



Metropolitan Police Authority

Report of the
MPA Scrutiny
on MPS Stop
and Search
Practice

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CHAIRS FOREWORD



As an independent statutory authority established in July 2000, the Metropolitan Police Authority (MPA) is responsible for ensuring that the Metropolitan Police Service (MPS) is publicly held to account for its performance. The Terms of Reference of the Equal Opportunity and Diversity Board (EODB) of the MPA include the responsibility to consider areas of performance which have a specific impact on diversity issues and consider areas where new or improved performance monitoring is required.

In January 2003 the EODB adopted the recommendation to proceed with a formal policy review and scrutiny of the MPS performance in stop and search, given the report from the Home Office Race and the Criminal Justice system published in September 2002. I was well aware that the continuing evidence of disproportionality of stop and search rates based on race and ethnicity certainly had an impact on diversity issues in London, on the level of trust and confidence in the police held by members of London's diverse communities, and on the ability of the Met to deliver a professional police service.

It has been a difficult and challenging undertaking but a rewarding one. On the one hand the police power to stop and search is a core responsibility and central to the identity of the job of the police officer. It is a core aspect of policing and defines the unique powers embodied in the role. However, the use of the power particularly as it is experienced by young men, especially those from Black and minority ethnic communities, continues to be the flashpoint of the state of police-race relations, if not the measure of race relations generally, in this country. Stop and search practice has become the litmus test for determining the state of community police relations.

The work of the Panel has struggled with trying to understand these fundamental issues, of how they interact, and of how the underlying tensions between the two can be reduced and made more congruent.

As Chair of the MPA Scrutiny Panel, I am pleased to submit this report. It would not have been completed without the help of a great many people. First, I must express my thanks to my Panel Colleagues, to the many witnesses appearing before the Scrutiny Panel, to the officers of the MPS, and most importantly to the members of the community who encouraged and supported this undertaking.

This report could have been produced in at least half a dozen different ways and still have been on topic. Of course more work needs to be done, but central to the adoption and full implementation of the recommendations is the real involvement and engagement of the community in the delivery of stop and search. This is the heart that must drive the process of change to achieve a more effective, efficient and fairer use of stop and search.

Finally, I would like to thank the officers of the MPA, to Tim Rees for his commitment, and to the dedication and hard work of Julia Smith and the whole Race and Diversity Unit without whom I do not think I could have managed this undertaking.

A handwritten signature in black ink that reads "Cecile Wright". The signature is written in a cursive style with a large initial 'C' and 'W'.

Cecile Wright
Chair of Equal Opportunity and Diversity Board

EXECUTIVE SUMMARY

Background:

Part of the statutory responsibility of the Metropolitan Police Authority (MPA) is to ensure that the Metropolitan Police Service (MPS) is publicly held account for its performance. Its scrutiny role is intended to contribute to securing an effective, efficient and fair police service for London's communities.

The issue of disproportionality of stop and search rates is an important indicator impacting on the level of trust and confidence in the police amongst members of London's diverse communities.

Recent evidence indicates that Black and minority ethnic people in London are more likely than White people to experience police stops and searches.

Black people were eight times, and Asian people were five times more likely to be stopped and searched than White people, according to the most recent national statistics released by the Home Office (2004)

According to the Metropolitan Police Service (MPS) data, the stop and search rates of Black people in London increased by 30% between the years 2000/01 and 2001/02; for Asian people by 41%, while for White people it increased only by 8%. In other words, the rates of disproportionality have been increasing dramatically.

It was this most recent evidence of longstanding public concerns regarding disproportionality in the police use of stop and search that the Metropolitan Police Authority established a Scrutiny Panel to look at the performance and practice of the MPS in stop and search and propose means by which it can be improved.

Terms of reference:

The terms of reference of the Scrutiny Panel was to focussed on five particular aspects of stop and search. These were:

- To assess the impact of race
- To assess what use is made of stop and search data
- To identify the cost effectiveness of stop and search
- To review the assertion of disproportionality in criminality
- To identify good practice

Methodology:

In pursuit of these tasks, the primary method employed by the Scrutiny Panel was through public evidence hearing sessions. Twelve such sessions were held between June 2003 and January 2004. In addition, desk research was undertaken to review the findings of recent studies and reports on the issues being explored.

Public meetings were held to ascertain the views of the public on the issue, and in addition, individuals and groups were invited to submit written comments to the Scrutiny Panel. This was supported by a campaign to inform members of the public about the Scrutiny.

Overview of the Report:

This report presents first, a brief overview of the legislation relating to stop and search powers (Chapter II). Secondly, it presents a summary of the existing statistical evidence of disproportionality in stop and search rates based on the race and ethnicity (Chapter III). Thirdly, the report explores some of the underlying factors that might support and reinforce disproportionality in stop and search rates (Chapter IV).

It was important for the Scrutiny Panel to know why it is happening and what are the consequent costs in order to determine how they can be mitigated .

Finally, Chapter V makes recommendations, based on the evidence the panel received, on ways in which the Scrutiny Panel considers stop and search practice can move forward. These fall into nine groups:

- Providing effective leadership and calling for a reaffirmation of organisational commitment
- Keeping closer attention to statutory authority
- Improving organisational and management systems within the MPS
- Developing more vigorous data collection and intelligence-based policing
- Improving and monitoring systems
- Strengthening training and accreditation
- Ensuring a more effective and accountable complaints process
- Raising public awareness of stop and search powers and the rights of the individual; and
- Greater local community engagement in the application of stop and search

The Scrutiny Panel has been conscious that in many ways stop and search practice is the flashpoint of police-community relations. The evidence hearings touched on many different issues and areas of concern that, due to time and resource constraints, the Scrutiny Panel has been unable to pursue. As Glen Smythe of the Metropolitan Police Federation told the Panel:

“There is a role for a number of organisations in explaining to the public what the real issues are”

The police alone cannot resolve many of the issues touched upon. The Scrutiny Panel therefore makes a number of recommendations directed at other institutions. The Panel recognises that this report is in many ways a first step that must lead to further work by the MPS and more dialogue with the key statutory, voluntary and community organisations who are also eager to ensure that good community police relationships are maintained to achieve the goal of policing by consent.

Emerging Issues and Discussions:

The Panel heard many different perspectives and some contradictions between the expressed practices and experiences of the Met Police with that of representatives of the Black and minority and ethnic communities (BME).

A huge gap became apparent to the Scrutiny Panel between the institutional initiatives of improving managerial efficiency and professional competence presented by the police and the experience of continuing police discrimination and unfair treatment that were articulated by witnesses from the Black and minority and ethnic communities.

On the one hand the Scrutiny Panel heard from community representatives confirming the validity of the most recent statistics of disproportionality in stop and search rates with personal experiences as the latest proof of what they felt to be long standing racially biased – policing practice. This included the most recent statistics reinforcing the community voices that have articulated increasing concerns regarding bias in stop and search practice against Muslim communities.

On the other hand, police presented stop and search practice within the context of pursuing effective police work, protecting residents, arresting criminals, and preventing crime. Police witnesses to the Scrutiny Panel expressed difficulties in disentangling the requirements of effective policing and at the same time making certain that there is absolutely no racial bias in stop and search activity. Over the last few years, the Met police have made massive efforts and expended considerable resources to ensure a non-discriminatory service. And while it was acknowledged that there might indeed still be the occasional ‘bad apple’ the Scrutiny Panel was reassured repeatedly that the police do not engage in “racial profiling” or treat minorities differently.

In trying to understand the basis for these very different conversations, the Scrutiny Panel is inclined to agree with the comment made to it by the Deputy Commissioner, Sir Ian Blair:

“It is not just sides, it is quadrants of a matrix because there are so many different arguments on it.”

The Scrutiny Panel was compelled to recognise that their origins are embedded in the long legacy of deeply polarised relations between the police and the Black community in London.

Disproportionate stop and search rates can only be fully understood perhaps as the most recent manifestation of this long legacy and historical relationship between the police and Black people. The Scrutiny Panel therefore feels it impossible to ignore the continuum of this relationship. This report and its recommendations, rather than operating from a blank slate, must be seen within this light.

The central challenge for the Scrutiny Panel became that of understanding those aspects of stop and search practice that appear to be the most problematic, and to identify the appropriate strategies that might reduce disproportionality, and improve the nature of police public contacts generally, and stop and search specifically.

Although the 1981 Scarman Report highlighted the discriminatory impact of police stops and searches on Black youth and the huge damage this caused to relations between the police and the Black community the practice of bias in the way in which stops and searches were carried out clearly did not stop.

At a public consultation held by the Scrutiny Panel in Brixton, it was very apparent that Black people continued to have very strong and hostile views about the continuing use of stop and search. Indeed, many felt that little had been learnt from Scarman, Macpherson and numerous other reports written on the subject.

The Scrutiny Panel heard powerful evidence from many community witnesses with regard to its huge negative impact. The Scrutiny Panel was told that present practice has increased the level of distrust in our police. It has created deeper racial tensions and antagonism against the police. It has increased the level of cynicism regarding the law. It has increased the level of scepticism about police officer credibility. It has trampled on the rights of too many Londoners. It has cut off valuable sources of community information and criminal intelligence.

It has a detrimental effect on the increasing difficulty faced by police in doing the basics of their already difficult job. And despite this, the recent increase in stops and search practice has spread police resources even thinner.

In summary, current stop and search practice appears to the Scrutiny Panel to be a use of scarce police resources that might make policing more difficult.

The disproportionality of stop and search rates is a reflection of a collective pattern of police culture and practice. It is still managing to operate beneath the radar that is usually employed to detect and address harmful practices.

The Scrutiny Panel is forced to conclude by the evidence presented that stop and search practice continues to be influenced by racial bias.

Managing Stop and Search Practice

The Scrutiny Panel is impressed with the enormous strides being made by the Met to improve its effectiveness. But this work has to be greatly accelerated.

The Scrutiny Panel makes a number of recommendations pertaining to present policies and practices of the MPS that are intended to assist police officers ensure that its ongoing use is far more stringently applied in a far more effective way.

The inadequacy and vagueness of present regulatory requirements, the lack of monitoring, and weak enforcement mechanisms are some of the significant areas observed by the Scrutiny Panel that need to be addressed in the current approach by the MPS to stop and search practice.

The Scrutiny Panel can only agree with the evidence given by Assistant Commissioner Tim Godwin that the MPS is data rich but intelligence poor. Virtually no analysis or interpretation of stop and search data is undertaken for monitoring, supervision or intelligence purposes.

In considering this significant weakness in the intelligence management of the MPS, the Scrutiny Panel makes a number of recommendations regarding the utilisation of available data to inform policing tactics, the management of resources, and the assumption of professional responsibilities.

