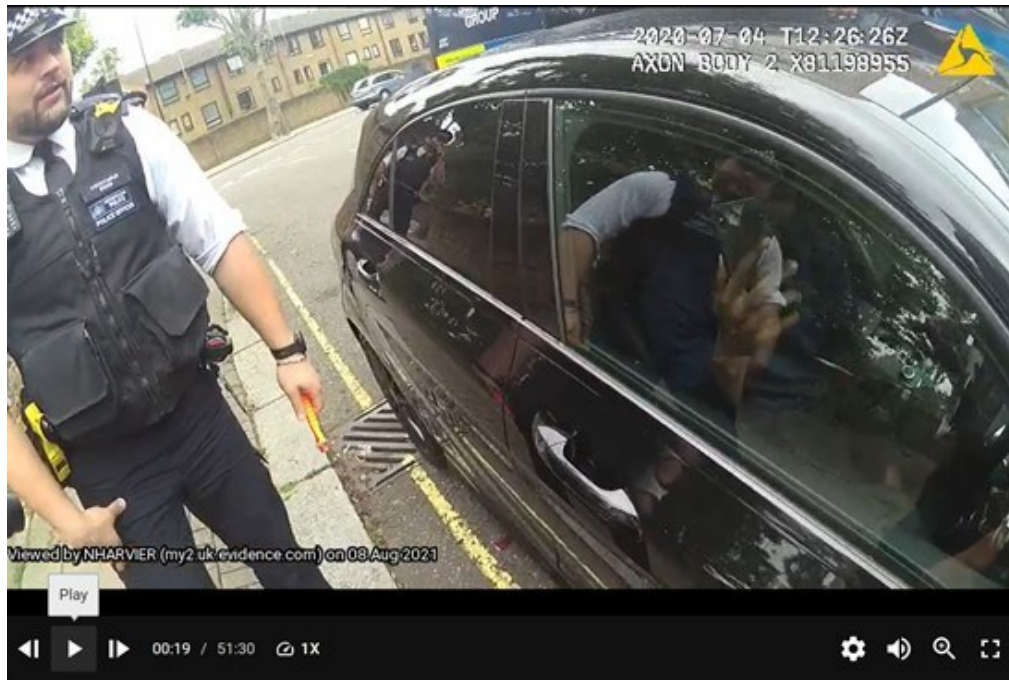
Baton

PC Clapham's BWV showed that at 12:26:14, the TSG van stopped beside Mr Dos Santos' Mercedes in Lanhill Road, and the officers exited the vehicle. PC Franks stood at the driver's side door of the Mercedes with his baton racked. Officers could be seen trying to open the Mercedes' doors which were locked.



Mr Dos Santos stated that *“PC Franks stood by my window his baton raised as if he was ready to hit me. He yanked on my door handle, and shouted “get out of the car”.*

546. PC Franks' footage showed that Mr Dos Santos was filming with his mobile phone as shown in the screenshot below.



In his statement, Mr Dos Santos described when the officers ran towards his car, *“Two officers ran round to my door. I saw an officer holding an orange glasscutter. The officers were behaving in what I would describe as a frantic manner. I took my phone out and began filming because I was concerned about how they were going to treat us given their aggressive manner and I wanted to have a record of it.”*

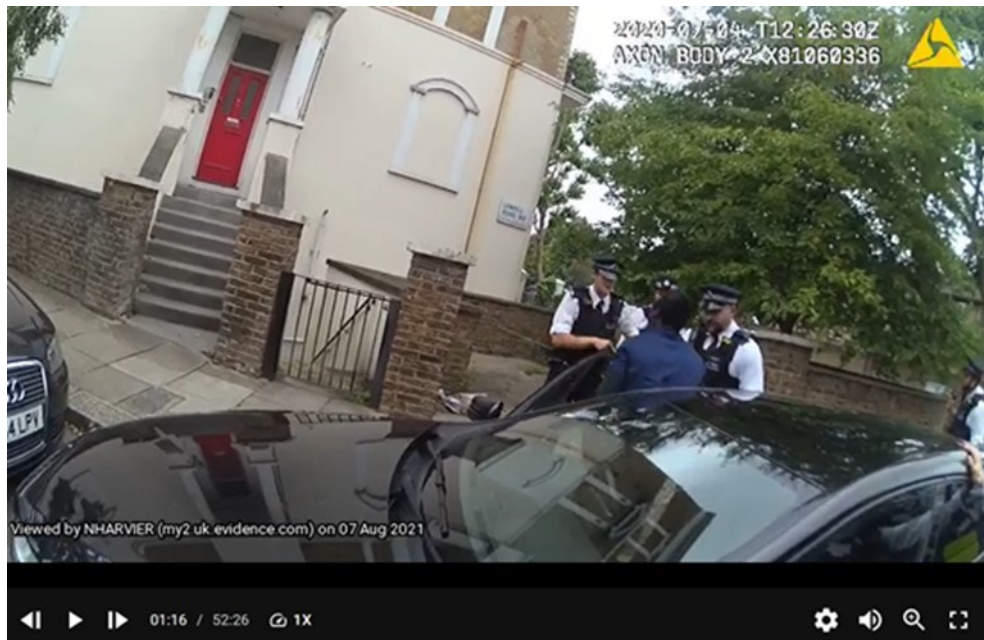
547. In his response to caution, PC Franks said that he planned to detain the driver for a stop and search using s1 PACE and so, *“I have drawn my baton and racked it in order to quickly smash the glass if needed”*. He added that *“As part of my risk assessment in relation to what was going to confront me in the next two or three seconds I withdrew my baton/asp and held it over my left shoulder. This is in accordance with my training given that a totally unknown, high risk was now confronting me, and equally the thought crossed my mind that there may be a requirement to use it for the purposes of breaking glass to gain access to the vehicle. Hearing the automatic locking go on and then there being a delay with the driver getting out of the vehicle only increased those concerns.”* BWV showed that PC Franks held his baton in one hand and rested it on the shoulder whilst detaining Mr Dos Santos for a s1 PACE search for weapons and providing GOWISELY. PC Franks stated that his concern was to immobilise the vehicle and ensure that the occupants exited the car so that officers could get them under control and handcuffed for the purpose of a search. PC Franks explained that the situation was fast moving, dynamic and *“potentially dangerous”*. PC Franks told the IOPC that *“A delay in this process at this time can be, and has in the past, can be fatal in terms of the safety of myself and my colleagues.”* PC Franks added that he was *“pretty confident we were going to find drugs, weapons or something else connected to criminality in the vehicle my immediate thought was to get the car open and the driver out, and get him under control so that he could not harm me, or them.”* PC Franks also said that he did not know that Mr Dos Santos was near home and who else was in the Mercedes. PC Franks commented that he *“had no*

information about the driver at all, other than the impact that his driving had in informing me that as far as I was concerned he was determined to avoid contact with police.”

548. PC Clapham told the IOPC in his response to caution that his risk assessment remained high until the occupants came out of the car and were under control, *“particularly as was the case where there is a manifest, initial reluctance to comply with clear, loud, verbal requests that included the information from the outset and that the occupants were being detained for the purposes of a search for weapons under S.1 PACE.”* PC Clapham also said that *“At the moment Mr Dos Santos emerged from the vehicle he was a high, unknown risk.”*

PC Clapham stated that Mr Dos Santos was refusing to exit the Mercedes and was *“not moving”*. PC Franks said that *“Mr Dos Santos appears to be in the car with a mobile phone in his right hand, filming.”* PC Franks told the IOPC that seeing that Mr Dos Santos was not obeying verbal commands and his delay in exiting the car, his risk assessment was *“substantially increasing.”* According to his response to caution, PC Franks was aware that PC Bond was beside him and had his safety hammer out ready for use and that PC Clapham was approaching.

549. PC Clapham stated that PC Franks and PC Bond *“forced”* Mr Dos Santos out of the car. PC Franks stated *“Eventually Mr Dos Santos emerged with his mobile phone in both hands and he stood up.”* PC Clapham’s BWV showed that after approximately 17 seconds, Mr dos Santos exited the Mercedes holding his mobile phone and did not appear to present any obvious physical threat.



Mr Dos Santos told the IOPC that he *“was worried that the officers would smash the windows of my car and hurt my baby. I opened the car door and stepped out. As I did so, PC Franks pulled the car door, and he and the other older officer then grabbed me on my left arm.”* In her statement, Ms Williams said, *“I couldn’t believe what was unfolding. I was made to*

feel like we were criminals, when all we had been doing was driving home after a training session with our baby in our car. The officers were armed and were behaving frantically. I felt really shocked by their behaviour and I felt like we were in danger. I felt really scared.”

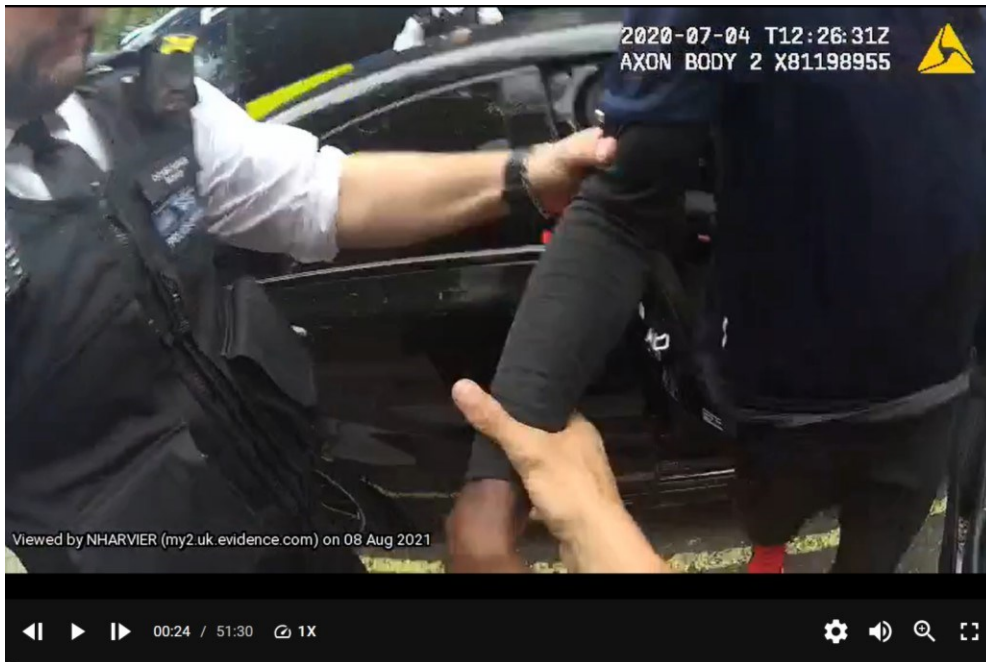
550. PC Bond’s BWV showed that PC Franks held his baton as a show of force for 20 seconds until 12:26:33 when PC Franks dropped the baton on the pavement to deal with Mr Dos Santos who had exited the car.

Pulling and grabbing

551. According to PC Clapham’s response to caution, *“Mr Dos Santos had to be initially detained and under control to prevent him from escaping, discarding any evidence, or potentially using any weapons he had in the vehicle against me and my colleagues. It was a tense situation and he was acting extremely aggressively and being totally obstructive.”*
552. PC Bond’s BWV showed that when Mr Dos Santos’ got out of the vehicle, he immediately asked the officers what he had done. PC Franks’ BWV showed that Mr Dos Santos smiled when he exited the car, he was calm and was holding his mobile phone with both hands. The footage showed that PC Franks continued to provide GOWISELY.



PC Franks’ BWV showed that Mr Dos Santos continued to smile until PC Bond and PC Franks took hold of his arm.



On PC Clapham's BWV, PC Bond could be observed taking hold of Mr Dos Santos' right arm first and PC Franks appeared to take hold of Mr Dos Santos' other arm. BWV showed that Mr Dos Santos raised his right arm which became free of the officer's hold.

553. PC Clapham stated that when PC Franks started to detain Mr Dos Santos, Mr Dos Santos pulled away from PC Franks and *"appeared to be very angry – his eyebrows were scrunched up, I could see he was tensing up his muscles and he was shouting whilst walking towards PC Franks."* PC Franks' BWV showed that Mr Dos Santos' face did not seem *"scrunched up"* but instead the footage showed that Mr Dos Santos pulled his arm back, freed himself and then stepped back rather than moved towards PC Franks.



Immediately after, PC Clapham's BWV showed that PC Franks reached to take hold of Mr Dos Santos's right arm and Mr Dos Santos placed his arms behind his back and stepped one pace backwards. The footage showed that PC Franks moved forward and took hold of Mr Dos Santos's top with both hands. PC Clapham stated that he ran over to assist PC Franks.



Mr Dos Santos explained in his statement that his *“right arm was also grabbed and I was pushed forwards and pinned against a brick wall on the road. My chest was pushed against the wall by the officers who were pushing me from behind. My arms were held behind my back and I was handcuffed by the officers. My toes were bent against the wall because I didn’t have a footing because I had been pushed so quickly up against the wall.”*

PC Clapham’s BWV showed that PC Franks moved Mr Dos Santos against a nearby wall with his hands on his shoulders. PC Bond could be observed taking hold of Mr Dos Santos’s left shoulder and PC Clapham moved over and stood behind PC Franks.



PC Franks’ footage showed that he had dropped his baton and that PC Bond picked it up from the floor.

554. In his response to caution, PC Franks described how he took hold of Mr Dos Santos as soon as he exited the Mercedes. He said:

“I took hold of his right wrist with my right hand but he resisted and raised his hands and I therefore took hold of his upper body with both my hands

to be in a position to try and gain control of him. He continued to resist and there was a moment when I did not have hold of him. I think I had dropped my asp to the floor in the struggle with him and particularly at the time when I realised I did not have hold of him at all and needed both hands to grapple with him and try and gain control of him. I was trying to take control using techniques that involved physical interaction as opposed to using my baton, CS spray or a leg sweep to take him to the ground. I just wanted him to be calm and to allow us to handcuff him so we could carry out the search, that I had already told him we were undertaking but he was resisting and struggling and at that time my intention was to place him in handcuffs front stack. He tensed his arms however and moved away and was struggling and I was very conscious there was an open space behind him with no cover officer there at that time as far as I could see, and he might try and run away and so I grabbed his upper body spun him around and myself, PC Clapham and PC Bond put him in handcuffs to his rear initially. This only happened because of the level of aggression he showed upon getting out of the car and the agitated resistance he demonstrated at that time.”

555. In his statement, PC Bond described the force he used with Mr Dos Santos and the reasons why he grabbed Mr Dos Santos’ arms. He said:
- “DOS SANTOS SOARES suddenly braced up which I perceived to be combative and resisting a search. DOS SANTOS SOARES was swearing loudly on the street calling officers “RACIST CUNTS”. I took DOS SANTOS SOARES by the left arm at the wrist and above the elbow and lifted the arm and bent it at the elbow in a natural direction and placed it behind his back. I learnt this maneuverer in METROPOLITAN POLICE Officer safety training. The physical restraint did not cause any injury to DOS SANTOS SOARES but it enabled officers to place him in handcuffs. Due to DOS SANTOS SOARES continuing to brace up and be aggressive to officers he was placed against a wall. This was the extent of the force I used on DOS SANTOS SOARES (UoF Ref: 2007-001934).”*

PC Clapham’s BWV showed that Mr Dos Santos was loud and asked the officers on several occasions “*what did I do*”, “*what are you doing*” and “*what the fuck guys are you doing*”. The footage showed that Mr Dos Santos was verbally abusive but that it was only once he was handcuffed that he told the officers that they were “*racist cunts*”.

556. PC Clapham stated that he used “*pre-emptive strikes in the form of taking hold of him and pushing him against the stone pillar as I genuinely believed in that moment there and then that he was going to assault PC Franks who was attempting to detain him for a search.*” The officer added that he “*believed he was imminently going to assault my colleague, therefore I was preventing an offence from imminently occurring in that moment*”. PC Clapham said that the force he used with Mr Dos Santos was made under Common Law, s3 Criminal Law Act and s117 PACE.
557. PC Franks told the IOPC that he did “*not display aggressive and confrontational behaviour towards Mr Dos Santos in the initial stages of*

this stop. That was displayed by him when he was clearly aware that we wanted to search the vehicle and him.”