The Scrutiny Panel also addressed the gaps within the MPS management and command structure itself. For example, the role of Sergeants should be instrumental in directing police practice and behaviour on the street. But when there is a London-wide shortage of over 470 Sergeants, when a large proportion of the existing complement are unqualified and “acting”, and when the majority are assigned to other than street duties, there is a clear danger that the discretionary powers of largely new, probationary, young officers on the beat becomes unsupervised and un-reviewable.

Similarly, the Scrutiny Panel is disturbed by the variations in the stop and search rates between London boroughs but disproportionality remains universal. While the Scrutiny Panel is, in principle, in agreement with decentralising authority to BOCU level, it makes further recommendations to not only ensure there is common understanding of stop and search powers but that there is also consistent practice across London. The significant variations at the sector and borough level should not only be ‘monitored’ but also addressed as a fundamental managerial responsibility.

The Scrutiny Panel was concerned with not only who gets stopped, but also why individuals are stopped, and how they are treated. It has concluded – after a careful review of the evidence – that racial bias and stereotyping in individual police officer’s behaviour continues to be a significant determining factor in disproportionality. Institutional racism – as reflected in the policies, priorities and practices (or lack thereof) of the Metropolitan Police Service – continue to be dominant factors in both permitting and causing disproportionality in stop and search rates.

The Scrutiny Panel believes that the practice of policing in London should reflect the values and principles of justice, equality and fairness. Unfortunately, the irrefutable body of evidence on disproportional stop and search rates suggests these principles do not apply to all Londoners. It is one of the most visible indicators of racially biased policing practice in London.

In summary the Scrutiny Panel concludes that the negative and disproportionate impact of present stop and search cannot be tolerated in London. The cost of current practice is simply too great. It is imperative that swift and effective implementation of the actions proposed be taken.

While the Scrutiny Panel heard from a number of community witnesses that stop and search is a blunt, clumsy and extravagant police tactic, the Panel is confident that the implementation of its recommendations will contribute to more effective policing and a police service that is more respectful of the rights of all citizens.

This entails from the MPS a reiteration of commitment to improving its managerial and professional competence actively to engage with the community around stop and search practice at the local level. Operation Trident has proven to be a remarkable success in addressing a seemingly intractable problem. A similar process of real community-police partnerships around stop and search needs to be pursued.

The Scrutiny Panel fully appreciates the support and cooperation of the MPS in undertaking its work. It also recognises the enormous efforts that have been undertaken in recent years to improve police-race relations. Further, as the Deputy Commissioner Sir Ian Blair remarked to the Scrutiny Panel, the very establishment and existence of the Panel has, in and of itself, provided a further spur to ensuring that issues around stop and search remain a high priority for the MPS. In this regard, it is important that the Scrutiny Panel fully acknowledges the enormous administrative changes that the MPS has recently undertaken to improve its performance around stop and search practice. It is hoped that the implementation of the recommendations contained in this report will contribute to maintaining that momentum and greatly accelerate these efforts. Urgency is required by the MPS if it is to achieve its ultimate goal to restore trust in the police on the part of all members of our community and to ensure that all Londoners are treated equally by police officers.

I INTRODUCTION

1.1 Background

1. In the modernisation agenda for policing in London in the 21st century there is a unanimous drive and commitment – on the part of the Home Office, the Metropolitan Police Authority (MPA), the Greater London Authority (GLA) and the Mayor of London, as well as the Metropolitan Police Service (MPS) itself – towards a policing model that requires much stronger links between the police and London's communities. Unfortunately however there exists a high level of distrust towards the police amongst members of London's diverse communities, and these tensions directly affect and hamper the achievement of effective community policing. One of the major causes of this distrust is the high disproportionality in the stop and search of London's Black and minority ethnic communities.

MPS Initiatives:

2. The MPS has, for some years now, started to address many of the problems associated with the disproportionate impact of stop and searches.

3. Data on an ethnic basis has been gathered by the MPS since 1992 – three years ahead of the statutory requirement of Section 95 Criminal Justice Act 1991. In 1995 the MPS established a working group, with representatives from the CRE, NACRO and the Home Office, to review the use of the power. The working group made a number of recommendations, which embraced leadership, training, ensuring fairness and legality and improvements to the management information. While the working group wrestled with the socio-economic variables, it concluded that no analysis of the data was likely to establish or refute racial discrimination.

4. The MPS took the work of the group further in 1998 by establishing seven pilot sites around London. Anecdotal evidence suggested that a great deal was achieved in influencing stop and search practice in boroughs such as Haringey and Greenwich.

5. In 2003, the MPS was one of seven police forces across the country selected by the Home Office to participate in the phased implementation of Recommendation 61, of the Stephen Lawrence Inquiry Report to identify the most effective methods of recording stops (either manually or through the use of mobile technology) and methods of collating a stops database.

6. In 2001, the MPS established its Fair Practice Monitoring Group to develop a central monitoring and analysis function that would help the Diversity Directorate and Borough Commanders to monitor more closely the ways in which the borough was working on stop and search. This was aimed at helping BOCUs be aware of potential disproportionality and take steps to address it.

7. The MPS, in addition to the Stop and Search Working Group, has in place a Disproportionality Working Group. Comprising of representatives from various criminal justice agencies. Its purpose is to monitor any disproportionality issues relating to the activities of agencies involved in achieving the street crime reduction targets and to report progress through the London Street Crime Management Board.

The Role of the Metropolitan Police Authority:

8. It is a function of the MPA to ensure that the MPS is publicly held to account for its performance. The Scrutiny responsibility also supports open and transparent accountability.

9. The terms of reference of the Equal Opportunity and Diversity Board (EODB) of the MPA include the responsibility to consider “areas of performance which have a specific impact on diversity issues; propose the development of performance indicators and target setting in areas of diversity issues, and to consider areas of diversity where new or improved performance monitoring is required”.

10. The disproportionality of stop and search rates certainly has an impact on diversity issues. It is a very important indicator impacting on the level of trust and confidence in the police amongst members of London’s diverse communities. Indeed, in 2002, the MPA acknowledged in its Race Equality Scheme that reduction of disproportionality in stop and search was a significant indicator in demonstrating public trust and confidence in the police. The MPA further set itself a specific target to address this as a key governance issue in which it needed to closely monitor and scrutinise the actions of the MPS

11. In the light of MPS efforts, the MPA considered it was timely to review the progress of present MPS initiatives.

12. In addition, a complementary piece of background information that the MPA needed was consideration of the results and findings of recent research and evaluations undertaken by the Home Office, HMIC, academia, and others on stop and search practice.

13. Another impetus for the MPA to address the widening differential impact on ethnic and racial minorities of stops and searches is that the Race Relations Amendment Act (2000) which places a statutory duty on both the MPA and the MPS to eliminate discrimination, promote equal opportunities, and good relations between people of different races. Fundamentally then, the MPA considered that its review of stop and search was a direct response to meeting its statutory obligations. To delay or avoid looking at disproportionality in stop and search rates would be an abdication of that duty.

14. At it’s meeting on 9 January 2003 the EODB adopted the recommendation to proceed with a formal policy review and policy development scrutiny of the MPS performance and practice in stop and search.

15. The aims and objectives of this scrutiny were to:

- Consider the impact of MPS performance in stop and search on diversity issues;
- Propose performance indicators;
- Consider areas where improvement is required;
- Publish a report, with recommendations for implementation by the MPS and MPA; and
- Highlight wider issues that may arise for other organisations, including the Home Office, for example.

1.2 Terms of Reference

16. Specifically, the task of this Scrutiny Panel was to focus on five particular aspects of stop and search.

These were:

I. To assess the impact of race

To determine whether, and in what ways, race might impact upon MPS practice resulting in the disproportionality of Black and minority ethnic people in stop and search rates.

II. To assess what use is made of stop and search data

To determine the extent to which the findings from stops and searches inform police intelligence

III. To identify the cost effectiveness of stop and search

To explore the direct financial costs and indirect costs in terms of public trust and confidence

IV. Good Practice Models

To identify good practice models of public awareness and discussion on stop and search practice.

V. Black Criminality

To determine whether stop and search practice is indeed colour-blind and that minorities are over represented in the stop and search figures because they simply commit more crime.

Specifically the Scrutiny Panel had to look at empirical evidence to support or discredit this assertion.

1.3 Methodology

17. The primary method for collecting evidence by the Scrutiny Panel was through evidence hearing sessions. Twelve evidence hearing sessions were held between June 2003 and January 2004. Each session was of 3 hours duration with either groups or individual evidence givers at each session (see appendix for list of evidence givers).

18. Specific questions for each evidence giver were prepared for the Scrutiny Panel. The Chair of the Panel, Cecile Wright is a Member of the MPA and Chair of its Equal Opportunities and Diversity Board.

19. Panel Members were:

MPA Members

- Cecile Wright – Chair
- Lynne Featherstone – Vice Chair
- R. David Muir
- Peter Herbert
- Eric Ollerenshaw

Community Members

- Althea Smith – Chair Southwark Community Police Consultative Group (CPCG)
- John Grieve – Formerly Head of the MPS Diversity Directorate
- Reverend Nims Obunge – The Peace Alliance
- Brian McCarthy - Action Group for Irish Youth (AGIY)

20. In addition to the Hearing Sessions, desk research was undertaken to review the existing research studies and reports on the issues being explored. Written submissions were invited and one public meeting was held following newspaper advertisement publicising the event and giving details of the Scrutiny. The findings from these are incorporated into the body of the report.

II STATUTORY AUTHORITY FOR STOP AND SEARCH

2.1 History

21. The police use of stop and search has a very long history. Part of the difficulties in the attempts made over the last number of years to improve stop and search practice need to be understood, in part, by this historical tradition: stop and search powers goes to the very heart of traditional notions of what core policing is all about.

22. Police work routinely involves interaction between the police and the public that they serve. The public generates many of these interactions themselves. A stop and search encounter is an example of an interaction which is instigated by an officer, and is often utilised by an officer who has his or her suspicions aroused by a person's behaviour, appearance or actions. Police officers use their power to stop and search to either confirm or allay any suspicions through stopping, questioning, and at times searching individuals encountered in public places.

23. Police power for stop and search dates back to the Vagrancy Act of 1824. This was the old 'sus' law which prevented 'any person or thief' from loitering in a public place with an intent to commit an arrestable offence.

24. Police authority also existed in London for stop and search where there was reasonable suspicion that they were carrying anything "stolen or unlawfully obtained" under Section 66 of the Metropolitan Police Act of 1839. Interestingly, an internal record was kept not only of the searches but also of all stops under the power. These were entered divisionally in the book 90 and the figures were collated centrally.

25. Since the early nineteenth century then the police have had wide ranging local powers to stop and search individuals when they suspect of criminal intent. During the 1970s, the so-called 'sus' laws, the 1824 Vagrancy Act (s.4 &s.6), evidence pointed to the extremely heavy use of these powers against people from ethnic minority communities, particularly young Black people.

26. The Vagrancy Act was on the statute books for over a century and a half until 1981 when it was finally repealed.

27. Section 66 of the Metropolitan Police Act 1839, was used by the police a century and a half later to carry out "Operation Swamp", identified by Lord Scarman as one of the main causes of the disturbances in Brixton and other areas in 1981. This Act was not repealed until 1984 when it was finally replaced by the Police and Criminal Evidence Act (PACE).

28. It was clear from the pre-PACE era, not only from Lord Scarman, that there were concerns regarding the application of these powers. Reports produced by both Willis (1983) and Smith (1983) revealed that officers frequently did not adhere to the 'reasonable suspicion' requirements attached to these powers. They also found that the application of these powers was disproportionately applied to members of the Black community.

2.2 Section 1, Code A Police and Criminal Evidence Act 1984

29. PACE provides the police with the power to stop and search any person or vehicle when the officer has reasonable grounds for suspecting that stolen or prohibited articles will be found. The PACE powers allow police officers to conduct a full search of the person, as well as anything they may be carrying or any vehicle they are in.

30. As Assistant Commissioner Tim Godwin told the Scrutiny Panel, it's a general power for police officers:

"..who have got reasonable grounds to suspect a person is in possession of weapons, stolen property, drugs... The new Anti-Social Behaviour Act gives additional powers in relation to criminal damage. The power is only exercisable when they have grounds to suspect that the person is in possession. The reasonable grounds have to be at the same level as that of making an arrest. So if you didn't stop and search then you would be able to arrest in those circumstances.

It is an individual interaction – it's an individual police officer judgement as to whether they have those grounds. They are individually accountable for it. A record must be made of it at the time, which includes who they are, where they are stationed, the grounds for the search and the object of the search. The person searched is entitled to a copy.."

31. This piece of legislation, in repealing earlier statutory provisions pertaining to stop and search, was intended to clarify the circumstances in which people could be stopped and searched as well as to incorporate safeguards for the individuals concerned.

32. Today, police are given various powers to search a person or their vehicle in a public place.

33. There are eighteen acts that give police powers to stop and search. These include Public Stores Act 1875, s6, Drugs Act 1971, Aviation Security Act 1982, s27 (l) Police and Criminal Evidence Act 1984, s1, Sporting Events Act 1985, Prevention of Terrorism Act (Temporary Provisions) 1989, Criminal Justice and Public Order Act 1994 and s44 Terrorism Act 2000.

34. The most commonly used powers are under S 1 Police and Criminal Evidence Act 1984, Misuse of Drugs Act 1971 and Firearms Act 1968. For these powers the constable must have reasonable grounds to suspect that the person is in possession of the object of the search.

35. According to the PACE Code of Practice A, the primary purpose of the power is "to enable officers to allay or confirm suspicions about individuals without exercising their power of arrest". In relation to s.1 of the Police and Criminal Evidence Act 1984, s.23, police officers must have reasonable grounds to suspect that a person is in possession of stolen or prohibited articles. While "reasonable grounds" will depend on circumstances, there must be an objective basis for suspicion based on accurate and relevant "facts, information, and /or intelligence" The Act adds that:

“Reasonable suspicion can never be supported on the basis of personal factors alone without reliable or supporting intelligence or information or some specific behaviour by the person concerned. For example, a person’s race, age, appearance or the fact that the person is known to have a previous conviction, cannot be used alone or in combination with each other as the reason for searching that person. Reasonable suspicion cannot be based on generalisations or stereotypical images of certain groups or categories of people as more likely to be involved in criminal activity”.

36. The power to stop and search is therefore an investigative power used for the purposes of crime detection or prevention in relation to a specific individual at a specific time.

2.3 Section 60 Criminal Justice Public Order Act 1994.

37. In contrast to s1, Code A PACE, a senior police officer must authorise the use of the power under Sec 60 Criminal Justice Public Order Act (CJPO) 1994. This authorisation must be based upon “a reasonable belief that incidents involving serious violence may take place or that people are carrying dangerous instruments or offensive weapons within any locality”. However once authorisation has been given a constable does not need any reasonable grounds before searching any person.

38. As Assistant Commissioner Tim Godwin described it:

“Section 60 is where there is intelligence that causes a senior officer to fear that there is going to be a major disorder in an area. It allows them to identify a geographic area where searches can be made of individuals and based on descriptions of people they perceive are going to turn up for the trouble. That still means officers have to justify the grounds, and keep the record etc”.

2.4 Section 44 Terrorism Act 2000

39. Under the Terrorism Act a police constable may stop and search a person whom the officer reasonably suspects to be terrorist to discover whether the person is in possession of anything which may constitute evidence that the person is a terrorist. As the code A guidelines state:

“The powers must not be used to stop and search for reasons unconnected with terrorism. Officers must take particular care not to discriminate against members of ethnic minorities in the exercise of these powers” (section 2.22, Code A).

40. As the Assistant Commissioner told the Panel:

“Section 44 has to be authorised by the Assistant Commissioner to be used in certain areas of London where there is perceived to be a terrorist threat. It gives powers to officers employed in that activity to stop and search them if they perceive that they may be a threat in terms of terrorism. That power is far more wide ranging and requires less in terms of grounds and suspicion”.

41. The Met is then, using powers other than Section 1, Code A of the Police and Criminal Evidence Act 1984 to carry out stops and searches. Section 60 of the

Criminal Justice and Public Order Act 1994 and more recently, Section 44 of the Terrorism Act 2000 are being used more frequently. The stops conducted under these powers are recorded as separate figures and do not show up in the summary sections of Home Office reports. In the year 2002/03, 83,920 people were stopped and searched under these powers, a tenfold increase over the last three years. Of these stops, 3,646 resulted in an arrest, giving an arrest rate of only 4 percent.

42. In summary, the statutory authority for discretionary stop and search resides in the Police and Criminal Evidence Act (PACE, 1984), which allows for stop and search where there is a "reasonable suspicion". There must be an "objective basis". The Criminal Justice and Public Order Act (1994) is where police "believe serious violence will take place".

2.5 Recommendation 61

43. In addition to the statutory powers, it is also important to note the implementation of Recommendation 61 of the Stephen Lawrence Inquiry Report which said:

"That the Home Secretary, in consultation with Police Services, should ensure that a record is made by police officers of all "stops" and "Stops and Searches" made under any legislative provision (not just the Police and Criminal Evidence Act). Non-statutory or so-called "voluntary " stops must also be recorded. The record to include the reason for the stop, the outcome, and the self-defined ethnic identity of the person stopped. A copy of the record shall be given to the person stopped."

44. This recommendation has been piloted in Hackney and Tower Hamlets. The underlying objectives of this recommendation are:

- To provide those stopped by the police with on the spot documented and credible reasons for being stopped.
- To support a fair manner of street intervention by the police.
- To provide data from which monitoring can be carried out by the police, police authorities and partners for accountability purposes.
- To provide management information to supervisors and others to enable them to scrutinise officer activity and take action where problems have been identified.
- To develop a true statistical picture of police encounters and to inform understanding about the nature and extent of stops, appreciating that stops can be carried out in a variety of situations.
- To raise officers' awareness of the impact of their actions through documenting the reasons and outcomes of their action.
- To guard against any harassment by officers.
- To ethnically monitor this area of police activity with comparisons against other statistical data including Census (using 15+1 classifications).

SUMMARY OF THE MAIN STOP AND SEARCH POWERS

The general power for police officers to stop and search people and vehicles comes from PACE. Both the powers to stop and search under PACE and those authorised by most other statutes must be carried out in accordance with the Codes of Practice, Code A

| Power | Object of search | Extent of search | Where exercisable |
|--------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| Police and Criminal Evidence Act 1984, Section 1 | Stolen goods articles for the use in certain Theft Act offences; offensive weapons, including blades or sharply-pointed articles (except folding pocket knives with a bladed cutting edge not exceeding 3 inches) | Persons and vehicles | Where there is public access |
| Firearms Act 1968, Section 47 | Firearms | Persons and Vehicles | A public place or anywhere in the case of reasonable suspicion of offences of carrying firearms with criminal intent or trespassing with firearms |
| Misuse of Drugs Act 1971, Section 23 | Controlled drugs | Persons and Vehicles | Anywhere |
| Aviation Security Act 1982, Section 27 (1) | Stolen or unlawfully obtained goods | Airport employees and vehicles carrying airport employees or any vehicle in a cargo area whether or not carrying an employee | Any designated airport |
| Sporting Events (Control of Alcohol etc) Act 1985, Section 7 | Intoxicating liquor | Persons, coaches and trains | Designated sports grounds or coaches and trains travelling to or from a designated sporting event |
| Crossbows Act 1987, Section 4 | Crossbows or parts of crossbows (except crossbows with a draw weight of less than 1.4kgs) | Persons and Vehicles | Anywhere except dwellings |

Powers that do not require reasonable grounds

| | | | |
|-------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|----------------------------------|-------------------------------------------------|
| Section 44 (I) of The Terrorism Act 2000 | Articles that can be used for a purpose connected with the commission, preparation or instigation of acts of terrorism | Vehicles, drivers and passengers | Anywhere within the area or locality authorised |
| Section 44 (II) of The Terrorism Act 2000 | Articles that can be used for a purpose connected with the mission, preparation or instigation of acts of terrorism | Pedestrians | Anywhere within the area or locality authorised |
| Section 60 Criminal Justice and Public Order Act 1994, as amended by Section 8 of the Knives Act 1997 | Offensive weapons or dangerous instruments to prevent incidents of serious violence or to deal with the carrying of such items | Persons and Vehicles | Anywhere within a locality authorised |

III. THE STATISTICAL EVIDENCE OF DISPROPORTIONALITY

3.1 Stop and Search Statistics

45. Black and minority ethnic people in London are more at risk than White people in experiencing police stops and search. According to the MPS data, the stop and search rates of Black people in London increased by 30% between the years 2000/01 and 2001/02; for Asian people by 41%, while for White people it only increased by 8%. In other words, the proportion of people from Black and minority ethnic groups stopped has been increasing dramatically.

46. The number of stops and searches conducted in 2001/02 rose by 18% in the MPS, although during the same period this number fell by 1% in the rest of England and Wales. In the MPS this rise is mainly accounted for by the rise of stop and searches on people from ethnic minorities: Black stop and search rose by 30% (6% in England and Wales excluding the MPS), Asian stop and search by 28% (16% in England and Wales excluding the MPS), and White stop and search by 8% (2% drop in England and Wales excluding the MPS).