Handcuffing

558. PC Clapham’s BWV showed that PC Bond and PC Franks held one shoulder each and turned Mr Dos Santos around.

Mr Dos Santos: *“You can see, this is my house, bro! I’m at home! What the fuck, ow, what the fuck are you lot doing bruv?! What the fuck are you guys doing? My kid’s in the car bro. What the fuck are you guys doing?”*

PC Bond: *“Round the back.”*

The footage showed that Mr Dos Santos’s right hand was handcuffed as officers attempted to then secure the handcuff on his left wrist too. PC Franks continued to hold Mr Dos Santos’s right arm, assisted by PC Bond, and was reaching for his left arm. PC Bond explained in his response to caution that there was *“barely any physical interactions with him [Mr Dos Santos] other than the initial need to take control when he backed off from PC Franks and appeared, to me, to be determined to avoid being detained or controlled.”*

559. PC Clapham, in his response to caution, told the IOPC that PC Franks could legally have arrested Mr Dos Santos for obstruction if he continued with his behaviour. PC Clapham stated that he *“proceeded to place him [Mr Dos Santos] in handcuffs in the Home Officer approved Back to Back position”* and checked for tightness. The screenshot of PC Clapham’s BWV showed that PC Clapham assisted PC Bond and PC Franks to handcuff Mr Dos Santos.



560. PC Clapham’s BWV showed that at approximately 12:26:46, Mr Dos Santos’s arms were moved behind his back and the handcuffs were

secured in a back-to-back position. PC Bond and PC Franks continued to hold Mr Dos Santos' arms whilst PC Clapham got hold of the handcuffs. PC Bond stated in his first account that PC Franks applied the handcuffs to affect Mr dos Santos' search. In his response to caution, he corrected himself to say that he believed PC Clapham handcuffed Mr Dos Santos. PC Clapham stated that he used s117 PACE to handcuff him and hold Mr Dos Santos. The officer further explained in his response to caution, *"Ordinarily in this type of situation it would be my preference that a detainee be cuffed to the front as that is less uncomfortable for them, provides usually a sufficient degree of control, and makes it easier to carry out a search. I believe Mr Dos Santos represented a higher risk still because of the manner of his driving, and his initial refusal to get out of the car, coupled with his immediate resistance and argumentative response to being told why he was being searched."* PC Clapham told the IOPC that officers were *"advised that subjects should be dealt with in such a way that their hands are kept away from their body, thereby preventing easy access to a weapon, which is why we were anxious to place him in handcuffs and the moment when the risk, as he represented to us, was probably at its highest."*

561. PC Clapham's BWV showed that when Mr Dos Santos complained that the handcuffs hurt him, the following conversation was shown to take place between PC Clapham and Mr Dos Santos:

Mr Dos Santos: *"My fucking arm, my fucking arm, my fucking arm!"*

PC Clapham: *"Relax yourself, go through it all."*

562. PC Clapham's BWV showed that Mr Dos Santos was against the wall and was held by PC Clapham and PC Bond whilst PC Franks completed GOWISELY. PC Clapham stated that Mr Dos Santos continued to struggle with the officers, *"tensing his muscles"*, shouting and *"swearing"*. PC Clapham said he continued to instruct Mr Dos Santos to calm down and that once calm, he would move the handcuffs to the front. PC Clapham wrote in his statement, *"Eventually, he calmed down slightly"*. BWV footage showed that Mr Dos Santos did not seem to resist as the officers kept him against the wall but that he continued to shout, speaking in a raised voice over the officers telling them that he was not resisting. PC Franks stated that he used force under s117 PACE. The screenshot below showed how Mr Dos Santos was held against the wall by the officers.



563. PC Clapham's BWV showed that Mr Dos Santos again complained about the handcuffs being too tight.

Mr Dos Santos: *"Relax the thing, relax the thing man. Untie the fucking thing!"*

PC Clapham: *"Once you calm yourself down!"*

Mr Dos Santos: *"Come on!"*

PC Clapham: *"Calm yourself down then!"*

PC Clapham was observed using his left hand to hold Mr Dos Santos' back, assisted by PC Bond. PC Franks was holding Santo's right arm.

564. PC Clapham explained in his statement that he stopped *"forcing"* Mr Dos Santos against the wall and PC Bond and PC Franks *"controlled his hands and wrists and I released the handcuffs from one of his wrists to position him in handcuffs at the front."* PC Clapham's BWV showed that at 12:28:50, PC Clapham moved the handcuffs to the front in a front stack position with PC Bond and PC Franks assisting in holding Mr Dos Santos' arms. In his statement, Mr Dos Santos told the IOPC that the handcuffs were *"extremely tight causing pain to my wrists"*, and that they were moved to a front stack position. PC Franks explained that Mr Dos Santos continued to be *"agitated, talkative and argumentative"*.

565. From PC Clapham's BWV, it would appear that Mr Dos Santos remained calm and compliant and even sat down at one point, yet he remained handcuffed for another half an hour.

566. Mr Dos Santos told the IOPC that he heard *“one of the male officers say to another male officer that we are athletes. I think Bianca must have told one of the female officers who were with her. After this, they then treated us differently. They were less aggressive. They asked us questions about athletics, living in London, how we trained etc.”* PC Franks told the IOPC that *“as he did calm down a bit the handcuffs were removed and he ended up in quite an amicable conversation with PC Clapham about his earnings, his sponsorship, and matters of that kind.”* Mr Dos Santos remained handcuffed for a total of 45 minutes until they were removed at 13:16:27. PC Franks explained in his response to caution that *“There remained reasonable grounds to continue to detain him until the search of him and the vehicle was completed and we were satisfied that he, and Ms Williams could be released.”*

567. In his statement, Mr Dos Santos stated that following his handcuffing, he sustained injuries which he took photos of. Mr Dos Santos stated, *“After the incident I had marks to my wrists which were caused by the handcuffs. I took photos of my wrists which I exhibit at RDS/1. I also had pain to my chest where I had been pinned up against the wall by the officers. I went to my GP about this pain on 8 July 2020 because it was affecting my training. I was finding it difficult to breathe when I ran. My chest felt really heavy. My GP prescribed me painkillers and recommended I book an X-ray if the pain continued. The painkillers settled the pain and so I did not book an X-ray.”*





568. In his statement, PC Franks said he used force under s117 PACE. PC Clapham stated he used force under s117 PACE, common law and s3 CLA.
569. In a use of force form completed on 4 July 2020, PC Franks described Mr Dos Santos' behaviour as "*Serious or aggravated resistance*". He also said he drew his baton, used "*Tactical communications*", "*Unarmed skills (including pressure points, strikes, restraints and take-downs)*", and "*compliant handcuffing*", all tactics, according to PC Franks' use of force form, were ineffective. On the form, PC Franks wrote that he was not threatened with a weapon but that "*information indicated that a weapon may be present*". PC Franks also wrote that he was not assaulted by Mr Dos Santos. When asked to select on the electronic form what reasons he had to use the force he did, PC Franks ticked: "*Protect self, Protect subject, Protect other officers, Prevent offence, Secure evidence, Effect search, Prevent harm, Prevent escape*". When PC Franks provided a brief summary of the circumstances surrounding his use of force, the officer wrote that Mr Dos Santos resisted being handcuffed. PC Franks identified on the form that the factors that influenced his decision included "*Possession of a weapon, Prior knowledge, Size / gender / build, Other*".
570. In his response to caution, PC Franks told the IOPC that in his view, the force that he used was not excessive or inappropriate. The officer explained that it was necessary to handcuff Mr Dos Santos at the back first because of his level of aggression and conduct when exiting his car and that he would have initially preferred to handcuff Mr Dos Santos at the front.
571. PC Bond also completed his use of force form on 4 July 2020. He recorded that Mr Dos Santos was showing "*aggressive resistance*". He also said that he used "*non-compliant handcuffing*" and "*Unarmed skills (including pressure points, strikes, restraints and take-downs)*" which were effective. The officer wrote that he was not threatened or assaulted

with a weapon and used the force he did to *“Protect self, Protect public, Protect other officers, Effect search, Prevent harm, Prevent escape”*. When asked to select what factors had impacted on his decisions, PC Bond wrote *“Drugs, Size / gender / build”*.

572. In its use of force form, PC Clapham recorded on 4 July 2020 that Mr Dos Santos was showing *“aggressive resistance”*. He also said the he used *“tactical communication”* which was not effective, and *“Unarmed skills (including pressure points, strikes, restraints and take-downs)”* and *“Non-compliant handcuffing”* which were effective. The officer wrote that he was not threatened or assaulted with a weapon and used force to *“Protect self, Protect public, Protect other officers, Effect search, Prevent harm, Prevent escape”*. When asked to select what factors had impacted on his decisions, PC Bond wrote *“Possession of a weapon, Drugs, Prior knowledge, Size / gender / build”*. In his statement, PC Clapham said that the force he used was *“proportionate and reasonable.”*
573. PC Clapham explained what he meant by *“aggressive resistance”* in his response to caution. He told the IOPC that when PC Franks tried to detain Mr Dos Santos, *“He can clearly be seen on the body worn that he puts his right arm up to evade the first attempt by PC Franks to take hold of him. He was clearly resisting and demonstrating what I interpreted to be aggressive resistance, which makes placing him under control all the more difficult.”* PC Clapham added that Mr Dos Santos actively resisted and was *“being abusive, and somewhat loud”* and also *“offensive and unpleasant”* when he told them how much he earned and how much he would spend to take them to court. PC Clapham told the IOPC that he tried *“to de-escalate the situation and minimise the use of force, in my view very little force having been used on him already as that which was used particularly by PC Franks and PC Bond had proved effective. Moving the handcuffs from the rear to the front was an attempt to do this, as well as obviously making it easier for PC Franks to carry out the search.”*
574. PC Clapham added, *“after spending so long with Mr Dos Santos and ending up as I thought having quite an amicable chat about the things we did, this affected my perspective and judgment in terms of whether or not he should have been reported for the quite appalling manner of his driving and possibly Public Order Act offences in relation to his persistent and loud shouting and swearing in the street when other members of the public were clearly present. It is probably the case that collectively we exercised some discretion in policing terms in his favour in determining not to report or prosecute him for those offences.”*

Use of force on Ms Williams

575. A/PS Simpson’s BWV showed that PC A ran towards the passenger door, tried to open it and shouted that there was a baby in the Mercedes. PC A told the IOPC in her response to caution that the car was a *“high risk”* because of the manner of driving and because she did not know who and how many people were in the vehicle. The officer stated that A/PS Simpson moved and stood at the passenger side door

as Ms Williams's opened the door holding her mobile phone in her left hand. PC A stated she then realised that Ms Williams was in the car. In her response to caution, A/PS Simpson told the IOPC that the delay in exiting meant that there could be sufficient time to hide items. A/PS Williams told the IOPC that when Ms Williams opened the door, she was an "*immediate unknown high risk*". Eight other police officers were visible standing around the car. Ms Williams stated that she was panicked and opened her door.



Pulling and grabbing

576. A/PS Simpson's BWV showed that as Mr Dos Santos was being told that he was detained for a search for weapons under s1 PACE, Ms Williams exited the vehicle and told the officers that Mr Dos Santos had not done anything. A/PS Simpson instructed her to remain calm. PC A's BWV showed that A/PS Simpson put her hand on Ms Williams' right arm as she exited the vehicle.

Ms Williams: "*Wait wait wait*"

A/PS Simpson: "*Hello madam*"

Ms Williams: "*He didn't do anything*"

A/PS Simpson: "*Okay calm down*"

577. PC A stated in her response to caution that Ms Williams was "*refusing to come out, despite the verbal encouragement and request of A/PS Simpson and was visibly struggling and resisting.*" A/PS Simpson's BWV showed that A/PS Simpson took hold of Ms Williams's right arm with both hands, assisted by PC A. Ms Williams initially moved her arm back as A/PS Simpson tried to take hold of it before she took control with both hands.



PC A: *He's just being detained, he's just being detained!*

Ms Williams: *For what? For what?*

PC A: *He's just being detained for a search.*

Williams: *Why are you touching me? My son's in the car! My son is in the car!*

Ms Williams explained in her statement that the officers *grabbed both her wrists forcefully and aggressively*. In her first account, PC A stated that she used force under s3 of the Criminal Law Act believing that Ms Williams *was attempting to conceal dangerous items or potentially reaching for a weapon to assault us.* A/PS Simpson stated she *put my left arm up both to defend myself and also to assist in taking control of her. I had no idea who she was and my risk assessment in relation to her remained, understandably, high.*

578. A/PS Simpson's BWV showed that Ms Williams attempted to move inside her car whilst being held by PC A with both hands. A/PS Simpson was also holding her left hand. In her first account, A/PS Simpson stated that she felt Ms Williams pulling away from her and moving back into the car. At this stage, A/PS Simpson stated that Ms Williams was a *very high threat*, shouting and pulling before going back in the car. She also said that Ms Williams was holding her phone in her hand. Whilst Ms Williams moved back in the vehicle, A/PS Simpson repeated her instructions to calm down and tried to reassure her by saying that they would look after her baby to which Ms Williams said that she did not want them to look after her son. The footage showed that Ms Williams appeared to be distressed and started to cry. A/PS Simpson stated that because of the manner of driving she *suspected that the occupants of the car were in possession of a weapon which is why they were so determined to avoid being stopped.* The officer added that she was concerned for her safety and that of her colleagues and *took hold* of Ms Williams' wrists to *safely take control of her hands, stop her reaching for anything inside the vehicle that could cause harm*.
579. PC A's BWV showed that A/PS Simpson asked Ms Williams to get out of the car and told her that no one would be hurt and that she was detained for a search under s1 PACE for weapons to which Ms Williams said that she had not done anything. On the footage, A/PS Simpson could be seen pulling Ms Williams' arm saying *we don't need to do this*. In her statement, A/PS Simpson said that she told Ms Williams that she

was detained for a search and tried to persuade her to exit the car but that Ms Williams was not complying with her instructions. A/PS Simpson explained in her response to caution that by saying “get out of the car we don’t need to do this” she meant that the minimum force necessary would be used with her to gain control. The officer also stated that Ms Williams started to comply and that “with gentle assistance having hold of her arms she got out.” A/PS Simpson’s BWV showed that Ms Williams complied with the officer and exited the vehicle. Ms Williams was still holding her mobile phone in her hand.



580. A/PS Simpson’s BWV showed that PC C and PC A also helped A/PS Simpson pulling Ms Williams out of the car. Ms Williams’ arms appeared to be tensed at this moment as she seemed hold on to her phone.

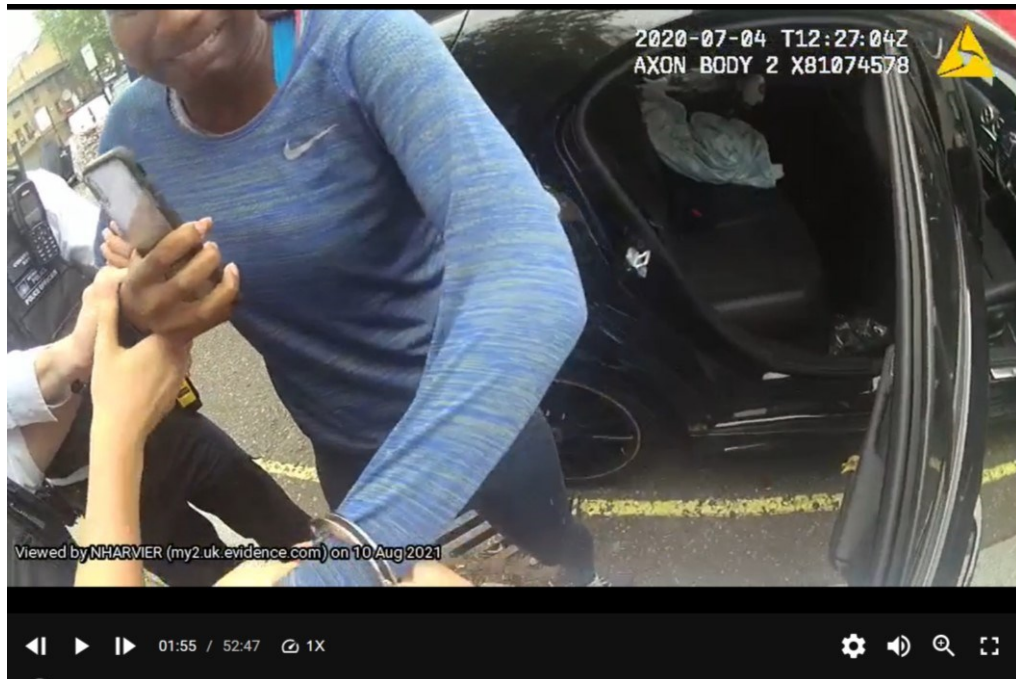


Ms Williams told the IOPC that she was “*extremely frightened; I became emotional and repeatedly pleaded with them to wait. I told them at least three times that I had our three-month-old baby in the car. They carried on pulling me. I was really frightened and I didn’t want to leave my baby in the car.*” Ms Williams added that PC A grabbed her left wrist “*with such force that it caused pain to my arm. Because of this and the*

level of aggression they were showing towards me, I felt very panicked. I did not want to leave my baby in the car alone. I thought I was going to be handcuffed and taken away and I scared to leave my child alone.”

Handcuffing

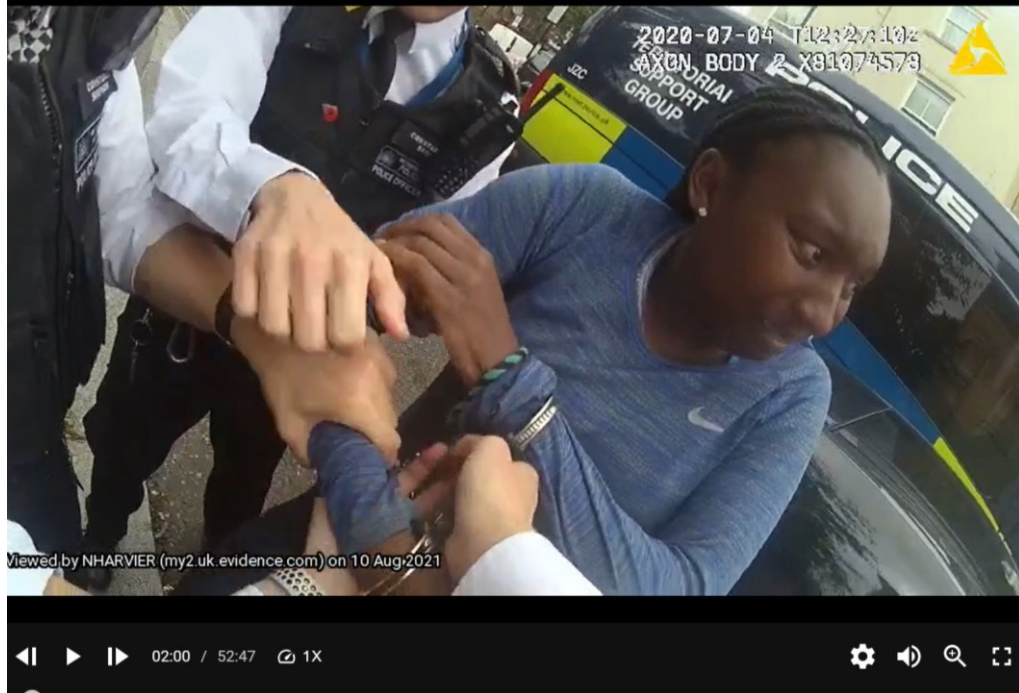
581. Ms Williams stated that as soon as she came out of the car, PC A handcuffed her. She told the IOPC that she did not understand why she was being handcuffed because she was not being aggressive or trying to run away. PC A's BWV showed that as Ms Williams stepped out of the vehicle, A/PS Simpson explained that she was detained for a search for weapons. Ms Williams appeared to be very upset and crying repeating that she had not done anything as PC A applied the handcuff on her first right wrist at 12:27:04 as shown in the screenshot below.



In her response to caution, PC A explained that her *“primary concern of all of us is to take control of the occupants to ensure that they are not in a position to cause injury to officers who are acting lawfully in detaining the occupants of the vehicle for a search. We are also, obviously, concerned to maintain control so that none of the occupants can decamp, attempt to conceal or swallow items, or use them to attack us. This is achieved by removing the occupants from the vehicle and then placing them in handcuffs, and having officers stay with them, with a cover officer as appropriate whilst the search is undertaken on the street, and the vehicle is then searched.”*

582. PC A's BWV showed that PC A instructed Ms Williams to relax whilst she handcuffed Ms Williams in a front stack position. PC A told the IOPC that she considered the front-stack option the minimum force necessary to prevent Ms Williams' escape and to gain control of her for the purpose of the search. Ms Williams stated that the handcuffs felt very tight and were subsequently adjusted. PC A explained in her statement that she acted under s117 PACE and added,

“With A/PS SIMPSON and I holding on to her wrists, we pulled Bianca out of the vehicle, and I placed her in my handcuffs (25430) in a front stack position, checking for tightness and double locking to prevent her escape and to prevent her from reaching for any weapons or prohibited articles she had concealed.” PC A stated that Ms Williams was *“upset shouting that her baby was in the car.”*



PC A double locked the handcuffs and A/PS Simpson continued to explain the reason for the search and that officers were going to look after her baby. Ms Williams stated that the officers were showing such aggressiveness towards her that she did not feel comforted by what A/PS Simpson was telling her that they were going to look after her baby and therefore did not want to be separated from him and was *“terrified”*. BWV footage showed that Ms Williams told the officers that they lived in the street and that this was their home and their car. A/PS Simpson stated that once out of the car, Ms Williams was calm and that they were able to have a conversation. PC A stated that Ms Williams appeared calm and smiling.

583. In her statement, A/PS Simpson explained that Ms Williams *“had been loud, shouting at us and refusing to comply to get out which heightened my risk assessment that she was in possession of a weapon which could result in me or colleagues being injured. Restraining her in handcuffs would minimise any need to use further force on her and reduce the risk of injury to her and us.”* A/PS Simpson stated that she used s117 PACE to effect the search and common law to protect herself and her colleagues. The officer said that she also used s3 of the Criminal Law Act *“as they had been actively trying to avoid police detaining them moments before.”* PC A stated that the force she used with Ms Williams was necessary, reasonable and proportionate and that nobody was hurt by her actions.

584. A/PS Simpson's BWV showed that officers remained beside the car and monitored Mr Dos Santos and Ms Williams' baby. PC A stated that this was to reassure Ms Williams that her baby was being looked after. The footage showed that at 12:44:42, their son started to cry and A/PS Simpson asked if Ms Williams wanted to hold her baby. As A/PS Simpson was unfastening the seatbelt, Mr Dos Santos shouted at the officers that he did not want them to touch his son. A/PS Simpson then left the baby in the vehicle. The footage showed that PC A released Ms Williams from her handcuffs at 12:45:17. The officer explained in her response to caution that Ms Williams had calmed down and seemed to understand why it was happening and therefore the decision was made to remove her handcuffs. The footage showed that 10 minutes later, Ms Williams picked her baby up from the car and continued to stand on the pavement holding him in her arms whilst they were waiting for the dog unit to attend. In her statement, Ms Williams told the IOPC that she *"felt so ashamed that I was being treated like a criminal and I had been handcuffed in front of my baby son and neighbours. I couldn't understand why the police were treating us in this way when we had done nothing wrong and nothing to justify this treatment."*
585. In her statement, PC A wrote that she used force under s117 PACE and s3 CLA. A/PS Simpson stated she used force under s117 PACE, s3 CLA and common law.
586. A/PS Simpson completed her use of force form on 4 July 2020. She recorded that Ms Williams was showing *"Active resistance"*. She also said that she used *"Tactical communications"* which was not effective and *"Non-compliant handcuffing"* which was effective. The officer wrote that she was not threatened or assaulted with a weapon but that information indicated the presence of a weapon. A/PS Simpson stated she used force to *"Protect self, Protect public, Protect other officers, Effect search, Prevent harm, Prevent escape"*. When asked to select what factors had impacted on his decisions, A/PS Simpson wrote, *"Possession of a weapon"*.
587. In her response to caution, A/PS Simpson stated *"It is beyond my comprehension how it is alleged that I failed to act with courtesy in my initial involvement with her and what "initial confrontational demeanour" I am alleged to have adopted. I was polite, calm, called her madam, and repeatedly asked her to calm down, all in the face of her shouting and pushing at me, and then pulling her arm away from me and going back into the car. I was constantly trying to explain to her what we were doing and why we were doing it. The use of force that was used was minimal, appropriate, proportionate and necessary to achieve the lawful objective that we were trying to. It is suggested that the use of force "may have been excessive in the circumstances"; It was not."* The officer told the IOPC that she tried to *"de-escalate the whole situation by remaining pleasant and courteous towards her and engaging her in conversation about such things as athletics, training, and the baby."*

588. PC A also completed her use of force form on 4 July 2020. She recorded that Ms Williams presented “*Active resistance*” and that she used “*Tactical communications*” which was ineffective, and “*Unarmed skills (including pressure points, strikes, restraints and take-downs)*” and “*Non-compliant handcuffing*” which were effective. PC A stated she used force to “*Protect self, Protect public, Protect other officers, Effect search, Prevent harm, Prevent escape*”. When asked to select what factors had impacted on his decisions, the officer wrote, “*Possession of a weapon, Crowd*”.
589. In her response to caution, PC A stated, “*I can identify no time when I believe I treated her with anything other than authority, respect, and courtesy. The initial comparatively low-level use of force when she was removed from the vehicle was entirely proportionate and necessary.*” The officer added, “*I did not grab her wrists “forcibly and aggressively” and deny use of excessive force in the circumstances. I was never aware that Ms Williams complained of any pain to her arm at the scene, or subsequently. She obviously laboured under a total misapprehension that she was going to be “handcuffed and taken away” and whilst she maintains that she would not understand why she was being asked to leave the vehicle and to be searched, a lot of the problem was that she was simply talking over us and not listening*”.

Officers’ use of force data

590. To help determine whether the officers’ use of force was influenced by Mr Dos Santos and Ms Williams’ race, the IOPC obtained their use of force forms over one year. The forms showed that multiple types of force might be used on one person, so the total number of use of force occasions was greater than the number of people on which force was used. The records showed that the majority of the use of force used were during mobile patrol when people were stopped and searched but they did not show whether these individuals were stopped for drugs, weapons or other reasons.
591. The IOPC organised the data collected from the officers’ use of force forms in one table that showed how many times a specific tactical option was used per ethnicity. The IOPC also calculated the proportion this particular tactic was used and compared it across all ethnicities.
592. The officers worked across a number of different boroughs in London, which was why the use of force data was compared to recent estimates for the residential population in London as a whole. It was possible that the available population of people that the officers encountered where force might have been used was different to this.

PC Clapham

593. PC Clapham’s use of force forms covered the period from 4 July 2019 to 5 July 2020. The forms recorded 30 people on which force was used. Of these 30 people, 6 (20%) were White, 15 (50%) were Black, 4 (13%) were Asian and 5 (17%) were other/mixed ethnicity. The data showed that

during this period PC Clapham used force more on Black people than any other ethnicity. ONS data showed that the White population in London was 59% and the Black population represented 12%⁴⁰. The data showed a disproportionate use of force on Black people compared to the resident population of London.

594. Table 12: type of force used by PC Clapham per ethnicity

PC Clapham's use of force forms were analysed by the type of force he used which included handcuffing (compliant and non-compliant), unarmed skills, ground restraint and tactical communications. The table below showed where force was used, the frequency with which different types of force were used for each ethnic group. It should be noted that more than one type of force could be used on each occasion, so the total types of force used (75 types of force) would be higher than the total number of individuals who force was used against (30 individuals).

Type of force	White	Black	Asian	Other / mixed	Total
Handcuffing⁴¹	5	10	1	4	20
%	25%	50%	5%	20%	n/a
Unarmed skills	5	13	3	5	25
%	20%	52%	12%	20%	n/a
Ground restraints	0	2	0	1	4
%	0%	50%	0%	25%	n/a
Tactical communications	6	14	2	4	26
%	23%	54%	8%	15%	n/a
Total	16	39	6	14	75
%	21%	52%	8%	19%	n/a

595. PC Clapham was one of the officers who handcuffed Mr Dos Santos. The analysis therefore specifically looked at PC Clapham's use of handcuffing as a tactical option. Of the 20 people handcuffed by PC Clapham in the period, 5 (25%) were White and 10 (50%) were Black. This showed a similar pattern to the overall use of force by PC Clapham and indicated a disproportionate approach to the use of handcuffs when compared with the residential population. Across all ethnicities, the data set concerning the officer's use of handcuffing was small, nevertheless, the pattern of

⁴⁰ ONS figures in 2018 are accessible here: <https://data.london.gov.uk/dataset/ethnic-groups-borough>

⁴¹ Handcuffing included compliant and non-compliant handcuffing.

disproportionate use of force, generally, and handcuffing specifically, was quite pronounced and may indicate a disproportionate approach. It should however be acknowledged that the comparison was made against the resident population in London.

PC Franks

596. PC Frank's use of force forms covered the period from 4 July 2019 to 5 July 2020. The forms recorded 39 people on which force was used. Of these 39 people, 11 (28%) were White, 19 (49%) were Black, 2 (5%) were Asian and 7 (18%) were other/mixed ethnicity. The data showed that during this period PC Franks used force more on Black people than any other ethnicity. ONS data showed that the White population in London was 59% and the Black population represented 12%⁴². The data showed a disproportionate use of force on Black people compared to the resident population of London (2018 ONS estimates).

597. Table 13: type of force used by PC Franks per ethnicity

PC Franks' use of force forms were analysed by the type of force he used which included handcuffing (compliant and non-compliant), unarmed skills, ground restraint, irritant spray and baton. The table below showed where force was used, the frequency with which different types of force were used for each ethnic group. It should be noted that more than one type of force could be used on each occasion, so the total types of force used (52 types of force) would be higher than the total number of individuals who force was used against (39 individuals).

⁴² ONS estimates from 2018 are accessible here: <https://data.london.gov.uk/dataset/ethnic-groups-borough>

Type of force	White	Black	Asian	Other / mixed	Total
Handcuffing⁴³	11	19	2	6	38
%	29%	49%	5%	16%	n/a
Unarmed skills	4	4	0	3	11
%	36%	0%	36%	27%	n/a
Ground restraints	1	0	0	0	1
%	100%	0%	0%	0%	n/a
Irritant spray	1	0	0	0	1
%	100%	0%	0%	0%	n/a
Baton drawn	0	1	0	0	1
%	0%	0%	100%	0%	n/a
Total	17	24	2	9	52
%	33%	46%	4%	17%	n/a

598. PC Franks drew his baton and assisted PC Clapham and PC in handcuffing Mr Dos Santos. The analysis of PC Franks' use of force therefore focused on his use of baton and handcuffing as tactical options. PC Franks recorded on his use of force forms for the stated period that he drew his baton once before on an Asian person. Of the 38 people handcuffed by PC Franks in the period, 11 (29%) were White and 19 (49%) were Black. This showed a similar pattern to the overall use of force by PC Franks and indicated a disproportionate approach to the use of handcuffs when compared with the residential population. Across all ethnicities, the data set concerning the officer's use of handcuffing was small, nevertheless, the pattern of disproportionate use of force, generally, and handcuffing specifically, was quite pronounced and may indicate a disproportionate approach. It should however be acknowledged that the comparison was made against the resident population in London.

PC Bond

599. PC Bond's use of force forms covered the period from 4 July 2019 to 5 July 2020. The forms recorded 36 people on which PC Bond used force. Of the 36 people on which PC Bond used force, 3 (8%) were White, 22 (61%) were Black, 2 (6%) were Asian and 9 (25%) were recorded as other or mixed ethnicity. The data therefore showed that during the period

⁴³ Handcuffing included compliant and non-compliant handcuffing.

PC Bond used force more on Black people than on people of any other ethnicity combined. ONS data showed that the White population in London was 59% and the Black population represented 12%⁴⁴. The data indicated a disproportionate use of force on Black people compared to the resident population of London.

600. Table 14: type of force used by PC Bond per ethnicity

PC Bond's use of force forms were analysed by the type of force he used which included handcuffing (compliant and non-compliant), unarmed skills, ground restraint and other/improvised tactics. The table below showed where force was used, the frequency with which different types of force were used for each ethnic group. It should be noted that more than one type of force could be used on each occasion, so the total types of force used (38 types of force) would be higher than the total number of individuals who force was used against (36 individuals).