47. In comparing these national figures, the Black Police Association in its evidence to the Scrutiny Panel commented:

“The Met account for over 25% of stops throughout the entire country. Other force areas used Stop and Search as a very finite tool and their hit rate is better, if you look at the Section 95 data you will see certain force areas have an excellent hit rate compared to the Met. So what is the Met's excuse? It is how it is used as an operational tool”

48. The Scrutiny Panel notes that the Met recorded 22% of the national total of 818,203 stops and searches in 1999/2000, 24% of the national total of 686,114 in 2001/02, and 28% of the national total of 713,683 in 2002/03

49. The following charts and tables on the most recent data are provided by the MPS.

50. In its report to the Scrutiny Panel (MPS Status Report, 9th June 2003), the MPS provide borough-by-borough breakdown by race of stop and search rates for the years 1997 up to and including 2002. During this period, searches of Black people rose from 75,583 in 1996/7 to 89,916 in 2002/3. At the same time there was a significant reduction in those of White people, from 187,105 to 130,635. Table 1 shows the steady change in the number of stops of the different groups.

51. Looking at multiple stops, according to the British Crime Survey, in 1999, 77% of White people were stopped only once, compared to 53% of Black people, 14% of whom reported being stopped five times or more compared with 4% of White people.

52. As the Home Office report, “The Impact of Stops and Searches on Crime and Community” conclude, Black people “are substantially more likely to be stopped, more likely to experience multiple stops, and more likely to be searched – both in absolute terms and in relation to any particular stop” (Police Research Series Paper 127). These conclusions are truer in London than the rest of England and Wales.

Table 1

PACE Searches 1996-2003

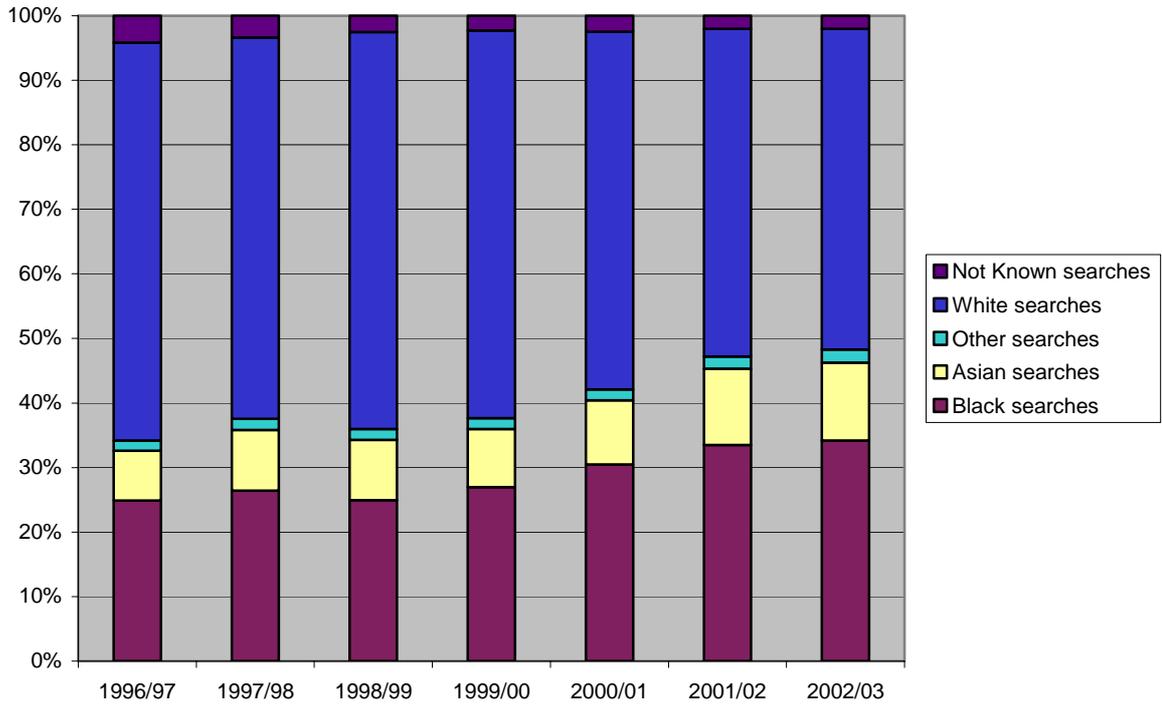
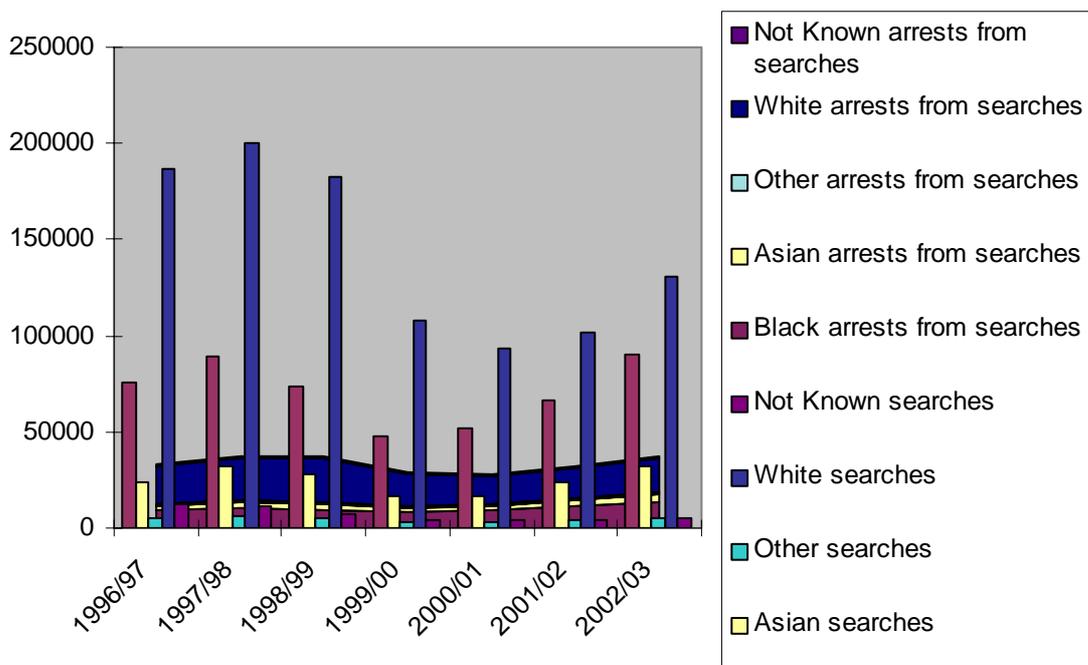
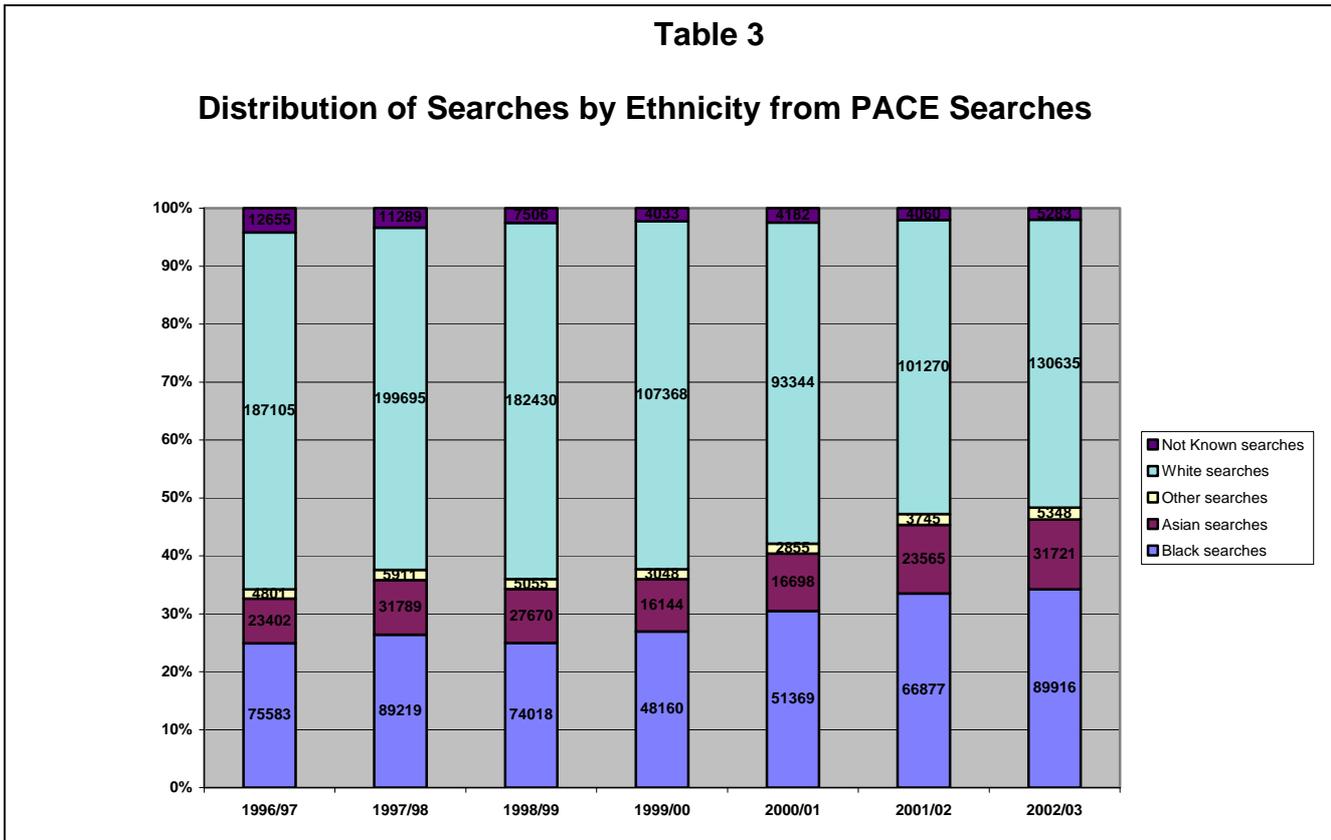