Type of force	White	Black	Asian	Other / mixed	Total
Handcuffing⁴⁵	3	21	2	7	33
%	9%	73%	6%	21%	n/a
Unarmed skills	0	2	0	1	3
%	0%	67%	0%	33%	n/a
Limb restraints	0	0	0	1	1
%	0%	0%	0%	100%	n/a
Other/improvised	0	1	0	0	1
%	0%	100%	0%	0%	n/a
Total	3	24	2	9	38
%	8%	63%	5%	26%	n/a

601. PC Bond was one of the officers who handcuffed Mr Dos Santos. The analysis therefore specifically looked at PC Bond's use of handcuffing as a tactical option. Of the 33 people handcuffed by PC Bond in the period, 3 (9%) were White and 22 (73%) were Black. This showed a similar pattern to the overall use of force by PC Bond and indicated a disproportionate approach to the use of handcuffs when compared with the residential population. Across all ethnicities, the data set concerning the officer's use of handcuffing was small, nevertheless, the pattern of disproportionate use of force, generally, and handcuffing specifically, was quite pronounced and may indicate a disproportionate approach. It

⁴⁴ ONS figures in 2018 are accessible here: <https://data.london.gov.uk/dataset/ethnic-groups-borough>

⁴⁵ Handcuffing included compliant and non-compliant handcuffing.

should however be acknowledged that the comparison was made against the resident population in London.

A/PS Simpson

602. A/PS Simpson use of force forms covered the period from 4 July 2020 to 5 July 2021. The forms recorded 22 people on which A/PS Simpson used force. Of the 22 people on which A/PS Simpson used force, 6 (27%) were White, 12 (55%) were Black and 4 (18%) were Asian. The data therefore showed that during the period A/PS Simpson used force more on Black people than on people of any other ethnicity combined. ONS data showed that the White population in London was 59% and the Black population represented 12%⁴⁶. The data indicated a disproportionate use of force on Black people compared to the resident population of London.

603. Table 15: type of force used by A/PS Simpson per ethnicity

A/PS Simpson's use of force forms were analysed by the type of force she used which included handcuffing (compliant and non-compliant), unarmed skills, limb restraints, ground restraints and other/improvised tactics. The table below showed where force was used, the frequency with which different types of force were used for each ethnic group. It should be noted that more than one type of force could be used on each occasion, so the total types of force used (32 types of force) would be higher than the total number of individuals who force was used against (22 individuals).

⁴⁶ ONS figures in 2018 are accessible here: <https://data.london.gov.uk/dataset/ethnic-groups-borough>

Type of force	White	Black	Asian	Total
Handcuffing⁴⁷	5	11	2	18
%	28%	61%	11%	n/a
Unarmed skills	1	0	0	1
%	100%	0%	0%	n/a
Limb restraints	0	1	0	1
%	0%	100%	0%	n/a
Ground restraints	0	1	0	1
%	0%	100%	0%	n/a
Other/improvised	2	1	1	4
%	50%	25%	25%	n/a
Tactical communications	2	3	2	7
%	28.5%	43%	28.5%	n/a
Total	10	17	5	32
%	31%	53%	16%	n/a

604. A/PS Simpson was one of the officers who handcuffed Ms Williams. The analysis therefore specifically looked at A/PS Simpson's use of handcuffing as a tactical option. Of the 22 people handcuffed by A/PS Simpson in the period, 5 (28%) were White and 11 (61%) were Black. This showed a similar pattern to the overall use of force by A/PS Simpson and indicated a disproportionate approach to the use of handcuffs when compared with the residential population. Across all ethnicities, the data set concerning the officer's use of handcuffing was small, nevertheless, the pattern of disproportionate use of force, generally, and handcuffing specifically, was quite pronounced and may indicate a disproportionate approach. It should however be acknowledged that the comparison was made against the resident population in London.

PC A

605. PC A use of force forms covered the period from 4 July 2020 to 5 July 2021. The forms recorded 32 people on which PC A used force. Of the 32 people on which PC A used force, 4 (13%) were White, 21 (66%) were Black and 2 (6%) were Asian. The data therefore showed

⁴⁷ Handcuffing included compliant and non-compliant handcuffing.

that during the period PC A used force more on Black people than on people of any other ethnicity combined. ONS data showed that the White population in London was 59% and the Black population represented 12%⁴⁸. The data indicated a disproportionate use of force on Black people compared to the resident population of London.

606. Table 16: type of force used by PC A per ethnicity

PC A's use of force forms were analysed by the type of force she used which included handcuffing (compliant and non-compliant), unarmed skills, limb restraints, ground restraints and other/improvised tactics. The table below showed where force was used, the frequency with which different types of force were used for each ethnic group. It should be noted that more than one type of force could be used on each occasion, so the total types of force used (46 types of force) would be higher than the total number of individuals who force was used against (32 individuals).

Type of force	White	Black	Asian	Mixed/other	Total
Handcuffing⁴⁹	4	18	2	3	27
%	15%	67%	7%	11%	n/a
Unarmed skills	0	3	0	1	4
%	0%	75%	0%	25%	n/a
Conducted Energy Device (CED)	0	2	0	0	2
%	0%	100%	0%	0%	n/a
Ground restraints	1	2	0	0	3
%	33%	67%	0%	0%	n/a
Tactical communications	2	7	0	1	10
%	20%	70%	0%	10%	n/a
Total	7	32	2	5	46
%	15%	69.5%	4%	4%	n/a

607. PC A was the other officers who handcuffed Ms Williams. The analysis therefore specifically looked at her use of handcuffing as a tactical option. Of the 32 people handcuffed by PC A in the period,

⁴⁸ ONS figures in 2018 are accessible here: <https://data.london.gov.uk/dataset/ethnic-groups-borough>

⁴⁹ Handcuffing included compliant and non-compliant handcuffing.

4 (15%) were White and 18 (63%) were Black. This showed a similar pattern to the overall use of force by PC A and indicated a disproportionate approach to the use of handcuffs when compared with the residential population. Across all ethnicities, the data set concerning the officer's use of handcuffing was small, nevertheless, the pattern of disproportionate use of force, generally, and handcuffing specifically, was quite pronounced and may indicate a disproportionate approach. It should however be acknowledged that the comparison was made against the resident population in London.

> Analysis

608. Force is used on Mr Dos Santos by way of baton and safety hammer use, pulling and grabbing, and handcuffing. Force is used on Ms Williams by way of pulling and grabbing, and handcuffing.

609. To address these questions, the IOPC in line with the College of Policing considered:

- Whether the use of force has a lawful objective
- Whether there are any means, short of the use of force, capable of attaining the lawful objective identified
- Whether the use of force is the minimum level required to attain the objective identified, and whether the use of that level of force is proportionate or excessive

Whether the use of force had a lawful objective

610. Any use of force must have a legal basis and be derived from either Common or Statute Law. The law allows for police officers to use force in certain circumstances. An officer may use reasonable force if necessary (section 117 of the Police and Criminal Evidence Act 1984) or where reasonable in the circumstances to effect or assist an arrest and detain a suspect (section 3(1) of the Criminal Law Act (CLA) 1967). The general common law principle stated in *Beckford v R* refers to a defendant being entitled to use reasonable force to protect themselves, others, and their property. PC A relied on s3 CLA and s117 PACE, A/PS Simpson, and PC Clapham said they relied on s3 CLA, common law and s117 PACE and PC Franks said he used s117 PACE. PC Bond's evidence did not include the legislation used by the officer to justify his force with Mr Dos Santos but he indicated that he used force to "*Protect self, Protect public, Protect other officers, Effect search, Prevent harm, Prevent escape*" on his use of force form which is a reference to Common Law.

Whether the use of force was necessary and proportionate

611. The National Decision Model is used by officers to assist them in their decision making. It provides a framework that encourages officers to think about the intelligence or information they have about a particular situation or specific people, the threat and risks posed by the people involved, the

powers at the officers' disposal. Considering this, officers are better placed to develop a strategy for action, to identify options and contingencies and to review the situation so that their actions remain proportionate as the situation develops and new information feeds into the process.

612. Legislation and guidance on the use of force state that force should only be used when there are no other means available that are likely to achieve the legitimate objective. It is also clear that only minimum force should be used so that no greater force is used than what is necessary to achieve this objective.
613. The guidance on use of force explains that other force options must have been attempted, failed or considered and found to be inappropriate under the circumstances before an officer can resort to force. The PSM mentions that difficult situations can be managed through the use of tactical communication which requires officers to be "*assertive, signal nonaggression, and use active listening skills at the same time being aware of their own and other's attitudes and behaviours*".

Safety hammer

614. The evidence indicates that the MPS issues safety hammers that are entirely orange and are placed in some vehicles as an escape tool. The evidence shows that there was such a hammer in the TSG van on 4 July 2020. The evidence indicates that it is clear that the safety hammer is an escape tool only and is to be used to free those who may become trapped inside the vehicle by breaking the side window. The evidence also indicates that the safety hammer is not to be taken out of the vehicle it is placed in and is not to be used several times as its tip may become blunt.
615. The evidence indicates that although the safety hammer is placed in vehicle as a tool to assist officers, there does not seem to be any specific policy or training on its use apart from a communication that was issued to all officers in 2019.
616. The evidence shows that an internal communication was issued to all officers in 2019 via the MPS intranet to remind officers of the use of the safety hammer. It stated "*The in-vehicle hammer is safety equipment. It provided solely as an escape tool for use by Met vehicle occupants.*" The evidence suggests that PC Franks and PC Bond who were seen holding a safety hammer should have been aware of the specific circumstances in which a safety hammer should be used.
617. The evidence presented in this report indicates that both PC Franks and PC Bond were going to use the safety hammer they were holding to break Mr Dos Santos side window not to free Mr Dos Santos but to force him out of his vehicle. There is therefore an indication that PC Franks and PC Bond acted contrary to the MPS recommendations that a safety hammer should only be used as an escape tool.

618. The evidence presented in this report indicates that the safety hammer that PC Bond held is not an MPS approved tool and that PC Bond was therefore carrying a personal tool in his vest. PC Bond presented evidence to indicate that he carries other useful tools such as a seatbelt cutter which are associated with the work that a TSG unit does. There is also evidence to suggest that officers are allowed to buy other pieces of equipment such as boots and torches to help them in their duties. There is nevertheless an indication that the safety hammer PC Bond carried in his vest is not authorised by the MPS and that the use he wanted to do of it was not in line with the MPS.
619. The evidence also suggests that A/PS Simpson was in agreement with the officers' use of the safety hammer and believed it was reasonable to break the window despite possible injuries being caused to Mr Dos Santos, Ms Williams and their baby. There is an indication that A/PS Simpson may not be aware of the correct use of a safety hammer.
620. Considering the above, the decision maker may wish to consider whether PC Franks, PC Bond and A/PS Simpson's actions may indicate a lack of knowledge regarding the use of the safety hammer.
621. The evidence suggests that the use that PC Franks and PC Bond were going to make of the safety hammer may be considered as a demonstration of force that Mr Dos Santos and Ms Williams found intimidating. There is evidence to indicate that Mr Dos Santos and Ms Williams did not come out of their vehicle immediately, a delay that they explained in relation to the level of aggression displayed by the officers.
622. The evidence from PC Franks' use of force form indicates that he used tactical communication which he considered to be ineffective with Mr Dos Santos. The evidence from PC Bond's use of force form does not indicate that he used tactical communication at any stage of his interaction with Mr Dos Santos. The PSM on communication defines tactical communication as, "*the use of communication skills with the purpose of achieving control*". It states:
"When confronting aggressive behaviour, successful resolution may be achieved by calming the emotions and then building a rapport with the individual once they are back to thinking rationally ... those dealing with the incident should be assertive, signal nonaggression, and use active listening skills at the same time being aware of their own and other's attitudes and behaviours". The evidence shows that PC Franks shouted at Mr Dos Santos to get out of the car and started GOWISELY. The evidence also shows that PC Bond held a safety hammer and that PC Franks held a baton. There is an indication that PC Franks and PC Bond may not have used tactical communication, one of the possible other options at the officers' disposal, to gain control of the situation.
623. In view of the above, the decision maker may wish to consider whether the force displayed by PC Franks and PC Bond may not be considered reasonable, necessary and proportionate in the circumstances.

Baton

624. The APP says that as other uses of force, the use of a baton needs to be necessary, proportionate and reasonable and as such the *“level of force should be reasonable, necessary and proportionate (i.e., minimum required to meet a lawful objective, and be ECHR-compliant).”*
625. The PSM Module 02 on conflict management refers to the fact that any tactical option chosen by an officer must *“be proportionate to the threat faced in any set of circumstances.”*
626. The APP states that batons can be used by officers to defend themselves or as a demonstration of force. PC Franks’ evidence indicates that he drew his baton and held it over his shoulder in accordance with the PSM. The officer’s evidence shows that he believed he was confronted with high risks and that he thought he may need to use his baton to break the window if necessary. The evidence from PC Franks is that he believed Mr Dos Santos to have evaded police because he was in the possession of a weapon. The evidence presented in this report suggests that there was little to link Mr Dos Santos or his vehicle to weapons.
627. The PSM Module 10 on batons says that this is a tactical option used to manage conflicts. Module 02 defines a ‘high risk’ as an obvious risk like someone waving a knife. To assess risks, officers are encouraged to think of person, place or object that could pose a risk. The evidence indicates that Mr Dos Santos was in his car, and that his car was locked. His windows were closed. The evidence shows him holding a mobile phone with one hand and looking at the officers through the window. The evidence indicates that it is likely that he heard PC A shout that there was a baby in the car but may not have been aware of any other occupants. There is however little indication that Mr Dos Santos may have constituted an obvious or ‘high risk’ at this point.
628. Considering the evidence presented above, the decision maker may wish to consider whether PC Franks was justified in drawing his baton at all and whether the level of force displayed by the officer was necessary, proportionate and reasonable.

Grabbing and pulling

629. The evidence shows that PC Franks, PC Bond and PC Clapham grabbed Mr Dos Santos’ arms in order to gain control of him and to apply handcuffs. The evidence shows that Ms Williams was also grabbed by the arms and pulled before being handcuffed. The College of Policing states that officers can use a range of powers that enable them to detain a person who is not under arrest to search them for illegal items. Guidance and policies for stop and search therefore apply, grounds for searching must be reasonable and any force used in this context must be necessary, proportionate and reasonable.
630. PC Franks’ evidence is that he took hold of Mr Dos Santos to gain control over Mr Dos Santos who was resisting. His use of force form describes

Mr Dos Santos' behaviour as "*serious or aggravated resistance*" which means according to the PSM Module 02 that, "*the subject commits an assault which presents the possibility of serious injury or death. This includes the use of weapons.*" PC Bond said Mr Dos Santos was "*combative and resisting*", "*swearing loudly*". The evidence from his use of force form described Mr Dos Santos as "*aggressive resistance*" where "*The subject physically attacks the officer.*" PC Clapham's evidence is that Mr Dos Santos "*immediately*" resisted and was argumentative. PC Clapham's evidence is that he believed that Mr Dos Santos was going to "*imminently*" assault PC Franks and so pushed Mr Dos Santos against the wall. The officer also describes Mr Dos Santos' behaviour as "*aggressive resistance*" on his use of force form. PC Clapham's evidence is also that Mr Dos Santos needed controlling to prevent his escape, to prevent him from discarding evidence or to prevent him from using a weapon. He further described Mr Dos Santos' behaviour as extremely aggressive. The officers assessed the risks as high.

631. The evidence shows that Mr Dos Santos exited the car smiling and calm and does not seem to present a threat. The evidence shows that Mr Dos Santos was holding his phone in his hands which meant that both his hands were in full view of the officers. Mr Dos Santos was wearing tight sport clothing where it may have been difficult to hide a weapon. The evidence suggests that Mr Dos Santos does not appear to be extremely aggressive, resisting, obstructing and threatening the officers before they got hold of him. There is evidence to indicate that when Mr Dos Santos exited his vehicle, he did not appear to show any aggression towards any of the officers.
632. PC Clapham's evidence is that Mr Dos Santos moved towards the officer however video evidence indicates that Mr Dos Santos stepped back. Video evidence does not seem to show that Mr Dos Santos had either assaulted PC Franks or any other officers or was about to assault an officer. There is however an indication that Mr Dos Santos started to shout, became verbally aggressive and loud, swearing and talking over the officers despite of this, the evidence is that PC Franks continued to provide GOWISELY and PC Clapham continue to instruct Mr Dos Santos to calm down. The evidence indicates that Mr Dos Santos pulled his arm away from PC Franks and freed his hands from his grip. There is evidence to indicate that the officers believed that Mr Dos Santos wanted to evade police suggesting that he may want to escape. There is also evidence to indicate that at this time and that his baby was still strapped in the car. The evidence does not seem to substantiate the officers' belief that Mr Dos Santos may want to escape.
633. The evidence presented by PC A shows that they believed that the situation first represented a 'high risk' and that A/PS Simpson's assessed the situation as being an "*immediate unknown high risk*" because of Mr Dos Santos' manner of driving and because they did not know who was in the vehicle. The evidence indicates that the officers know that Mr Dos Santos was in the vehicle and that there was a baby but that they may not have been aware of other passengers in the car at this stage. The PSM defines high risk as an obvious risk and that an unknown risk is

everything else, however the training manual does not categorise an unknown high risk. The evidence presented that A/PS Simpson believed that Ms Williams was a very high threat. In assessing the threat, the APP recommends to consider the source of the threat and to assess the capability and intent of the subject. The evidence presented by PC A and A/PS Simpson is that Ms Williams was resisting coming out of the car, she was loud, pulled her arm away from the officers and went back into the car. The evidence also shows that Ms Williams very upset, that she was concerned for her baby and did not want to leave him alone. BWV evidence shows that Ms Williams held her mobile phone in one hand and therefore that at least one of her hands was visible to the officers and that she wore tight sports clothing which made it unlikely for her to hide a weapon. The evidence does not indicate that Ms Williams presented an obvious risk or that she intended to harm anyone.

634. Considering the evidence, the decision maker may wish to consider whether PC Franks, PC Bond, PC Clapham, A/PS Simpson and PC A were justified in grabbing, pulling and pushing Mr Dos Santos and in grabbing and pulling Ms Williams, and whether the level of force displayed by the officers was necessary, proportionate and reasonable.

Handcuffing

635. The following guidance is provided to officers in the MPS 'Stop & Search Policy Toolkit – Questions and Answers' on use of force:

“What power do I have to use force when searching under s.23 Misuse of Drugs Act 1971?”

The statutory power to use force when carrying out a search under this section is provided by section 3 of the Criminal Law Act 1967.”

Further guidance is provided by the Blackstones Handbook for Policing Students (the text used for training all new police officers) which states:

“The following points also apply for searching a person under stop and search powers...Under s 117 of the PACE Act 1984 reasonable force may be used as a last resort.”

No matter what power is cited for use of force, the officer must still abide by the guidance set out in PACE Code A:

“3.2 The co-operation of the person to be searched must be sought in every case, even if the person initially objects to the search. A forcible search may be made only if it has been established that the person is unwilling to co-operate or resists. Reasonable force may be used as a last resort if necessary to conduct a search or to detain a person or vehicle for the purposes of a search.”

636. PACE Code A and the Quality of Encounter Model are clear that officers should seek the cooperation of the person searched and that *“a forcible search may be made only if it has been established that the person is unwilling to co-operate or resists.”* The evidence indicates that PC Franks handcuffed Mr Dos Santos as soon as he got out of his vehicle and detained him for weapons before he could agree to the search or give

any explanation about his behaviour. PC Franks' actions seem to be at odds with PACE A and the Quality of Encounter Model.

637. The evidence presented in the report indicates that Mr Dos Santos' driving and their delay in exiting the car raised suspicion that there were weapons in the vehicle. At the point Mr Dos Santos and Ms Williams are handcuffed, they had already exited their vehicle, indicating co-operation and were asking what was happening. The evidence showed that as soon as they step out of their car, officers grab their arms. The evidence shows that Mr Dos Santos and Ms Williams shout and pull their arms away from the officers.
638. There is no discussion between the officers and Mr Dos Santos and Ms Williams regarding keeping their arms outstretched to their side or against the wall behind them to conduct the search which might have mitigated the need to handcuff them. The officers do not ask for any of their colleagues' assistance to prevent the need for handcuffing. The evidence indicates that the officers may not have attempted to seek Mr Dos Santos and Ms Williams' cooperation before they handcuffed
639. BWV shows that Mr Dos Santos was going to be searched under s1 PACE for weapons and under s23 MDA, and that Ms Williams' search was conducted under s1 PACE. Using handcuffs is considered a use of force. The law allows for police officers to use force in certain circumstances. An officer may use reasonable force if necessary (section 117 of the Police and Criminal Evidence Act 1984) or where reasonable in the circumstances to effect or assist an arrest and detain a suspect (section 3(1) of the Criminal Law Act (CLA) 1967).
640. Legislation and guidance on the use of force states that force should only be used when there are no other means available that are likely to achieve the legitimate objective. It is also clear that only minimum force should be used so that no greater force is used than what is necessary to achieve this objective.
641. Guidance recommends that officers use the National Decision Model (NDM) contained in the Code of Ethics to rationalise their decisions to use force.
642. The evidence shows that Mr Dos Santos and Ms Williams both pulled their arms away from the officers when they grabbed them. The evidence shows that both A/PS Simpson and PC Franks provided information about the search they wanted to conduct. There is also evidence to indicate that the officers were trying to calm Mr Dos Santos and Ms Williams by talking to them but that Mr Dos Santos and Ms Williams continued to be loud and to talk over the officers. The evidence does not indicate however that Mr Dos Santos and Ms Williams were violent or were likely to be violent towards the officers. The evidence from his use of force form shows that PC Clapham used non-compliant handcuffing with Mr Dos Santos and that PC A used non-compliant handcuffing with Ms Williams which was also effective. Video evidence seems to indicate that Mr Dos Santos moved his hands or tensed up when the

officers tried to handcuff him, the evidence also seems to suggest that Mr Dos Santos was already under control before being handcuffed as he was pushed against the wall. The evidence from the officers indicates that Ms Williams was tensing up, video evidence confirms that Ms Williams was clenching on her phone and that she appeared to be tensed. The evidence however shows that when PC A applied handcuffs on Ms Williams she did not resist. The PSM Module 08 recommends that officers should communicate with clear instructions about what they want the subject to do so that handcuffing is made easier. The evidence shows that the only instructions about handcuffing were given by PC Bond when he said “*round the back*”, the evidence does not indicate that any instruction was given to Ms Williams.

643. The decision maker may wish to consider whether PC Clapham and PC A were justified in applying the handcuffs and whether the level of force displayed by PC Franks, PC Bond, PC Clapham, A/PS Simpson and PC A was necessary, proportionate and reasonable.
644. The PSM recommends to “*only remove handcuffs when the threat assessment indicates that it is safe to do so. It should be done in a safe and secure environment*”. The evidence shows that Ms Williams was handcuffed for approximately 15 minutes. The evidence shows that PC Clapham moved Mr Dos Santos’ handcuffs to the front about two minutes after he was handcuffed to the back. Mr Dos Santos then remained handcuffed for approximately 45 minutes. The evidence indicates that officers double locked the handcuffs and checked them for tightness. BWV evidence shows that both searches of Mr Dos Santos and Ms Williams were negative for weapons and drugs, that Intelligence checks confirmed their identities and address. There is an indication that Mr Dos Santos remained calm and compliant and even sat down at one point, yet he remained handcuffed for another half an hour. There is an indication that the officers should have reassessed the risks and threat posed by Mr Dos Santos and Ms Williams and may have removed their handcuffs earlier than they did.
645. The decision maker may wish to consider whether PC Clapham and PC A were justified in continuing the application of the handcuffs and whether the level of force displayed by the officers was necessary, proportionate and reasonable.

Whether Ms Williams and Mr Dos Santos were treated less favourably because of their race

646. The evidence presented in this report suggests that PC Clapham, PC Franks, PC Bond and A/PS Simpson stopped Black individuals more often on suspicion of weapons than White individuals. The evidence from the officers’ use of force forms indicates that PC Clapham, PC Franks, PC A, PC Bond and A/PS Simpson used handcuffing on Black people more than on White people when they stopped them. Although their use of force forms did not show the reason why people were stopped, there may be evidence to indicate from the officers’ BWV of other stop and searches that people are routinely handcuffed when

officers suspect them of being in possession of a weapon. There may therefore be an indication that this may concern Black people more than White people as they are more often stopped and searched under s1 PACE for weapons.

647. The IOPC guidelines for handling allegations of discrimination state: *“Direct discrimination includes actions that are informed by biased assumptions or prejudice in respect of a protected characteristic – even if this is done unconsciously. An investigation into this type of allegation will need to test whether discriminatory assumptions, prejudice or bias impacted on police actions or behaviours. To do this the investigating officer will need to have an understanding of what these discriminatory assumptions might be.”*
648. To assess whether Mr Dos Santos and Ms Williams were treated less favourably on the basis of their race, it is relevant to consider whether stereotypes of Black people may have informed the actions and decisions of the officers in this case. To do this, it is important to consider the action and language used by officers, as well as any alternative, non-discriminatory reasons for their decisions.
649. The SoPB on equality and diversity requires officers to act with fairness and impartiality, and to not discriminate unlawfully or unfairly. In the Code of Ethics, an example of meeting the standard is given as when you, *“act and make decisions on merit, without prejudice and using the best available information”*.
650. The data from the officers’ use of force forms shows that the officers were disproportionate in their use of force when considered against the residential population in London. This could be an indicator of a discriminatory approach although it is recognised as a limitation that there is no data on the number of interactions the officers had with people of different ethnicities which did not lead to use of force.
651. Dr Lisa J Long⁵⁰ is a researcher with a special interest in race and racism in policing. In 2018, she submitted evidence towards the progress made in relation to the 70 recommendations made after the Macpherson report in 1999. In her analysis of Black people’s experiences, Dr Long suggests that *“racialised stereotypes that construct Black men as ‘big’, extraordinarily strong and therefore threatening, contributes to the use of disproportionate restraint e.g. in participant’s experiences five police officers and use of a baton to restrain one average sized man and in another case the discharge of taser in a verbal exchange with no overt threat of violence present.”*
652. In their use of force forms, PC Clapham, PC Bond and PC Franks wrote that some of the factors that impacted on their decisions included Mr Dos Santos’ *“Size / gender / build”*. Video evidence does not indicate that Mr Dos Santos was dominating the officers or that his size and build

⁵⁰ Article written by Dr Lisa J Long (2018) ‘Written evidence submitted by Dr Lisa J Long (MPR0028)’

appeared to be particularly large that they may impact on the officers' decisions to use force with him.

653. The Guidelines for handling allegations of discrimination says that an assessment of behaviour and the language used can assist in understanding whether assumptions, prejudice or bias might have informed the officer's decisions, actions or behaviour. The evidence does not indicate that any of the officers used discriminatory language, however the evidence suggests there are actions from the officers, as well as language, which could indicate an unreasonable level of suspicion. There is also evidence to suggest that the officers may have made some assumptions linking Mr Dos Santos to criminality. This is explained in details in the stop and search section of this report.
654. In assessing the evidence, the decision maker may wish to consider the cumulative picture/weight of evidence collected and analysed in respect of this allegation. Together with the above evidence, the decision maker may also wish to consider the evidence suggests that any negative assumptions or stereotypes were made about Mr Dos Santos and Ms Williams, and whether those could have impacted on the way that they were treated. In assessing these, the decision maker may wish to consider whether Mr Dos Santos and Ms Williams' behaviour was as stated by the officers high risk and whether Mr Dos Santos presented aggressive and aggravated resistance although this does not seem to be supported by the evidence. The decision maker may also wish to consider whether PC Bond's comment that his behaviour is "*ingrained to be hostile and aggressive towards Police*" could suggest a fixed mind-set in relation to Mr Dos Santos' likely criminality, even though this statement is made after nothing was found in the vehicle. The decision maker may also wish to consider this in light of the overall use of force by the officers that may appear to be disproportionate to the resident population of London and of the Merlin report analysed below.

> Merlin

> Summary of evidence

655. In her response to caution, PC A stated that she had a conversation with Ms Williams about her son and that this made her realised that she should complete a Merlin report. A/PS Simpson's BWV showed that PC A consulted with A/PS Simpson about the creation of a Merlin report for Mr Dos Santos and Ms Williams' baby at 12:07 (on BWV).

PC A: "*We're probably going to need to do a Merlin aren't we?*"

A/PS Simpson responded to PC A and explained to Ms Williams:

"if we come into contact with people who have young children, we just have to create a child report almost, just to say we had contact with the

child. We'll put on our report that we have no concerns for the child. We'll put on our report the child was in a car that was being driven, in our opinion, at excessive speed and that'll be the end of it. So we just need the details."

A/PS Simpson then asked Ms Williams to provide the baby's personal details including name and date of birth to PC A, which she did. PS Darryl Oats, the decision maker on the Central West area (AW) Borough Command Unit (BCU) MASH provided a statement to the IOPC where he explained the process involved in the creation of a Merlin report. PS Oats was asked whether it was ever appropriate to create a Merlin report as a formality, purely for coming into contact with a child when there was no indication that further intervention or investigation was required. The officer replied in his statement, *"No, a Merlin should only be created where officers or staff identify a Safeguarding or welfare concern for the subject. The system should not be used as a recording or administrative system for incidents."*

656. At 3.21pm on 4 July 2020, PC A created a Merlin report under the Come to Notice (CTN) category, *"child care/ welfare."* Under Child Concerns, she had listed the five concerns of Every Child Matters (ECM): *"Be Healthy, Stay Safe, Enjoy and Achieve, Make a Positive Contribution and Economic Well-being."* In her statement, PC A does not make reference to the Merlin report or provide a rationale for creating it. However, she reported that *"Bianca was given very strong words of advice about the manner of driving by her partner and how dangerous it was with a baby in the vehicle."* In her response to caution, PC A told the IOPC *"I completed a Merlin Report which has been disclosed. The Report I believe is accurate and fair and was entirely appropriate and necessary in the circumstances both by reference to the driving of Mr Dos Santos and the fact that a drug search had taken place. I have described precisely what happened in terms of the dangerous driving of Mr Dos Santos and the father and mother refusing to get out of the vehicle and force being used. Based on my experience knowledge and training I believe that it was entirely appropriate to complete and submit the Merlin Report, and in the manner in which I did. I have almost absolutely no doubt that if I had failed to do so and the fact of the presence of a child in the car had subsequently come to the attention of supervisors in some way, I would have been criticised for that failure."* In interview, PC A was asked to further explain why a Merlin report was created if there were no concerns for the child and if she had concerns which of the five concerns she believed had not been met. The officer declined to respond further. MPS PS Jon Madigan Merlin – User Support explained in an email to the DPS that *"for a long time there was confusion as to when a Merlin report should be created. Anecdotally, within some business areas there has, in the past been a misconception that a Merlin always needed to be created where police had any contact with a child"* and added that this was one of the reasons why new guidance was created in February 2021. PS Madigan explained that *"The new guidance on the intranet page states when a Merlin is expected: A Merlin is created when a safeguarding concern has been identified for any individual, child or adult. Whilst this is vague it is down to the*

reporting officer to determine what constitutes a safeguarding concern. There is no way to give every single example for when a merlin should be created and we would expect common sense to prevail.”

657. When summarising the incident on the Merlin report, PC A referenced CAD 3527 and indicated that at approximately 1.26pm that day, a black Mercedes being driven “*at speed*” had “*pulled onto the wrong side of the road and sped off in a deliberate attempt to avoid being stopped*” by police. When the car stopped on Lanhill Road, officers found their three-month-old baby secured in a child seat.
658. The Merlin report showed that information on the incident was provided by PC A and extracted from CAD 3527 which then formed the basis for the Merlin report and subsequent MASH risk assessment grading. The report showed that “*due to their behaviour*” the baby’s father Mr Dos Santos, and mother Ms Williams were detained for a search under s1 of PACE for weapons, and Mr Dos Santos was further detained under s23 MDA after officers reported smelling cannabis. According to the Merlin report, both occupants refused to exit the vehicle, so force was used to remove them. The Merlin report noted that the baby was initially left inside the vehicle but was then removed and held by Ms Williams when he started crying. It also acknowledged that the baby “*appeared unaware of the incident and appeared to be a happy, healthy, well cared for baby. Nothing was found inside the vehicle, so all occupants were released with no further action. Both parents were strongly warned about the manner of Victor’s driving with a baby on board.*”
659. PS Oats stated that PC A selected all of the ECM concerns when creating the report. PS Oats explained that there was an anomaly with the Merlin system in that “*ECM is still on the system however it was replaced with Working Together 2018: ‘Safeguarding and promoting the welfare of children is defined within the new Working Together guidance as: 1. Protecting children from maltreatment, 2. Preventing impairment of childrens health or development, 3. Ensuring that children are growing up in circumstances consistent with the provision of safe and effective care, 4. Taking action to enable all children to have the best outcomes.’* PS Oats added that officers were directed on the system to continue to select the ECM concerns where this was relevant. PS Oats stated that the MASH unit however referred to the Working Together 2018 guidance to assess the Merlin report. He told the IOPC that from the matters raised in the Merlin report by PC A: *Dangerous driving (speed on wrong side of road), failing to stop for Police and belief of drug use (smell of cannabis on childs father).*” He believed the following concerns to be relevant: “*2 – Drug use in the family can have a negative effect on a young childs development, 3 – Dangerous driving and failing to stop for Police with child in the car could indicate that parents are willing to take risks with regard to the safety of their child.*”
660. PS Oats wrote in his statement that when a family was unknown to Children’ Social Care, as this was the case for Mr Dos Santos and Ms Williams’ child, one of his colleagues would give the Merlin report an initial BRAG grading (Need Classification), complete the necessary

sections on the Merlin report and electronically add the report to a research list.