Table 2

Arrests from PACE Searches 1996-2003



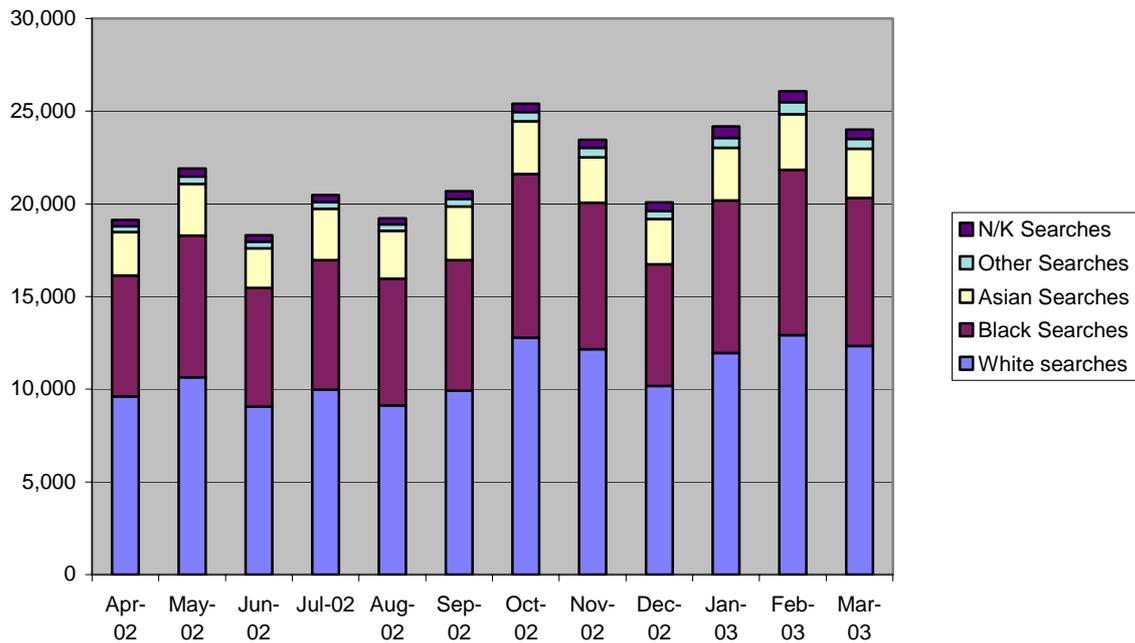
53. Table 2 highlights the relatively stable arrest rates resulting from stop and search, while at the same time showing fluctuating rates of the number of searches undertaken.



54. Table 3 again highlights the steady growth in rates of disproportionality.

Table 4

PACE Searches



55. Over a twelve-month period, Table 4 shows the monthly number of searches across the Met varying considerably.

Table 5

Total Searches Undertaken under Section 60, Criminal Justice and Public Disorder Act

| | 1990-2000 | 2000-01 | 2001-02 | 2002-03 |
|-----------------|-----------|---------|---------|---------|
| White | 1,347 | 809 | 3,531 | 1,935 |
| Black | 803 | 912 | 2,702 | 1,575 |
| Asian | 432 | 1,067 | 1,896 | 690 |
| Chinese & other | 43 | 24 | 199 | 86 |
| Unknown | 75 | 91 | 191 | 19 |

56. Table 5 highlights the substantial variations and increase in the use of Section 60. 2002 – 02 numbers are likely to change as information is entered into the MPS data system.

Table 6

Total Searches Undertaken under Section 44, Terrorism Act

Section 44 (1)

| Financial year | White | Black | Asian | Other | Not recorded | Vehicle only searched | Total |
|----------------|-------|-------|-------|-------|--------------|-----------------------|-------|
| FY 03/04 | 6520 | 1272 | 1654 | 646 | 182 | 4155 | 14429 |
| FY 02/03 | 6050 | 831 | 1545 | 490 | 563 | 10198 | 19677 |
| FY 01/02 | 1759 | 229 | 353 | 114 | 46 | 1140 | 3641 |
| FY 00/01 | 335 | 25 | 23 | 11 | 15 | 2292 | 2701 |
| FY 99/00 | 231 | 16 | 9 | 0 | 6 | 72 | 334 |

Section 44 (2)

| Financial year | White | Black | Asian | Other | Not recorded | Total |
|----------------|-------|-------|-------|-------|--------------|-------|
| FY 03/04 | 3772 | 408 | 728 | 303 | 20 | 5231 |
| FY 02/03 | 2309 | 344 | 696 | 280 | 135 | 3764 |
| FY 01/02 | 287 | 33 | 107 | 38 | 10 | 475 |
| FY 00/01 | 95 | 11 | 7 | 7 | 9 | 129 |
| FY 99/00 | 0 | 0 | 0 | 0 | 0 | 0 |

57. These are the latest stop and search figures provided by the MPS. Numbers for 2003/03 are likely to change as boroughs continue to enter stops and searches onto the database system.

58. Figures given in the Home Office submissions by the MPS may have changed since their production date due to the live nature of the stops database. Any reductions in numbers are due to a 'duplicate removal' exercise conducted by Sema.

59. It is also of value to refer to some borough specific statistics provided by the Lambeth Community Police Consultation Groups sub-committee on stop and search.

60. There are currently approximately 1,200 stops and searches each month in Lambeth excluding stops under the Terrorism Act. Table 7 shows the typical breakdown of reasons. Drugs stops predominate, followed by property, offensive weapons and going equipped.

Table 7: Reasons for Stop and Searches

| Reason for S&S | Percentage |
|------------------------------------|-------------------|
| Drugs | 66.88% |
| Stolen Property | 17.42% |
| Offensive Weapons | 6.99% |
| Going Equipped | 6.30% |
| Firearms | 1.90% |
| Offensive Weapons (Schools) | 0.32% |
| Other Power | 0.16% |
| Sec 163 RTA | 0.02% |

Source: Lambeth BCU, November 2002 and April through June 2003; 4,936 Stops in total.

61. The data allows one to assess the effectiveness of these stops in two respects; the arrests made and the accuracy of the stop and relation to the subsequent arrest. Table 8 shows the arrest rates yielded by the same set of stops.

Table 8: Arrest Rates by Reason for Stop

| Reason for S&S | Percentage |
|------------------------------------|-------------------|
| Drugs | 7% |
| Stolen Property | 16% |
| Offensive Weapons | 16% |
| Going Equipped | 10% |
| Firearms | 9% |
| Offensive Weapons (Schools) | 0% |
| Other Power | 25% |

Source: Lambeth BCU, November 2002 and April through June 2003; 4,936 Stops in total.

62. These tables raise a number of important questions. Firstly, how effective should we judge a “Hit rate” of 10% overall, and 7% for the majority category of stops? As is demonstrated by these figures there is a lower rate of ‘success’ than one would expect for a power that has been in place for many years. The figures for the effectiveness in detected drugs, for example, can be seen to be very low which can only contribute to the perception that police action here is random and ill planned.

With the Government reclassification of cannabis and the new guidance, which the MPS has given to officers, the Panel would expect to see a significant reduction in the number of drugs related stops and searches over the coming months. As this is overwhelmingly the highest reason for stops and searches in almost all boroughs across London, the expected reduction will be a litmus test of the extent to which officers are implementing the new policy and are instead concentrating on stopping and searching individuals for other types of street crime. Sources at the MPS Diversity Directorate are of the view that the disproportionality in stops and searches could be reduced by about 60 percent immediately were the MPS to give clear guidance to officers to treat their suspicion for drugs differently whilst policing the streets

The data from Lambeth BCU, Hackney and Tower Hamlets for example can only continue to reinforce the longstanding public concern that certain communities are being over policed, ineffectively so and under-protected.

63. The Scrutiny Panel has been struck by the variations between boroughs of the number of stops and searches as the following tables show:

Stops and Searches

| Borough | % Change in numbers between 2000/01 and 2001/02 | | | % Change in numbers between Apr-Sep 2001 and Apr-Sep 2002 | | |
|-------------------------|-------------------------------------------------|--------------|--------------|-----------------------------------------------------------|--------------|--------------|
| | White people | Black people | Asian people | White people | Black people | Asian people |
| Barking & Dagenham | +8% | +15% | +2% | +201% | +183% | +126% |
| Barnet | +17% | +55% | +28% | +4% | -27% | -38% |
| Bexley | -16% | +20% | -36% | -25% | -48% | +45% |
| Brent | +3% | +13% | +20% | -11% | -23% | -10% |
| Bromley | +6% | +47% | +22% | -36% | +6% | -58% |
| Camden | +34% | +53% | +28% | +54% | +66% | +23% |
| Croydon | +23% | +36% | +4% | +41% | +111% | +68% |
| Ealing | +3% | +41% | +14% | +19% | +61% | +77% |
| Enfield | +10% | +29% | +21% | +17% | -4% | +2% |
| Greenwich | -24% | +8% | -7% | +11% | +45% | +4% |
| Hackney | +6% | +33% | +25% | +60% | +70% | +98% |
| Hammersmith & Fulham | +18% | +22% | +61% | -4% | -10% | +15% |
| Haringey | +20% | +13% | -16% | +97% | +53% | +97% |
| Harrow | -25% | -32% | -25% | -23% | -23% | -13% |
| Havering | +17% | +105% | +275% | -5% | +46% | -40% |
| <i>Heathrow Airport</i> | +56% | +13% | +58% | +109% | +41% | +64% |
| Hillingdon | -13% | +19% | -12% | +38% | +72% | +77% |
| Hounslow | +15% | +29% | +17% | +7% | +24% | -4% |
| Islington | +8% | +2% | +47% | +41% | +53% | +13% |
| Kensington & Chelsea | +29% | +31% | +23% | +60% | +20% | +102% |
| Kingston upon Thames | -17% | -15% | -27% | -33% | -23% | +23% |
| Lambeth | -10% | +26% | -11% | +116% | +89% | +111% |
| Lewisham | -5% | +7% | +29% | +57% | +123% | +115% |
| Merton | +16% | +93% | +58% | -19% | -16% | -17% |
| Newham | +64% | +78% | +87% | +39% | +39% | +40% |
| Redbridge | -11% | -4% | +4% | +35% | -13% | +36% |
| Richmond upon Thames | +53% | +99% | +72% | -10% | +4% | -6% |
| Southwark | -13% | +24% | +16% | -3% | +18% | +22% |

| | | | | | | |
|----------------|------------|-------------|-------------|-------------|-------------|-------------|
| Sutton | -36% | -35% | -40% | -28% | +18% | +77% |
| Tower Hamlets | +94% | +114% | +122% | +64% | +28% | +66% |
| Waltham Forest | -6% | +0% | -1% | +4% | +41% | -0% |
| Wandsworth | +15% | +44% | +9% | +76% | +78% | +81% |
| Westminster | +14% | +42% | +91% | +60% | +46% | +96% |
| MPS | +8% | +30% | +41% | +32% | +43% | +45% |

Note: Data will be subject to later revision

3.2 Community Evidence

64. In addition to the above data on stop and search rates, the Scrutiny Panel reviewed quantitative evidence of community perceptions of differential police practice.