661. The Merlin report was reviewed by PC Kyle Lyons of the AW MASH unit and given an initial, pre-research risk assessment grading (BRAG) of Amber, Level 3 which meant that PC Lyons identified, *“Complex needs likely to require longer term intervention from statutory and/or specialist services. High level additional unmet needs - this will usually require a targeted integrated response, which will usually include a specialist or statutory service. This is also the threshold for a child in need which will require a CSC intervention.”* PC Lyons provided the following rationale for the grading: *“Father made of [sic] from police in his car, dangerous driving, cannabis smelt within car. Father and mothe [sic] refused to get out vehicle and force was used.”* PC Lyons wrote on the Merlin report that the initial risk assessment had been based on the information presented by the Initial Investigating Officer, PC A, and could be altered following further Intelligence being received. PC Lyons reported that the family was not known to the Local Authority (LA). Since the report had been graded Amber, PC Lyons noted that it would be shared immediately with the Local Authority before further research had been done. According to PS Oats, the Merlin report was sent to the Tri-Borough LA MASH between 7.41am and 7.43am on 6 July 2020. PS Oats stated that he felt the Amber grading given by PC Lyons was in his opinion *“suitable”*.
662. PS Oats stated that his researchers would monitor the research lists and prioritise reports depending on their BRAG grading and *“research all those people named on the report through Met Police indices for the past 5 years or from when a previous report had been researched and shared with the LA [Local Authority].”* On 6 July 2020, an Assessment Officer, researcher from the AW Mash unit made an entry on the Merlin report stating that his opinion was that it should be graded Green, Level 1, due to *“negative search. Only safeguarding issue is subject’s father driving on the wrong side of the road in an attempt to avoid being stopped by police.”*
663. PS Oats explained that the Merlin report would then go into a finalisations list which included all the reports completed, ready for his final assessment. At 9.56am on 6 July 2020, PS Oats reviewed the Merlin report and gave it a final risk grading of Green, Level 2 which meant that there were *“Low risks to vulnerable. Child’s needs are not clear, not known or not being met.”* PS Oats explained his grading by saying that he *“felt the case required further assessment by the LA and other agencies to establish if there was further risk to this child.”* The officer wrote that the child was *“very young at the time of the incident (4mths) it is therefore necessary to look at the parents and if the environment the child is being raised in will meet its needs. Report of drug use and offending means it is not clear, not known and believed not to be met. I therefore believed there may be additional needs which the LA would be able to provide. I also believed there was more information needed to fully assess the risks*

to the child which the LA MASH process would provide by way of NHS and LA information.”

664. PS Oats noted in his statement that the final Merlin report was forwarded to the relevant Local Authority for their reference, research, evaluation and action at 10.26am on 6 July 2020. PS Oats stated that the Merlin report was then ‘Put-Away’. A ‘Put-Away’ report he explained was *“effectively locked after being shared with the LA or a decision not to share. It will remain in the Merlin system and cannot be altered. The system is for sharing information with the LA so any changes after it is Put-Away may not be shared. Therefore only a Safeguarding Supervisor is able to Re-activate a report. The report will remain on the Merlin system and would be searchable on Police Indices. It would not affect the initial grading of any future Merlin as that should be done on the incident being reported but it could/would be included in research of any future Merlin report and could therefore affect the final grading of other Merlin reports.”* PS Oats confirmed that there were no outstanding actions or enquiries to be made by his team. The officer concluded by stating that his team could only assess the Merlin reports on the basis of the information recorded by the reporting officer and had to trust that the information was accurate. He added that if the information was reported to his team again, he would have made the same assessments. PC A explained in her response to caution that *“The fact that the status of the report became “PUT AWAY” does not diminish the fact that it was appropriate to create it. It was not a report used as part of recording or an administrative system.”* PC A added that, *“The principle line of the NPCC risk principles (supported by IOPC) specifically refers to information being shared by the police with partner agencies about those who pose risk, and those who are vulnerable to risk of harm. The Merlin that I created on this occasion was done in adherence to that principle by reference to the driving of Mr Dos Santos with the baby in the vehicle and the suggestion that the vehicle and the occupants should be searched for drugs.”*
665. The IOPC made further enquiries with Kensington & Chelsea, Westminster and Hammersmith & Fulham MASH Service Manager to ascertain how the Merlin report was progressed. The Service Manager replied on 8 April 2021 that *“A Merlin was sent to children’s social care by the police, and uploaded to our case management system. The report was reviewed by a Service Manager and Head of Service, and in this instance further discussion took place with MASH police colleagues to consider what further action, if any, was required. Based on the information provided and with an understanding of the wider context, we decided there were no ongoing safeguarding concerns that required Social Care involvement and the case was closed with no action being taken.”* The Service Manager also clarified that there was no ongoing involvement from Children’s Social Care but that there was an electronic record of the report and subsequent decision logged on their system.
666. In her response to caution, PC A stated that, *“The Report I believe is accurate and fair and was entirely appropriate and necessary in the circumstances both by reference to the driving of Mr Dos Santos and the*

fact that a drug search had taken place. I have described precisely what happened in terms of the dangerous driving of Mr Dos Santos and the father and mother refusing to get out of the vehicle and force being used. Based on my experience knowledge and training I believe that it was entirely appropriate to complete and submit the Merlin report, and in the manner in which I did."

667. In her response to caution, A/PS Simpson stated that she "*played no part*" in the creation of the Merlin report.

> Analysis

Whether the creation of the Merlin report was in line with policy

668. BWV evidence indicates that A/PS Simpson agrees to the creation of the Merlin report and explains to Ms Williams that a Merlin report is created when the police, "*come into contact with people who have young children*", "*almost, just to say we had contact with the child.*" A/PS Simpson's explanation seems to suggest that Merlin reports are created routinely for all children when the police come into contact with a child. The evidence does not indicate that APP guidance or MPS policy suggest that Merlin reports should be created whenever police come into contact with young children. Instead, the guidance indicates that Merlin reports should be created when there is a policing incident and safeguarding or welfare concerns are identified that require further investigation. The evidence presented by PS Oats suggests that a Merlin report is not an administrative action and requires the identification of concerns for the subject before it should be created. There is therefore an indication that A/PS Simpson may lack knowledge of the Merlin report process. There is evidence to suggest that A/PS Simpson attended specific training on the Merlin report process in 2013 but that there was no refresher course since then. There is therefore evidence to suggest that A/PS Simpson should have known that Merlin reports are not created whenever police come into contact with a child and that she may have mislead Ms Williams in believing that the creation of the report was a formality.

669. In her evidence, A/PS Simpson said that she "*played no part*" in the creation of the Merlin report, the evidence however indicates that she agreed to the report being created even if she did not complete it herself and that she provided information to Ms Williams about the reasons why the Merlin report was created and what would happen with it.

670. The evidence from PC A's response to caution indicates that Mr Dos Santos' driving, Mr Dos Santos and Ms Williams' behaviour and their search under s1 PACE and s23 MDA (although the search proved negative), were her principle concerns in relation to the safety of their son as he was with them in the vehicle. A/PS Simpson's MG11 statement documented the same concerns and indicated that she informed Ms Williams that a Merlin report would be created. The evidence presented

by PS Madigan indicates that it is down to officers to determine what constitutes a safeguarding concern. PC A's evidence suggests that she erred on the side of caution considering the presence of the child in the car. On the Merlin report, PC A however does not indicate which of the five key outcomes from the 'Every Child Matters' initiative had not been met, but dangerous driving could feasibly represent a failure on the part of the family to achieve the 'S - stay safe' outcome and could in itself justify the creation of a Merlin report.

671. The evidence indicates that PC A also notes in her statement, *"Throughout this incident, the baby appeared unaffected by anything that had happened and he had been un-aware of what had been going on."* It appears, therefore, that PC A did not identify any indicators of concern in relation to the baby and had no ongoing concerns for his welfare. This is supported by the information provided in the Merlin report, which stated that the baby *"appeared to be a happy, healthy, well cared for baby."*
672. The MPS Instructions, Advice and Guidance for Frontline Officers stipulates that any welfare concerns should be recorded on the relevant CAD by an appointed safeguarding officer. A review of the two CADs connected to the incident (CADs 3527 and 3524) revealed that no mention had been made of a safeguarding officer or of welfare concerns connected to the baby.
673. An analysis of the BWV and PC A and A/PS Simpson's statements suggest that neither officer had concerns that Mr Dos Santos and Ms Williams' son required any ongoing intervention from police or other agencies. In the interaction captured by the BWV, the officers appeared to indicate to Ms Williams that they would be creating a Merlin report as a formality. In stating *"that'll be the end of it,"* A/PS Simpson also implied that no further action would arise from them doing so.
674. All Merlin reports are shared with police MASH staff researchers and a police decision maker. The evidence also shows that the Merlin report remains on police systems and may be accessed should Mr Dos Santos, Ms Williams or their baby come in contact with the police again. The evidence also shows that the report was shared with Social Care where it was closed as no concerns were identified nevertheless the report also remains in their system and could potentially be accessed if needs be.
675. At this point, if no safeguarding concerns are identified, the report may be graded Blue and no referral will be made to the LA. If a safeguarding concern is identified (i.e. graded Red, Amber or Green), the report is made accessible to agencies within the MASH system and allocated to a Local Authority decision maker. In summary, even if the report had been graded Blue, which appears to be what PC A and A/PS Simpson had implied, it would still have been assessed and reviewed by a minimum of two further individuals.
676. In view of the above, the decision maker may wish to consider whether PC A and A/PS Simpson were justified in the creation of the Merlin

report when no specific concerns for the child were identified although some of the concerns related to Mr Dos Santos and Ms Williams may have justified raising a safeguarding concern in relation to their son. The decision maker may also wish to consider whether the information about the Merlin process provided to Ms Williams by A/PS Simpson may have been misleading.

Whether the BRAG rating was appropriate

677. According to the MASH toolkit, Merlin reports are risk assessed on the reported circumstances of the incident and assigned an initial risk grading, before any research is conducted.
678. In her report, PC A listed all five of the 'Every Child Matters' outcomes in her Merlin report but did not specify which of them had not been met. This may imply that the family failed to meet all or any of the five outcomes. The evidence presented by PC A does not clearly indicate what her intention was as she declined to provide further information to the IOPC.
679. The initial researcher graded the report Amber, meaning that it would be prioritised for further research above Blue and Green-rated reports. The initial researcher provided a rationale that Mr Dos Santos and Ms Williams had made off from police, driven dangerously, smelt of cannabis and refused to get out of the vehicle resulting in force being used. Whilst this summary was based on information provided by PC A, it did not appear to acknowledge PC A's comments that nothing was found inside the vehicle, all occupants were released with no further action and the baby appeared to be happy and well-cared for. As a consequence of grading the report Amber, it was shared immediately with the local authority before further research had been done. Whilst this grading may appear to be disproportionate to the risks identified by PC A, the evidence does not indicate that this was in violation of any policies or guidance. There is an indication that the grading was appropriately reviewed when a further assessment was completed and the evidence therefore suggests that no reviewing officers acted in a way that breached policy or guidance.
680. On 6 July 2020, an Assessment Officer from the AW MASH unit reviewed the report and stated that it should be graded Green, Level 1, because the only identified safeguarding issue was Mr Dos Santos' driving on the wrong side of the road in an attempt to avoid being stopped. According to the MASH toolkit, a Green rating means that there "*are concerns about a child's well-being*" but "*no information at this stage to suggest an investigation*" will be necessary and it is likely that "*limited services or record only*" will be required. This assessment appears to be more appropriate to the summary provided by PC A. PS Oats, the decision maker, agreed with this assessment and noted that the report would be forwarded to the relevant LA for their reference, research, evaluation and action. According to policy, this should have been

actioned within three working days. There is evidence to suggest that the report was dealt with in a timely manner.

Whether the report was ‘put away’

681. The evidence shows that A/PS Simpson told Ms Williams that following the report on the Merlin about Mr Dos Santos manner of driving, *“that will be the end of it”* suggesting that the report would not go further. Instead the evidence indicates that the report was ‘put away’ by PS Oats, this meant that the baby’s report remains on police systems and may be accessible should the child’s name or that of his parents come up again in any enquiry. The evidence also shows that the report was forwarded to Children Social Care to be assessed. The evidence indicates that following their assessment, Social Care decided to close the report but that it remains in their records.
682. In view of the above, the decision maker may wish to consider whether the evidence presented in this report showed more inadequacy in A/PS Simpson’s role as supervisor or whether the officer may have mislead Ms Williams in believing that the case would be closed after the Merlin report was made.

> Communications by senior officials

683. The IOPC summarised all press releases and communications between the IOPC, the MPS and the media in a timeline document (D97). These also included the MPS communications with the media. The below summary was mainly based on this document.

> Summary of evidence

684. On 4 July 2020, at 6.18pm Linford Christie tweeted footage of the stop and search with the message *“Racist police aren’t just in America #BLM”*. In his statement Mr Dos Santos explained that together with Ms Williams they contacted their coach Mr Christie to tell him about the incident and shared Ms Williams’ mobile phone video. Mr Dos Santos stated that Mr Christie shared the video on social media and gained a lot of attention.
685. The initial tweet regarding the stop and search incident was posted on 4 July by Ms Williams and Dos Santos’ athletics coach, Mr Christie. The MPS referred the investigation related to the athletes’ stop and search to the IOPC at 3.59pm on 7 July 2020, shortly after at 5.17pm, the investigation was declared independent by the Head of Assessment Unit at the IOPC. Multiple senior officers were quoted within the media both before and after the investigation was declared independent.
686. On 5 July 2020, at 11.48am the IOPC responded to the tweet *“We are aware of this matter and will be making further enquiries”*. IOPC then responds to public responses to the same tweet *“We will talk to the PSD*

first and if we decide to look at this further, we look at the circumstances leading up to the event. You can read about our powers of investigation here: <https://policeconduct.gov.uk/investigations>

687. At 7.38pm the IOPC had a cleared 'If Asked' line in place: Attributable to an IOPC spokesperson: *"We are aware of this matter and will be making further enquiries with the Metropolitan Police. We will then be in a position to make an informed decision on the level of our involvement."* This 'If Asked' line was sent to the Times who had already been running a story online since 12pm. Within this article Commander Helen Harper of the MPS was quoted to say *"the officers were deployed to a high-violence area and the manner of driving raised suspicion – it is only right that they act on it"*.
688. The evidence showed that this quote was taken from an MPS statement which was published at some point the same day. It stated that at the time of the incident the officers were patrolling the W9 area in response to *"an increase in violence involving weapons"*. The alleged details of the stop are set out including that the vehicle was *"driving suspiciously, including on the wrong side of the road"*. The statement went on to say the officers indicated for the vehicle to stop but it *"failed to do so and made off at speed"*. The MPS stated that once the officers caught up with the vehicle, the driver initially refused to get out of the car but once they did they were detained for a s1 search, where nothing was found.
689. The MPS referred to the video that was circulating on social media and stated that *"each stop was dealt with on its own merits at the discretion of the individual officers involved, taking into account various aspects including behaviour and compliance."*
690. The statement went on to explain that officers had to make *"judgement calls regularly"* and *"often in difficult circumstances"*. Officers were said to *"understand that their actions would be scrutinised"* and that the *"public had the right to hold them to account where appropriate"*. The MPS then stated that the Directorate of Professional Standards reviewed *"both footage from social media, and the body-worn video of the officers and are satisfied that there is no concern around the officers' conduct"*.
691. Commander for Central West BCU, Helen Harper was quoted within the statement to say *"I understand the concern when incidents like this happen and how they can appear when part of it is filmed without context. Due to the concern raised, we conducted a review of the stop. This included social media footage and body worn camera footage of the officers at the scene. We are satisfied that there are no misconduct issues. The officers were deployed to a high violence area of London and the manner of the driving raised suspicion, it is only right that they act on it."* The statement finished with Commander Harper stating *"We are open to discussing the incident with the individuals involved if they wish to do so."*
692. The Times article prompted enquiries from the Mail Online. Ms Williams retweets The Times article with the caption *"They say uk isn't racist."*

Yesterday routing home from training we got pulled over because @MetPoliceUK assumed the car was driving suspiciously. They put out a fabricated report so here is the full story and my reply". The original Times tweet from the same day read 'Williams told The Times: "It's always the same thing with Ricardo. They think he's driving a stolen vehicle, or he's been smoking cannabis. It's racial profiling. The way they spoke to Ricardo, like he was scum, dirt on their shoe, was shocking". Sky News ran a story on the 10pm bulletin.

693. In their statements from December 2020, both Mr Dos Santos and Ms Williams said that within two days of the incident, the MPS released a statement which included "*false allegations*" around the incident. Including the manner of Mr Dos Santos driving and the reason that the MPS stopped their car. Mr Dos Santos said it was "*completely false*" that the MPS followed them because his driving "*raised suspicions*". He stated he believes that they (MPS) did this because of his race after seeing him turning into Woodfield Road. Ms Williams described her disbelief that the MPS had shared information that they consider to be false and before there had been an investigation. Ms Williams said she felt as though her experience was being dismissed "*so they could support their officers*" and Mr Dos Santos said he was 'shocked' that the MPS were "*supporting the actions of their officers*" without a proper investigation into their conduct.
694. On 6 July 2020, there was overnight coverage of the story on BBC and enquiries received from the Telegraph. The IOPC also received requests for an updated statement from various newspapers.
695. At 6.01pm the MPS shared its updated statement with the IOPC before going live with it. Within the statement Commander Harper said that she and Chief Superintendent Karen Findlay were, "*really keen to speak personally to the occupants of the vehicle to discuss what happened and the concerns they have.*" Adding that, "*The Directorate of Professional Standards reviewed the stop and were content there were no misconduct issues – today they have revisited the officers' body worn video footage, social media footage and details of the incident to satisfy ourselves that remains the case.*"
696. Whilst the MPS stated that no misconduct issues were identified, it said that there was potential for "*something to be learnt from every interaction we have with the public*" and "*where we could have interacted in a better way, we need to consider what we should have done differently and take on that learning for the future*".
697. The statement then continued on to provide details of the stop and search, stating that on 4 July 2020, TSG officers were "*patrolling in the W9 area in response to an increase in violence involving weapons*" and that officers noticed a vehicle being driven "*in a manner that raised suspicion*" including "*heavily breaking and accelerating*" and "*driving on the wrong side of the road*". After signalling for it to stop, the vehicle "*failed to do so and accelerated off*".

698. The statement provided further details of the incident referring to a s1 search of Ms Williams and Mr Dos Santos, for which they were *“both handcuffed due to the officers’ views, which took into account the manner in which the vehicle was being driven, that the vehicle was attempting to evade police, and due to the driver refusing to leave his vehicle”*. Following a search of the vehicle and both Ms Williams and Mr Dos Santos, the statement confirmed nothing was found, no arrests were made and the occupants were allowed on to leave.
699. Further into the statement, the DPS were again referenced to having *“carried out both reviews and are satisfied there are no misconduct issues for any officer involved”* and that the IOPC were aware of the matter and the MPS were *“offering every assistance “to them while they make an “assessment about the level of their involvement”*”.
700. On 7 July 2020, the Mayor of London’s office shared its lines with the IOPC:
- “I welcome the decision to refer the handling of this incident to the Independent Office for Police Conduct. Allegations of racial profiling are extremely serious and it’s right that it will now be independently investigated.*
- “I look forward to a swift and thorough decision as it is absolutely vital that all communities across the capital have trust and confidence in our police service. I have been clear that the use of stop and search in London must always be Intelligence-led and the Met have body-worn cameras to help hold all officers to account.”*
701. At 3.08pm the MPS shared its updated line with the IOPC:
- ‘FOR OFFER’:
- “Following a vehicle stop on Saturday, 4 July in Lanhill Road, W9, the Metropolitan Police Service has today Tuesday 7 July, made a voluntary referral to the Independent Office for Police Conduct*
- The decision has been taken due to the significant public interest in this matter and we welcome independent scrutiny of the facts. Two reviews of the circumstances by the Met’s Directorate of Professional Standards have not identified misconduct for any officer involved.”*
- ‘IF ASKED’:
- “While the occupants of the vehicle have not make [sic] a formal complaint to us, we have recorded this matter as a complaint due to @MetCC being tagged in the female occupants’ tweet. This is in line with existing IOPC guidance.”*
- IOPC Regional Director Sal Naseem said:*
- “Ensuring the public have confidence in policing through independent scrutiny is a vital part of our role. We are independently investigating a stop and search incident that took place in Maida Vale, London, on Saturday 4 July. Partial video footage of the incident was widely shared on social media.*

We made further enquiries with the Metropolitan Police Service (MPS), who have now recorded a complaint and a voluntary referral has been made to us.

We will be independently examining whether the use of stop and search on this occasion was appropriate and proportionate in line with approved police policies. We will also investigate if racial profiling or discrimination played a part in the incident.”

702. On 8 July 2020, during a Home Affairs Committee on ‘The work of the Commissioner of the Metropolitan Police Service’ Dame Cressida Dick and Assistant Commissioner Helen Ball responded to questions asked by the Chair.
703. Specifically the Chair asked *“when you described reviewing that footage of Bianca Williams and Ricardo Dos Santos and their baby being arrested, you said that the test was that there was no misconduct by police officers. Do you think that this is the right test to be applying when you are looking at those videos? Did you have any concerns or alarms, even if you concluded it did not cross the misconduct line?”*
704. Dame Cressida Dick tasked Assistant Commissioner Ball providing the Chair with an answer. Assistant Commissioner Ball said *“we did review this particular video and do believe that we did not see misconduct by the officers”*. She goes on to explain that there are *“grounds to refer to the IOPC on the basis that a complaint had been made. In this case, there was a tagging of the Met yesterday in some of Ms William’s tweets that we concluded were equivalent to a complaint being made”*
705. The Chair pressed Assistant Commissioner Ball for her opinion on what she saw, he said *“I am interested in your concerns. I am interested in whether you watched this and thought, “Do you know what? That is not how we want our officers to be responding when they are dealing with two people who have a baby in the back of the car, the nature of the way in which that stop was carried out and that search was carried out. I am interested not in the grounds for referring to the IOPC but in whether you as senior officers had concerns about that incident when you viewed it”*
706. In response, Assistant Commissioner Ball responded *“we have reviewed what happened before the stop and search and the reasons why the vehicle was stopped. The complaints work that the IOPC will do will show that there were good grounds for the officers to stop that vehicle. They did not know who was in that vehicle at the time they stopped it. After that, they dealt with what was in front of them. I do not want to talk through that this morning because that is now under investigation by the IOPC and that needs to run its course. Deputy Commissioner Ball goes on to refer to the Use of Force Group that has been set up to address the MPS concerns at the “overwhelming anxiety of communities and the feedback they give about how they present our offices actions”*.
707. On 15 July 2020, in a Guardian report of the London assembly’s police and crime committee, Metropolitan police’s Deputy Commissioner Sir Stephen House was quoted to say: *“We have reviewed that stop and*

search twice by two separate teams of officers from professional standards. Neither team saw anything wrong with it.” The article adds: “He suggested the only reason the incident was referred to the police watchdog was that Williams tagged the IOPC in a tweet about the incident, which was taken as a complaint that warranted automatic investigation.”

708. On 16 July 2020, in an article by the Times, Mr Ken Marsh the Chairman for the Metropolitan Police Federation was reported to have commented on the incident. The article read *“the public would have a different view of the stop if dashcam and bodycam video could be made public. He said that the force had sought legal advice and was told it could not release it”*.
709. In her statement Ms Williams told the IOPC that, *“Commissioner of Police Cressida Dick went on LBC radio on the morning of Wednesday 22 July 2020 and again asserted that Ricardo should have been stopped for his driving and that there was no evidence of misconduct. She said: “any officer worth their salt would have stopped that car that was being driven in that manner and secondly, my professional standards people have looked at it and they don’t see any misconduct”*
710. Mr Dos Santos wrote in his statement, *“I believe within two days of the incident the Metropolitan Police Service put out a statement about the incident. They made a number of false allegations about my driving and the reason they conducted a stop of our car. It is completely false that they decided to follow us because my driving raised suspicions. As I have said above, they decided to follow us when I turned into Woodfield Road and I believe they did so because of my race. They followed us for some time and a distance before they signaled to pull us over.”*
711. Mr Dos Santos continued, *“I was shocked that the Metropolitan Police Service was now supporting the actions of their officers and without there having been an investigation into their conduct. This statement by the police received a lot of media attention. As a result a lot of people contacted us on social media and accused us of lying. There were hundreds of hateful comments about us online and some people even made threats against us.”*
712. Ms Williams stated that, *“Following this, Ricardo and I received more public abuse and criticism online. People were criticising us as parents on social media. They used what the Commissioner said about Ricardo’s driving to attack us as parents, which was really upsetting to read and caused me to feel anxious for our safety.”*
713. In both statements, Ms Williams and Ms Dos Santos referred to the concerns their solicitor raised directly with the MPS about the statements that were released. Their solicitor was advised by the Directorate of Legal Services, that they would *“refrain from making further comments”* about the case until the conclusion of the IOPC investigation. However, despite assurances from the MPS, the couple both referenced Dame Cressida Dick’s appearance on the 22 July 2020 when she appeared on LBC radio. Ms Williams quotes the Commissioner,

as saying “any officer worth their salt would have stopped that car that was being driving in that manner and secondly, my professional standards people have looked at it and they don’t see any misconduct”.

> Analysis

714. In analysing comments and communications made by MPS senior officers, the IOPC did not investigate Commissioner Cressida Dick as the investigation was undertaken by MOPAC. The following MPS senior officials formed part of the IOPC investigation:

- Commander Helen Harper
- Superintendent Karen Findlay (quoted alongside Commander Harper)
- Assistant Commissioner Helen Ball
- Deputy Commissioner Sir Stephen House
- Chairman of Metropolitan Police Federation Ken Marsh

The creation of the media protocol

715. The current media protocol is the second version of the document. It was created by the IOPC in response to the Mark Duggan investigation when the MPS had made no media statements to the public following the death of Mark Duggan triggering mass demonstrations against the police for their lack of communication. The protocol is an agreement between the MPS and the IOPC that provides guidance to both organisations in relation to making media statements.

716. The stop and search of Ms Williams and Mr Dos Santos took place at a time when there had been a number of incidents between the police and Black people in the UK but also abroad and particularly in the USA with the recent murder of Mr George Floyd on 25 May 2020. Black Lives Matter had subsequently organised a number of street protests against incidents of police brutality and racially motivated violence against Black people.

717. The analysis of whether MPS communications were in line with the media protocol in place with the MPS, the IOPC divided the analysis in three part:

- the information that was released by the MPS before the investigation was referred,
- the information released by MPS while being referred and,
- the information that the MPS shared after the MOI was decided.

Before the investigation was referred to the IOPC

718. The joint media protocol briefly outlines the responsibility of a police force, in this case the MPS, when an incident is filmed by members of the public and the decision has not yet been made to independently

investigate. This is essentially what happened with Ms Williams and Mr Dos Santos. The protocol states that in these scenarios, “*in the absence of any further context*”, the police force is responsible for “*issuing factual information*”. It goes on to provide a list to consider, such as numbers of officers and reasons that the officers were in the area.

719. Part of that list also includes “*why something has been referred to the IOPC/ reassurance that incident has been referred to an independent body*”. This particular example would suggest that this section of the protocol specifically refers to those incidents that have already been referred but where a Mode Of Investigation (MOI) has not yet been decided. The protocol does not refer to specific situations whereby an incident has not yet been referred to the IOPC, but where enquiries are being made and there is potential for a referral.
720. In the case of Ms Williams and Mr Dos Santos, internal emails between the IOPC Assessment Centre and the Regional Director and decision maker in this case Mr Sal Naseem on 6 July 2020 at 11.10am indicated that they were waiting to see whether a formal complaint was going to be made by Mr Dos Santos and Ms Williams before exercising the IOPC call in powers in order to independently investigate this matter. The MPS did not refer the incident to the IOPC until 7 July, three days after the incident and two days after the initial tweet by Ms Williams. It was very quickly declared independent by the IOPC Assessment Unit. The IOPC had been aware of the incident since the 5 July and had been making enquiries with the MPS during that time.
721. The MPS made multiple releases to the media during that period, the first of which included comments by Commander Helen Harper on 5 July and again on 6 July together with Superintendent Karen Findlay. The information contained within these releases were not only very detailed and not limited to facts only but went to the extent of clearing officers of misconduct. This would appear to go against the general premise of the protocol which is ultimately to “*ensure public confidence in the investigation and in the police complaint system as a whole*”.
722. However, as this period in the media timeline appears to fall into a gap within the media protocol, whereby there is no specific instruction for those incidents where the IOPC are simply making enquiries, it is not possible to categorically say that the MPS did not follow protocol. It can be argued that due to the almost immediate media attention, the MPS should have anticipated a referral to the IOPC whereby an independent investigation was a very real possibility.
723. There is evidence to indicate that the joint media protocol does not adequately cover the period before Ms Williams/Mr Dos Santos investigation was referred to the IOPC, specifically whether the IOPC should have an oversight of communications from police forces during the ‘making enquiries’ stage. During this time the MPS released at least three communications to the media. In view of the above, there is no evidence to suggest that the MPS was in breach of the protocol.

724. In view of the above, the decision maker may wish to consider whether a review of this part of the protocol is necessary to cover communications when a referral is being considered and the assumption may be that the investigation would become independent, but before the process is formalised by an actual referral.

During the referral

725. In the case of Ms Williams and Mr Dos Santos, the investigation was referred and almost immediately declared independent on 7 July 2020.

726. Following the decision to refer to the IOPC, the MPS continued to make public comments about the incident and the investigation, including the day of the referral itself. Shortly before the referral, the MPS shared its 'For Offer' and 'If Asked' lines with the IOPC. These lines were to be released to the media notifying them of the referral. The MPS stated it was referring the investigation to the IOPC due to "*significant public interest*" and that they "*welcome independent scrutiny of facts*". However the MPS used this opportunity, to again reinforce that the DPS "*have not identified misconduct for any officer involved*".

727. This particular release falls exactly into the section of the protocol mentioned previously, whereby an investigation has been referred but not yet declared independent. With this in mind, the MPS appears to have followed protocol which states the "*police force is responsible for issuing factual information*".

728. Mr Sal Naseem, IOPC Regional Director, confirmed that he discussed the MPS lines with a member of the IOPC media team prior to the MPS lines going out to the public. He specifically raised concerns regarding the inclusion of references to conduct reviews and the exclusion that this was a complaint referral. The media officer voiced these concerns to the MPS press office but this doesn't appear to have resulted in any alterations to the MPS lines.

729. The referral stage is clearly included within the joint media protocol, even before an investigation is declared independent/managed by the IOPC. The protocol states that police forces should only issue "*factual information*". Therefore, it would appear that the MPS followed protocol at this stage. The evidence suggests that Mr Naseem was consulted about the lines and he raised concerns regarding the inclusion of the conduct review for officers and the exclusion that this was a complaint referral. Though these concerns were raised with the MPS via an IOPC media officer, it appears that the point was not pressed further and the MPS published their lines as originally planned.

730. In view of the above, the decision maker may wish to consider whether the media communications made by the MPS during the referral stage were in line with the media protocol in place between the IOPC and the MPS, and whether the MPS public communications may have risked prejudice to any subsequent investigation or proceedings.