65. A Home Office survey “Race Equality in Public Services “ (February, 2001) reported that almost 35% of Black people felt that they would be treated worse than other groups by the police, compared with 22% of Asian people and 4% of White people.

66. A 2002 BBC News Online survey on race looked at the experience of different groups with the police. Approximately a third of Black and Asian respondents each said they had been “made to feel like a criminal” because of their colour.

67. Asked if and how many times they had been stopped and searched, White respondents reported fewer and more infrequent instances than Black and Asian Respondents.

68. Asked whether the police discriminate on race 55% of Black respondents and 47% of Asians said they do. Of those who said yes to that question, exactly half said they had directly experienced racism at the hands of the police. Less than half of White respondents said the police do not discriminate. This is supported by the most recent report by the Home Office, Police Powers and Leadership Unit, which indicates that White people stopped report that police treat Black people in a more discriminatory manner when stopped.

69. Interestingly, from the same survey, almost 40% of Black respondents and a third of Asian respondents said the fallout from the Lawrence Inquiry had failed to alter attitudes within the police.

70. More recently a Guardian/ICM poll (March 16th, 2004) reported that over two-thirds of Muslims feel that the anti-terrorist laws are being used unfairly against the Muslim community.

71. The submission to the Scrutiny Panel from the Mayor of London highlighted this concern:

“Since the incident on the World Trade Centre on September the 11th 2002 in New York, Muslim communities across the world have been subjected to higher levels of scrutiny and suspicion. The Mayor has had concerns expressed to him about the use of stop and search on the Muslim population

from a wide range of groups and organisations working with the Muslim community in London. Although there is currently no facility to check on an individual religion when they are stopped and searched, police officers appear to be using section 44 of the Prevention of Terrorism Act 2000 on the Muslim Community. Anecdotal evidence and statements given by members of the Muslim community express concerns over the amount and use of stop and search in London and when they have questioned the reason for the stop and search they have been told “ in response to a specific terrorist threat.”

72. These findings stress the need to recognise that the perception of racially discriminatory policing is widely held in London, and that at the very least the police suffer from a serious public relations problem.

73. These findings reinforce and provide more urgency to address the fragile confidence in the police amongst many members of London’s diverse communities. Widespread perceptions and experiences of unfair, disproportionate treatment based on race can further trigger a spiral of distrust. Most importantly, it erodes a fundamental cornerstone of effective community policing and undermines the ability of the police to undertake its work effectively in these communities.

3.3 Complaints

74. A third area of data that the Scrutiny Panel reviewed were findings from the complaints process. According to the MPS 2001/02 performance report, 27th June 2002, there were 93 complaints in 2001/02 from White people stopped and searched and 221 from Black and minority ethnic people. While the figures are an inexact measure and the ratios have been changing, the vast majority of complaints relating to stop and search continue to be made by non-white persons. For 2002/03, 0.12% of White people stops and searches and 0.17% of non-white stop and searches have led to complaints.

75. The recently published Police Complaints Authority (PCA) National Study (March 2004) on Stop and Search Complaints found that complaints about stop and search from Black complainants were more likely to arise from incidents involving the MPS. Complaints against the MPS were more likely to involve stops on groups of young people in public places, leading to allegations of oppressive conduct and racial discrimination.

76. This study also found that over half of all complaints against MPS officers related to allegations of incivility. This proportion was twice that found in all other forces.

77. In the total complaints made to the PCA between April 2000 and March 2001 (8,880) 40% were stop and search complaints.

78. The majority of complainants were dissatisfied with the way in which officers conducted the stop and/or search and around a third alleged that the officers were uncivil or behaved in an oppressive manner. Almost half of all complainants alleged that the officers assaulted them during the stop and search incident.

79. This finding highlights issues of poor management of encounters by police officers and inadequate explanations as to why individuals have been stopped and searched. This finding highlights for the Scrutiny Panel that concerns about police

discretion around stop and search needs to be broken into two stages: an officer's decision to stop and search a person and secondly, the actions of the officer during the stop.

80. The PCA study notes the low state of substantiation of PCA cases, particularly in London and the consequent grounds for dissatisfaction with the adequacy of the complaints system. This is particularly true of stop and search incidents that are difficult to supervise or substantiate because they happen away from the police station and often in the absence of independent witnesses. This is particularly true for Black complainants whose complaints are more likely to result from concerns about the justification of the stop or about racially discriminatory behaviour, allegations that do not readily lend themselves to substantiation.

81. The study also highlighted limitations in information management. Of 58 cases studied involving stops only, the officers involved in 52 of the cases made no record of the incident. This issue highlights the need for all stops and searches to be adequately recorded and that they are conducted in precise accordance with PACE.

IV. CAUSE AND CONSEQUENCES OF DISPROPORTIONALITY

82. This section attempts to identify some of the underlying factors that might support and reinforce disproportionality.

83. The Scrutiny Panel has found it necessary to explore the explanatory factors for the persistent and growing level of disproportionality in stop and search rates as an appropriate basis in formulating relevant remedies. It is vital to know why it is happening and what are the consequent costs in order to determine how it can be mitigated.

4.1 The Impact of Race

84. The first particular aspect of stop and search that the Scrutiny Panel was asked to examine in its terms of reference was to determine whether, and in what ways, race might impact upon the MPS practice resulting in the disproportionality of Black and minority ethnic people in stop and search rates.

85. In discussing this sensitive issue, the Scrutiny Panel understands the term 'racism' to include any action undertaken by the police that relies on stereotypes about race, colour, ethnicity, religion or place of origin.

86. For the most part, racism is still understood by many people in its overt and 'redneck' expressions of racial hatred. Police officers themselves often feel accused of this kind of overt racism, individually and collectively, whenever the topic of disproportionality in stops and search rates is raised. The Scrutiny Panel believes this is an oversimplified and inaccurate way to view this complex social problem.

87. While the Scrutiny Panel cannot deny that there surely are some racist police officers (as demonstrated in the recent BBC documentary, "The Secret Policeman"), such overt racism has largely been submerged within policing and is widely condemned whenever it does come to light.

88. The persistent and widespread evidence of disproportionality clearly indicates that the problem is not just the bigotry of a few wayward individuals. Disproportionality is not solely the product of a few 'bad apples'.

89. And it is appropriate in this context to remember Macpherson's definition of institutional racism as

"The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racial stereotyping which disadvantage minority ethnic people".

90. We are not talking here about overt racism, or about organised intentional prejudice or bias against Black and ethnic minority people, but rather about police priorities, actions and arrangements that have differential outcomes based on race.

91. As Sir Ian Blair acknowledged to the Scrutiny Panel:

“Clearly there will be racists in the police. That is something that we have had to tackle like every other institution in the world”.

“I don’t think that our policies are institutionally racist in a positive sense. I think they may be institutionally racist in a negative sense, which is that we are not yet doing enough to change things in a way that engages with the community and polices them according to their expectations”.

92. Nonetheless, racial prejudices, anti-immigrant feelings and xenophobic values have a deep and powerful history in Britain on which to draw. The Scrutiny Panel is also conscious of the extensive research on policing conducted in the 1970s, 1980s and 1990s that indicated that racism and racial prejudice in police culture was more widespread and more extreme than in the wider society (Smith and Gray 1985, Holdaway 1997, Reiner 2000, Bowling and Phillips 2002). While recent improvements and the massive efforts undertaken by the MPS in response to the Macpherson Inquiry have been noted by witnesses to the Scrutiny Panel from both the police and community, there is a continuing concern about the persistent existence of racial bias within the Met, as exemplified by recent well publicised incidents of racial harassment and conflict within the MPS.

93. As one police witness to the Scrutiny Panel noted:

“They can pick on these individuals and use the uniform to do it”.

94. The Scrutiny Panel is also concerned that the daily experience of police officers may provide reinforcement of racial and ethnic stereotyping. While the Met is continuing its efforts to ensure that those recruited into the MPS do not display overt racial biases or prejudices, the Scrutiny Panel is persuaded that attitude changes may and do occur after joining the police.

95. Police officers, by the nature of their work and their working environment, can possibly develop a biased viewpoint by consistently and repeatedly being exposed to a particular minority segment of the population. Such exposure may lead to increased attention and consequently, members of that particular minority group can be much more likely to be stopped and searched than other groups who engage in the same criminal activity. This cycle reinforces bias.

96. As the Metropolitan Police Black Police Association have stated:

“A source of institutional racism is our culture, our culture within the police service. Much has been said about our culture, the canteen culture, and the occupational culture. How and why does that impact on individuals, black individuals on the street? Well, we would say the occupational culture within the police service, given the fact that the majority of police officers are white, tends to be the white experience, the white beliefs, and the white values.

Given the fact that these predominantly white officers only meet members of the black community in confrontational situations, they tend to stereotype black people in general. This can lead to all sorts of negative views and assumptions about black people, so we should not underestimate the

occupational culture within the police service as being a primary source of institutional racism in the way that we differently treat black people.”

97. There is significant research evidence to suggest that many police officers who are constantly in contact with the public develop strong feelings and beliefs as to attributes of individuals, based on factors such as appearance and racial background. These officers would no doubt be offended if their attitudes were described as potentially racist. Nevertheless, the same attitudes can and do produce a bias in behaviour which results in unequal, disparate treatment of individuals of different racial, ethnic or religious backgrounds.

98. As Commander Brian Paddick pointed out to the Panel:

“A very tiny minority of Black youth are involved in crime but those tiny minority often commit a whole series of crimes day after day. This can be misinterpreted as a lot of Black youths are involved in crime. It isn’t. But it can lead, in some officer’s minds, to this false conclusion of associating Blackness with criminality. There is a lot of that sort of misjudgement going on.

I think the number of officers who are blatantly racist is absolutely minuscule. I think there is a larger proportion of officers who make that mistaken leap in logic from disproportionate number of offences where the victim describes the suspect as Black, to that must mean that the majority of young Black people are involved in crime.”

99. Another police witness told the Scrutiny Panel:

“... there will be a few people who are prejudiced in a service the size of the Met...”

“People are targeted, not races, but it’s natural to target groups who are most prone to crime”.

100. Discussing a concern that biased behaviour exists among police officers is not the same as saying that every member of the MPS does so, or that it is an intentional activity of those that do engage in it. While it certainly can be intentional, it can also be inadvertent. And saying that biased policing occurs should not necessarily be interpreted as an accusation that those who engage in it are racist.