After the referral was made to the IOPC

731. The media protocol, states that the IOPC takes the ‘media lead’ during independent investigations, any responses by the police force to the media or public interest should be restricted to “*matters of fact which cannot become disputed during any IOPC investigation*”.
732. In the days following the decision to independently investigate, the MPS released further non-factual comments into the public. This Included Assistant Commissioner Helen Ball who appeared alongside Dame Cressida Dick at the Home Affairs Committee on 8 July 2020. Assistant Commissioner Ball responded to questions by the Chair regarding concerns she might have about the incident, she repeated that the MPS “*did not see any misconduct by the officers*” and that the IOPC investigation would show “*there were good grounds for the officers to stop the vehicle*”. She refrained from commenting further, reiterating the ongoing IOPC investigation.
733. Sir Stephen House, the MPS Deputy Commissioner, also appeared not to follow protocol when he was quoted in a Guardian article on 15 July 2020, clearing the officers of any misconduct. The following day Ken Marsh, the Chairman for the Metropolitan Police Federation was quoted in a Times article to comment that the public would have a different opinion of the stop and search if the officers ‘dashcam and bodycam’ video could be viewed. Whilst he didn’t say anything definitive, Ms Williams and Mr Dos Santos solicitor felt that Mr Marsh was insinuating that the couple were to blame.
734. Whilst it is very clear that the comments made by Assistant Commissioner Ball and Deputy Commissioner House were not in line with protocol, providing opinions and information that cannot be described as undisputable “*matters of fact*”. It is not possible to say the same for Mr Marsh, the protocol does not specifically include the federation as part of the joint agreement.
735. The joint media protocol very clearly covers the role of the police forces during independent/managed IOPC investigations which is to restrict media releases to “*matters of fact which cannot become disputed during any IOPC investigation*”. Given this clear instruction it appears that the several senior MPS officers may have deviated from protocol in the days following the investigation being declared independent. These officers include Assistant Commissioner Helen Ball, Deputy Commissioner Sir Stephen House.
736. In addition to the above officers, the Chairman of the Metropolitan Police Federation, Mr Marsh, also made comments to the media which would not be considered undisputable fact. Unlike the MPS officers, the media protocol does not specifically cover police federation.
737. In summary, the analysis of MPS media communications during the Ms Williams and Mr Dos Santos investigation indicated that senior MPS officers may not have followed the joint media protocol correctly. It would

appear that the protocol does not seem to adequately cover all scenarios of a referral, specifically the “*making enquiries*” stage. The decision maker may wish to consider whether a review of the media protocol between the IOPC and the MPS may need to be undertaken.

738. In view of the evidence presented in this report, the decision maker may wish to consider whether the named MPS senior officials were in line with the media protocol in their communications with the media or whether their actions represent a breach of this protocol.

> Learning

739. Throughout the investigation, the IOPC has considered learning with regard to the matters under investigation. The type of learning identified can include improving practice, updating policy or making changes to training.

The IOPC can make two types of learning recommendations under the Police Reform Act 2002 (PRA):

- Section 10(1)(e) recommendations – these are made at any stage of the investigation. There is no requirement under the Police Reform Act for the Appropriate Authority to provide a formal response to these recommendations.
- Paragraph 28A recommendations – made at the end of the investigation, which do require a formal response. These recommendations and any responses to them are published on the recommendations section of the IOPC website.

740. **Potential learning to be considered by the decision maker**

I have identified the following areas of potential learning for the attention of the decision maker, to inform any recommendations they may wish to make:

Stop and search:

1. In view of the very low find rate for PC Franks, supervision processes should be put in place to identify low find rates and high levels of disproportionality – with supervision actions to follow

Safety hammer:

2. Form 502 should be updated to list the safety hammer as part of the kit on board TSG vehicle if this is standard equipment
3. The use of the safety hammer should be included in the MPS policy and officers should undertake training to ensure that they understand its use
4. MPS officers should not be in possession of non-Met issued safety hammers as part of their personal kit.

5. MPS officers should not carry a safety hammer on their person if this has not been authorised.

Merlin report:

6. The Merlin report form should be updated so that it refers to the correct guidance entitled 'Working Together' 2018 and is in line with the MASH unit that receive and assess the reports.
7. Officers should be given refresher courses on a regular basis to keep themselves up to date with the Merlin process and new development in this field.

Use of force forms:

8. Use of force forms should indicate when officers stop and searched the person on which force was used to enable cross reference between stop and search slips and use of force forms.

Equality and diversity:

9. After 2018, all TSG officers should have attended an 'Unconscious bias' training however it would seem that the training was not delivered to some or all TSG officers after 2018. Learning and Development and the Training Unit should review whether an 'Unconscious bias' training was delivered to the taskforce since 2018 and if not ensure that training is provided to all TSG officers/front line officers.*

> Next steps

741. The decision maker will now set out their provisional opinion on the investigation outcomes. The decision maker will record these on a separate opinion document.
742. The decision maker will also identify whether a paragraph 28ZA recommendation (remedy) or referral to the Reflective Practice Review Process (RPRP) is appropriate.
743. Where a complaint investigation has not been subject to special procedures, the decision maker will determine whether: i) the service provided by the police was acceptable; ii) the service provided by the police was not acceptable; or iii) we have looked into the complaint, but have not been able to determine if the service provided was acceptable.
744. The decision maker will also decide whether any organisational learning has been identified that should be shared with the organisation in question.

> Criminal offences

745. On receipt of this report, the decision maker must decide if there is an indication that a criminal offence may have been committed by any person to whose conduct the investigation related.
746. If they decide that there is such an indication, they must decide whether it is appropriate to refer the matter to the CPS.
747. If this was a criminal investigation into a recordable offence and the decision maker is of the view, on or after 1 December 2020, there is no indication or it is not appropriate to refer the matter to the CPS, the Victims' Right to Review may apply. If so, the decision maker's decision will be provisional and any victim, as defined by the Victim's Code, will be entitled to request a review of that provisional decision.

Further information on the availability of the VRR is available here:

https://policeconduct.gov.uk/sites/default/files/Documents/appeal_forms/OPC_victims_right_to_review_policy.pdf

> Summary for publication

748. The following summaries are of the incident and our investigation. If the decision is made to publish the case on the IOPC website, this text will be used for that purpose. This text is included in the investigation report so the AA can provide their representations regarding redactions.

Section of summary	Text
Summary of incident	<p>The evidence obtained by the investigation indicated that a TSG unit stopped and searched two people and their baby travelling in a car. The evidence indicated that they were searched for weapons under s1 PACE and for drugs under s23 MDA.</p> <p>Our investigation revealed evidence indicating that the officers completed a Merlin report that was assessed by the MASH unit and was referred to Social Care. The evidence showed that following the incident, MPS senior officials issued communications to the media which impacted negatively on the lives of the couple and their baby.</p>
Summary of investigation	<p>During the investigation, investigators interviewed the officers, examined video footage and obtained statements from several witnesses.</p>

Complaint matter

Bianca Williams and Ricardo Dos Santos

An investigation into the stop and search and detention of Mr Ricardo Dos Santos and Ms Bianca Williams by the Metropolitan Police Service on 4 July 2020

- > Independent investigation report
- > Appendices

> Appendix 1: The role of the IOPC

The IOPC carries out its own independent investigations into complaints and incidents involving the police, HM Revenue and Customs (HMRC), the National Crime Agency (NCA) and Home Office immigration and enforcement staff.

We are completely independent of the police and the government. All cases are overseen by the Director General (DG), who has the power to delegate their decisions to other members of staff in the organisation. These individuals are referred to as DG delegates, or decision makers, and they provide strategic direction and scrutinise the investigation.

The investigation

At the outset of an investigation, a lead investigator will be appointed, who will be responsible for the day-to-day running of the investigation on behalf of the DG. This may involve taking witness statements, interviewing subjects to the investigation, analysing CCTV footage, reviewing documents, obtaining forensic and other expert evidence, as well as liaison with the coroner, the CPS and other agencies.

They are supported by a team, including other investigators, lawyers, press officers and other specialist staff.

Throughout the investigation, meaningful updates are provided to interested persons and may be provided to other stakeholders at regular intervals. Each investigation also passes through a series of reviews and quality checks.

The IOPC investigator often makes early contact with the CPS and is sometimes provided with investigative advice during the course of the investigation. However, any such advice will usually be considered to be confidential.

Complaint matters

An investigation into a complaint is not automatically an investigation into whether a person serving with the police has a case to answer for misconduct or gross misconduct. It will investigate the issues raised in an individual's complaint.

An investigation may become subject to special procedures (see more below) if the IOPC lead investigator considers that there is an indication that a person to whose conduct the investigation relates may have:

- a) committed a criminal offence, or
- b) behaved in a manner that would justify them facing disciplinary proceedings

> Complaints that are subject to special procedures

The complaints subject to special procedures focus on the actions of the identified officers to enable conclusions to be drawn about whether there is a case to answer in respect to the actions of an individual serving with the police. Individuals subject to the investigation will have been formally served a notice explaining the conduct under investigation and setting out their rights. The conclusions drawn cannot be about whether the complaint is upheld or not, but instead are about whether the subject has a case to answer for misconduct or gross misconduct, or whether the performance of any person was unsatisfactory.

> Complaints not subject to special procedures

For complaints not subject to special procedures, the IOPC decision maker may reach an opinion about whether the performance of anybody who was the focus of the complaint was unsatisfactory, if applicable. Because the complaint was not subject to special procedures, these individuals will not have been served with a formal notice, as would be the case for complaints subject to special procedures.

Some complaints will be about the standard of service provided by the police, rather than a person's actions. In such cases, special procedures will not be relevant, but a decision as to whether the service provided by the police was/was not acceptable should be made or alternatively, confirmation that we have been unable to determine whether the service provided was acceptable.

Investigation reports

Once the investigator has gathered the evidence, they must prepare a report. The report must summarise and analyse the evidence and refer to or attach any relevant documents.

The report must then be given to the decision maker, who will decide if a criminal offence may have been committed by any of the subjects of the investigation, and whether it is appropriate to refer the case to the CPS for a charging decision.

The decision maker will reach a provisional opinion on the following:

- a) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer;
- b) whether or not any such person's performance is unsatisfactory;
- c) whether or not disciplinary proceedings should be brought against any such person and, if so, what form those proceedings should take (taking into account, in particular, the seriousness of any breach of the Standards of Professional Behaviour);

- d) whether or not performance proceedings should be brought against any such person; and
- e) whether or not any matter which was the subject of the investigation should be referred to be dealt with under the reflective practice review process.

The decision maker will also decide whether to make individual or wider learning recommendations for the police.

Misconduct proceedings

Having considered any views of the appropriate authority, the decision maker is required to make the final determination and notify the appropriate authority to:

- a) whether any person to whose conduct the investigation has related has a case to answer for misconduct or gross misconduct or has no case to answer;
- b) the performance of any person to whose conduct the investigation related is unsatisfactory; and
- c) whether or not disciplinary proceedings should be brought against any person to whose conduct the investigation related and, if so, what form the disciplinary proceedings should take.

The decision maker may also make a determination as to any matter dealt with in the report. This may include a decision that a matter amounts to practice requiring improvement (PRI) and as such should be dealt with under the reflective practice review process (PRPR) or recommendation under paragraph 28ZA (remedy).

Unsatisfactory Performance Procedures

UPP is defined as an inability or failure of a police officer to perform the duties of the role or rank the officer is currently undertaking to a satisfactory standard or level.

The decision maker can recommend and, where necessary, direct an appropriate authority to refer an officer to any stage of the unsatisfactory performance procedure. The appropriate authority must comply with a direction from the decision maker and must ensure proceedings are proceeded with to a proper conclusion. The appropriate authority must also keep the decision maker informed of the action it takes in response to a direction concerning performance proceedings.

Practice Requiring Improvement

Practice Requiring Improvement (PRI) is defined as underperformance or conduct not amounting to misconduct or gross misconduct, which falls short of the expectations of the public and the police service as set out in the police Code of Ethics.

Where PRI is identified, the Reflective Practice Review Process (RPRP) is followed. However, there may be instances where PRI is identified, but for a variety of reasons the RPRP process is not instigated, for example due to the wellbeing of an officer. Please refer to the Home Office Statutory Guidance for further information.

RPRP is not a disciplinary outcome but a formalised process set out in the Police (Conduct) Regulations 2020. It is more appropriate to address one-off issues or instances or where there have been limited previous attempts to address emerging concerns around low-level conduct. In some instances it may be appropriate to escalate the matter to formal UPP procedures where there is a reoccurrence of a performance related issue following the completion of the Reflective Practice Review Process.

The IOPC cannot direct RPRP: it can only require the appropriate authority to determine what action it will take.

Criminal proceedings

If there is an indication that a criminal offence may have been committed by any person to whose conduct the investigation related, the IOPC may refer that person to the CPS. The CPS will then decide whether to bring a prosecution against any person. If they decide to prosecute, and there is a not guilty plea, there may be a trial. Relevant witnesses identified during our investigation may be asked to attend the court. The criminal proceedings will determine whether the defendant is guilty beyond reasonable doubt.

Publishing the report

After all criminal proceedings relating to the investigation have concluded, and at a time when the IOPC is satisfied that any other misconduct or inquest proceedings will not be prejudiced by publication, the IOPC may publish its investigation report, or a summary of this.

Redactions might be made to the report at this stage to ensure, for example, that individuals' personal data is sufficiently protected.

> Appendix 2: Terms of reference

Investigation into the circumstances surrounding a stop and search on 4 July 2020

Investigation Name:	Bianca Williams and Ricardo Dos Santos
Investigation Type:	Independent
Appropriate Authority:	Metropolitan Police Service (MPS)
Case Reference:	2020/139147
Director General (DG) Delegate:	Colin Dewar* (decision maker)
Lead Investigator:	Trisha Napier**
Target Range:	3 - 6 months

Summary of events

This summary is presented based on information presently available to the IOPC, including footage from Body Worn Video (BWV) cameras worn by eight MPS officers and the footage from the TSG van. This footage has been viewed by IOPC investigators and the following summarises the content. The veracity and accuracy of all information provided will be considered as part of the investigation and will be subject to review.

On 4 July 2020 at approximately 1.30pm, MPS officers in a Territorial Support Group (TSG) carrier were patrolling an area around Maida Vale, London W9 when they saw a black Mercedes A class car driven by Ricardo Dos Santos and decided to follow it. The Mercedes drove further along residential streets before pulling over on the side of the road opposite the home of Mr Dos Santos.

The TSG carrier stopped and officers left the carrier and surrounded the car shouting at the driver to get out. When Mr Dos Santos got out of the car he was handcuffed to the rear. Bianca Williams was in the back of the car with their three month old baby. Once out of the car she was also handcuffed.

Ms Williams was searched under s1 Police and Criminal Evidence Act (PACE). Mr Dos Santos and his car were searched under s1 PACE and s23 Misuse of Drugs Act (MDA). The officers took Mr Dos Santos's fingerprints and a Merlin record was made due to the presence of the baby in the car.

No weapons, drugs or illegal substances were found and after about 50 minutes the couple were allowed to leave.

Ms Williams had filmed herself in the initial exchange with police officers, this footage was circulated on Twitter. Ms Williams also posted a tweet which was taken as a complaint by the MPS; the matter was subsequently referred to the IOPC as a

*Terms of reference were updated with Sal Naseem as decision-maker.

**Terms of reference were updated with Nathalie Harvier as lead investigator.

complaint. Solicitors for Ms Williams and Mr Dos Santos subsequently forwarded a complaint summary to the IOPC.

1. To investigate the circumstances surrounding the stop and search of Bianca Williams and Ricardo Dos Santos on 4 July 2020, specifically:
 - a) Why Mr Dos Santos' vehicle was followed and stopped
 - b) Whether the force used against Mr Dos Santos, was lawful, necessary, reasonable and proportionate
 - c) Whether the force used against Ms Williams, was lawful, necessary, reasonable and proportionate
 - d) Whether the search of Mr Dos Santos and his vehicle under s1 PACE was reasonable and objective
 - e) Whether the search of Ms Williams under s1 PACE was reasonable and objective
 - f) Whether the search of Mr Dos Santos under s23 MDA was necessary, reasonable and objective
 - g) Whether there were legitimate grounds for a Merlin report to be created for the baby
 - h) Whether Ms Williams and Mr Dos Santos were treated less favourably because of their race
 - i) The accuracy of the accounts provided by the officers
 - j) The appropriateness of the communications issued by senior officers of the MPS whilst an IOPC investigation is being conducted.
2. To identify whether any subject of the investigation may have committed a criminal offence and, if appropriate, make early contact with the Director of Public Prosecutions (DPP). On receipt of the final report, the decision maker shall determine whether the report should be sent to the DPP.
3. To identify whether any person serving with the police may have behaved in a manner which would justify disciplinary proceedings and to enable an assessment as to whether such persons have a case to answer for misconduct or gross misconduct or no case to answer.
4. To consider and report on whether there may be organisational learning, including:
 - whether any change in policy or practice would help to prevent a recurrence of the event, incident or conduct investigated;
 - whether the incident highlights any good practice that should be shared.

The decision maker responsible for oversight of this investigation is Operations Manager Colin Dewar. At the end of the investigation he will decide whether or not the report should be submitted to the Director of Public Prosecutions, and whether he agrees with the appropriate authority's proposals in response to the report. These terms of reference were approved on 29 July 2020.

[REDACTED]

[REDACTED]

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