101. In fact, many community witnesses to the Scrutiny Panel discussed the difficult job police do and emphasised that biased behaviour may occur precisely because of the challenges of the job. But because of the considerable discretionary power they have over others in society, police have more of an opportunity to engage in biased behaviour in their stop and search practice.

102. Bowling and Phillips (2003) note evidence of the use of ‘racial profiling’. Minority ethnic officers interviewed by Cashmore (2001) reported being advised to stop “Black kids with baseball caps, wearing all the jewellery” in order to boost their recordable activities and enhance their performance. Other officers were said, to “subscribe to the philosophy that, if you see four black youths in a car, it’s worth giving them a pull, as at least one of them is going to be guilty of something or other.”

103. As a young person told the Panel:

“The police seem to stereotype people, particularly on the basis of their dress code but also on race”

“Police seemed to go after the Black boys and the hoodies”

104. Simon Woolley of the Black Londoners Forum told the Panel:

“ ‘Back-door’ racial profiling is being pursued through the dress code. The Black community is being demonised through the soft target of young Black men in baggy clothes”.

105. This type of thinking is consistent with patterns of selective enforcement by police officers, based on stereotyping and their heightened suspicion of ethnic minorities. In 1981, Lord Scarman noted that “some officers...lapse into an unthinking assumption that all young Black people are potential criminals”, and the more recent research evidence also indicates such stereotyping among police officers (see for example Fitzgerald and Sibbitt 1997; Quinton et al. 2000). As one Home Office study put it, “the police contribute to the large ethnic difference in the PACE data by virtue of their heightened suspiciousness of Black people. This is pervasive and deeply entrenched; and it may significantly increase the chances of Black people coming to the attention of the police relative to other groups” (Fitzgerald and Sibbitt 1997: 66). Asian communities are likewise finding themselves in similarly, if slightly less in number, problematic stop and search situations.

106. Home Office Research undertaken by MVA and Miller (2000: 87) note that in some of their research areas, “stops and searches were targeted at some areas where there [were] disproportionate numbers of those from minority ethnic backgrounds, yet where the local crime rates did not appear to justify this attention”.

107. And there is a circular logic of subjective bias that influences police behaviour. More stops lead to more arrests, which therefore justifies more stops, which leads to more arrests and so on. More stop and more arrests justify over policing and the identification of “hotspots” as those areas with a higher concentration of racial minority people.

108. The question as to whether stop and search has become an instrument of modern, deniable discrimination or racism is an important but impossible one for the Scrutiny Panel to answer. It is deniable because stop and search is a tactic to address crime. Issues of race and ethnicity are secondary, coincidental factors. So, it is argued, by definition it cannot be racist. Disproportionality is not the consequence of racism, it is argued, but merely the consequence of the implementation of rational policing.

109. The Scrutiny Panel was aware of no research that has disentangled or quantified this thorny question of the extent to which disproportionality in stop and search rates is as a consequence of stereotype based discriminatory treatment as opposed to behaviour-based disparate treatment.

110. But the Black Police Association, in their evidence to the Scrutiny Panel were clear as to how this question should be answered:

“We still have a mono culture police service. I find that if you want to survive in the police service you have to adopt the culture, or the white culture if you want me to be specific. Now the disproportionality factor that we are talking about here is about racism full stop. From the last time I checked the statute books, there is no offence Driving whilst Black or walking whilst Black. That has to stop. You cannot look at people and assume that because they are Black they are up to no good. No amount of training in my books is going to get rid of that. What we have to do is to let people know under no uncertain terms that this will not be accepted.”

111. Objective evidence aside, the majority of Londoners, consulted during the HMIC Review, “Winning Consent” (2002) expressed concerns regarding the significant disproportionality which was, “in the majority view, singularly attributable to racist stereotyping among police officers. The latter view was predictably and understandably predominant amongst the visible ethnic minority public”.

112. In other words, and if for no other reason, what is of concern to the Scrutiny Panel is not so much a discussion regarding the completeness of the objective evidence but rather the need to recognise the primary importance of public perceptions. Whether valid or not, public perception is the major determinant of public trust and confidence in the police. That is what is of critical importance and needs to be addressed.

Racial Profiling

113. A number of witnesses to the Scrutiny Panel suggested the Met were undertaking racial profiling. The term itself appears to have its genesis in the United States where, in the late 1960s a relaxation of the legal standard governing police stops and searches, combined with a strong Federal policy targeting drug trafficking led to sharp increases in the number of stops and searches of minorities, especially Blacks, and most recently, Muslims.

114. Racial profiling has been defined as any police initiated action that relies solely on the race, faith, ethnicity or national origin that leads the police to a particular individual.

115. What the use of the term highlights is the need to clearly distinguish legitimate investigative profiling techniques from profiling in the sense of racial discrimination.

116. ‘Legitimate’ profiling can perhaps best be described as a profile developed from the totality of the information in the possession of the police, possibly including skin colour. Such a description could cause a police officer to have reasonable suspicion, that is, a legitimate and articulate reason to cause further investigation of a person for a particular reported offence. Such profiling intelligence is the basis of what has been described as a ‘low discretion’ stop. In other words, before a stop or search is undertaken, the officer is able to determine his or her reasons for making the stop and is able to articulate those reasons.

Street and Night “Available” Populations?

117. It has been argued that the issue of disproportionality in the statistics on stop and search rates would greatly diminish or disappear if police activity were to be compared with accurate counts of the actual racial and ethnic populations of the street environments being studied. In other words, it has been argued, particularly by witnesses to the Scrutiny Panel representing the police, that residential census numbers are an inappropriate benchmark for comparison.

118. Instead it was argued that the rates should be compared with the population among different age groups that are “available” to be stopped. Such a measure recognises that some demographic groups – distinguished on the basis of gender, age, ethnic origin, etc – are more likely than others to spend their time at home, at work or are otherwise in private space where they are ‘unavailable’ to be stopped by the police. Conversely, others are more likely to be ‘available’ by virtue of their demographic characteristics and lifestyle.

119. For example, even if police stops and searches were completely free of racial bias, some minorities, it is argued would continue to be over represented in suspect profiles because Black, Pakistani and Bangladeshi groups have higher than average proportions of young people, higher than average unemployment and poverty rates and are more available in the pedestrian population in crime “hotspots”.

120. However, in her presentation to the Scrutiny Panel, Marian Fitzgerald warned against attempts to measure ‘street populations’ for the following reasons:

- It is unrealistic to expect forces to provide the resources to capture the street population in the different sub-areas where searches are currently most likely to occur; and it is even more unrealistic to expect them to repeat the exercise regularly in order to keep track of changes as necessary.
- The fact that certain groups tend to be on the street more than others in the places and at certain times when searches are likely to occur does not de facto mean that it is legitimate to search them. (That is, there is danger that the street population could simply be used to legitimate the use of the power as a form of social control.)
- If the power is used properly to target that subsection of the street population, which comprises legitimate objects of suspicion, these may not be evenly distributed. That is, it might be reasonable to expect some groups’ disproportionality to be represented as suspects even within the street population. Yet the figures themselves – in addition to being inordinately costly to produce – would provide no evidence of whether these groups were being legitimately targeted or whether they were being singled out on the basis of prejudice.

121. In addition, as Professor Benjamin Bowling, in his work for the West Midland’s Police (2003) have pointed out there are a number of other problems with the concept of “availability”:

“ ‘Availability’ – however defined – is not a neutral criterion against which to compare stop/search rates. The extent to which a social group is ‘available’ to

be stop/searched depends on such structural factors as unemployment, exclusion from school, homelessness, employment in occupations that involve evening and night work, all of which are known to be associated with ethnic origin. While these structural factors are beyond the control of the police, it remains the case that the apparently neutral criterion of 'availability' is, in practice, biased against some ethnic groups.

In recent Home Office studies, a person is considered 'available' not in relation to the time spent in public space in general (which, as argued above, would not be without problems), but in relation to time spent in the times and places where stop and search powers are most exclusively used. Specifically, the research was targeted at 'stop zones', or those areas where 70-80% of police stop and searches occur. Therefore, established police practice sets the parameters of 'availability' and is therefore self-referential and self-reinforcing. As MVA and Miller put it, "because people can only be available if they are in places where and when police carry out stops and searches, police decisions about where and when to target stops and searches will also structure available population characteristics"

122. Many of the places in which stop and search powers are concentrated are those with large ethnic minority populations (or where they socialise); those same populations are more likely to be defined as 'available'. In other words, those people who don't live in, or travel through a 'stop zone' – many of which are within areas with large ethnic minority populations – are judged to be 'unavailable' for stopping. This problem thus fundamentally undermines the neutrality of the concept of 'available populations' as a criterion against which to compare the extent of police powers.

123. Bowling's analysis is reinforced by work undertaken by the University of Lancaster, on behalf of the Commission for Racial Equality that questions the robustness of the methodology used to measure 'available population'. This research argues that the concept cannot be isolated as an independent variable and that any findings or policy based on such research would not have a firm foundation.

124. The Macpherson report was also critical of the attempted rationalisation of the data in arguing social, economic, demographic and other factors to mitigate the figures on the face of the record:

"Nobody in the minority ethnic community believes that the complex arguments which are sometimes used to explain the figures for stop and search are valid... attempts to justify the disparities through the identification of other factors, whilst not being seen vigorously to address the discrimination which is evident, simply aggravates the climate of distrust."

125. The public, particularly the Black ethnic minority public, was "in no mood to suffer tortuous explanations".

126. As the Black Police Association told the Scrutiny Panel, the notion of 'street population' is a smokescreen. In this regard, the Scrutiny Panel was reassured to hear from the Deputy Commissioner, Sir Ian Blair in his evidence to the Scrutiny Panel, that while academics may argue contrary views, disproportionality does exist. It is undeniable.

Policing the 'dangerous Classes'

127. Another explanatory factor put forward for the disproportionality in stop and search rates is the recognition that police exercise their discretion through the application of what has been termed the prevailing notions of respectability.

128. As Sir John Woodcock, then HM Chief Inspector of Constabulary, said back in 1992:

"What is happening to the police is that a 19th Century institution is being dragged into the 21st Century. Despite all the later mythology of Dixon, the police never were the police of the whole people but a mechanism set up to protect the affluent from what the Victorians described as the dangerous classes."

129. While the context is different, the words are apt within this discussion.

130. In extending stop and search powers beyond what the law prescribes, are the police simply upholding 'basic community values' and the prevailing standards of respectable behaviour?

131. A police officer that patrols the boundaries of respectability will find that his or her discretion favours those who have greater access to the resources that confer respectable status (P.A.J. Waddington, 2003). Suspicious behaviour is anomalous and tends to rely on a general background understanding of what is 'normal'.

132. The widespread public perception of immigrants, of Black and Asian people, as members of problematic marginal sections of the population for example, amounts to a denial of their respectability. And more often than not, police maintain the respectable order through the mere assertion of their authority: their conspicuous presence at certain times and places, 'moving on' the disreputable, stopping Black people who do not "belong" in certain neighbourhoods, and stopping and searching those who attract their attention not in the expectation of detecting crime, but intimidating the recipients with such coercive powers.

4.2 Black Criminality?

133. Another counter perspective to those put forward above, is that the system is indeed colour-blind, and that minorities are over-represented in the stop and search ratios because they simply commit more crime.

134. As part of its terms of reference, the Scrutiny Panel was asked to look at the evidence to support or discredit this assertion.

135. The very question was offensive to the Metropolitan Black Police Association:

"We don't talk about White criminality. Crime has no colour."

136. There is a long history of trying to make the connection between race and crime. From the theories of Social Darwinism to current media images, Black people continue to be popularly portrayed as being more disposed – and more likely than others – to offend. On the basis of the social and economic position of Black people

in British society there are also the structural theories of crime – including those based on such concepts as anomie, social disorganisation, absolute and relative deprivation – that would suggest that Black people are disproportionately likely to be found in “criminogenic” contexts. While theories and mythic images abound, the actual evidence of disproportionate Black criminality is weak. Police statistics measure the actions of the police and that is all. Disproportionate stop and search rates are further compounded by disparities in arrest, conviction and imprisonment rates, which are not the same as offending rates.

137. Disproportionate minority arrests for drug possession and distribution have fuelled perceptions by police and others that race is an appropriate factor in the decision to stop or search an individual. However, the existing data on the productivity of searches across racial groups suggest to the Scrutiny Panel that stop and search practice may have become a game of “search and you will find”. Police officers who disproportionately search more Black people will arrest more Black people than White people, not because of differences in behaviour, but because they are stopping and searching many more Black people than White people.

138. The perception that Black people and other minorities are more likely to carry drugs than their White counterparts intensifies the complexities of police discretion in stops and searches. The escalating pressure from the Safer Streets Initiative has led some police officers to target people from the BME communities whom police believe to be disproportionately involved in drug use and trafficking. Although it has been suggested that such race-based searches are justified because more minorities are found with such contraband, the empirical evidence tends to discredit such arguments. The probability of finding contraband as a result of a search did not significantly differ among races. The evidence indicates that Black people are no more likely than White people to be in possession of drugs or other contraband.

139. James Riches of NACRO told the Scrutiny Panel that:

“There is no sustainable evidence that BME groups are more prone to commit crime than White people.”

“inferences about levels of criminality amongst different groups cannot be consolidated by criminal justice statistics”

140. Data from arrest rates, for example, resulting from stop and search shows the arrest rate differs little regardless of whether the stop was of a White or Black person. In other words, the assumption that Blacks commit the majority of street crimes is contradicted by the fact they commit drug offences generally proportional to their percentage of the total population.

141. As Commander Brian Paddick told the Scrutiny Panel:

“If a young Black male were stopped on Brixton High Street, he is far more likely to be a victim rather than a perpetrator of a crime. Black people are not disproportionately involved in crime.”

142. Public myths and stereotypes to the contrary, the Scrutiny Panel was made aware of no evidence to contradict the view that the African/Caribbean crime rate is

much the same as that of the White population and the rate for Asian people is very much lower.

143. As noted earlier, police discretion exerts a powerful impact on who becomes defined as criminal and who does not. The process by which crimes are defined and prioritised is not a neutral one. Possessing cannabis, for example, as Professor Ben Bowling points out in his research is much more likely than corporate manslaughter, environmental pollution, health and safety violations, or fraud to be punished by imprisonment.

144. In looking at official statistics, the characteristics of offenders based on criminal records is limited by the fact that only in a very small minority of offences that occur is an offender identified and in a smaller percentage still does that person end up convicted and sentenced to imprisonment. Home Office figures indicate that 24% of offences reported to the British Crime Survey are recorded by the police; in 26% of these recorded offences an offender is identified; and half of these detected offences result in a conviction. The end result of this attrition is that only about 2% of offences result in the conviction of an offender (Home Office 1999). In other words, the notion that official statistics provide a reliable index of either actual or relative involvement in crime is quite wrong.

145. The official crime data only provides us with a record of decisions taken by the criminal justice agencies. They are the product of criminal justice agencies. In other words, the statistics cannot be seen as a measure of offending as a phenomenon, in any sense separable from the institutional practices of the organisations that produce them.

146. While it is not useful for the purposes of this report to delve further into the complex issues of 'statistical discrimination', of the racialisation of crime data, or of the criminalisation of Black Youth, the Scrutiny Panel feels it appropriate to conclude discussion of this issue by drawing on the conclusions of Professor Michael Keith:

"It is impossible to conceive of an objective empirical reality of 'Black crime' which can be investigated by social research – This is because criminality, a chameleon concept defined by the histories of legal whim and political fashion, is at once both social reality and emotive myth.

Clearly, demographically concentrated both in social areas and economic classes structured by material deprivation, it is no surprise to find individuals from migrant minority backgrounds committing individual crimes. But this does not mean that 'Black crime' can be verified, subjected to scrutiny as a subject category in its own right, without reference to the broader social, political and moral context in which such scrutiny exists" (Keith 1993:278).

4.3 The Cost of Stop and Search

147. The third aspect of stop and search practice that the Scrutiny Panel was asked to explore was both the direct costs and indirect costs in terms of public trust and confidence.

What are the costs in monetary terms?

148. In his submission to the Scrutiny Panel, Lee Jasper, on behalf of the Mayor of London, submitted the following approximate projections on the financial costs of stop and search.

“If we assume the average stop and search takes fifteen minutes and is conducted by two police constables, which equates to £14.50 for both officers the cost within the top five London boroughs equates to £1,230,862 for 2002.

| Borough | White people | Asian People | Black People | Other ethnicity | Ethnicity is unknown | Total Searched | Total Borough cost |
|--------------------|-----------------|-----------------|-----------------|-----------------|----------------------|--------------------|--------------------|
| Westminster | 16537 | 2037 | 9441 | 1823 | 456 | 30330 | £439,785 |
| Lambeth | 6299 | 290 | 8713 | 160 | 254 | 15716 | £227,882 |
| Haringey | 7364 | 623 | 5233 | 188 | 322 | 13730 | £199,085 |
| Tower Hamlets | 3059 | 7726 | 1684 | 129 | 2 | 12600 | £182,700 |
| Southwark | 5401 | 389 | 6342 | 177 | 177 | 12511 | £181,410 |
| Total | 38660 | 11065 | 31423 | 2477 | 2477 | 84887 | £1,230,862 |
| Total costs | £560,570 | £160,443 | £455,489 | £35,917 | £17,922 | \$1,230,862 | £1,230,862 |

If we use the formula and extend it to the total number of stop and search figures for London (183,902 number of stop and searches in 2002) the total cost of stop and search to Londoners equates to £2,666,579 for 2002.”

What are the costs to policing by consent?

149. Do the costs to local communities caused by their current use (i.e. in terms of distrust, resentment and lack of cooperation) outweigh their potential value (i.e. finding drugs, weapons or stolen items)?

150. Many of the witnesses who appeared before the Scrutiny Panel from the Black and ethnic minority communities believe they are policed differently. They do not believe that they are policed fairly and they made a strong case for their view, which cannot be ignored.

151. In looking at the impact on the individuals who are stopped and searched, Karen Chouhan of the 1990 Trust described to the Scrutiny Panel its perspective:

“Our views are informed by the experiences and discussions we have around the UK with communities but specifically in London two recent initiatives have given us more insight. The first of these was a consultation on crime and community safety with 800 young people in Lambeth from 11-25. The main points re Stop and Search were:

- *A majority felt they were stopped without just cause. “They reckon anyone wearing a hoody needs to be stopped”*
- *One young man spoke of being stopped 5 times in the space of a month, in exactly the same place (he was visiting his local gym). Each time the police found nothing on him and he was let go.*

- *Many young people do not fully know what their rights are, so therefore do not know if they are being treated fairly when it comes to being stopped by the police.*
- *They feel deeply hurt by being stopped without reason, the hurt includes feelings of shame and humiliation because people on the streets stare at them.*

The second was via our involvement in the GLA commissioned consultation with young people aged 8-14 across eight London boroughs on crime and community safety.

- *With regard to Stop and Search most young people were aware of it and wary of being stopped, a minority of the younger children did not know about it. However despite saying they didn't like it approximately 50% said they thought it was OK to use if it was done fairly and you weren't just stopped because you were Black and/or wearing a hooded jacket.*
- *One youth said he was stopped, taken to a police station and a strip search conducted without an adult present. There was nothing found but it had been a really frightening experience. Another was talking to his stepfather and the police suspected drugs were being transferred/sold. The young person was asked to pull down his trousers at a train station and he felt that that was unfair and was very ashamed."*

152. Based on the evidence of witnesses, the Scrutiny Panel concludes that widespread and repeated stops and searches upon innocent citizens is more than a hassle or annoyance. It has real and direct consequences. Those large numbers of innocent citizens who experience it often pay the price emotionally, mentally and in some cases even financially and physically.

153. To argue that the widespread use of stop and search as a police practice is harmless, that it only hurts those who break the law, is to totally ignore the psychological and social costs that can result from always being considered one of the usual suspects.

154. As one witness to the Scrutiny Panel said:

"Walking down the street with a couple of friends and, a couple of white guys and a few black guys, and the police stopped the group of us but singled out one of my tall, black friends. He was like me, confident and knew right from wrong, and when he was harassed by the police he became, I suppose, slightly belligerent, why are you doing this to me? And within seconds there was six police vans and they jumped on him and arrested him for assault. Fortunately, we all went to court and he was let off. It was clear to the jury that he hadn't done anything wrong, but unfortunately for my friend, he went on a downward spiral. I saw him some ten years later and he'd been in and out of prison, so that had a profound effect on him"

155. Another young witness told the panel:

"I was first stopped when I was 14 years old coming home from school. I was trembling in shock, felt disgust. It messed me up for about five weeks."

156. Other young witnesses told the Panel:

"I didn't do anything about it or complain to anybody"

"I only told my parents"

"I felt bad being suspected"

"They don't trust me"

"With so many stops, with so many wrongful arrests, I was angry that they suspected me.....I have been categorised"

"There is more mistrust and defensiveness towards the police"

157. Public faith in all public institutions, including the police is a fundamental cornerstone of our civic society. Community policing relies on individuals trusting the police and being willing to work with them.

Consultation in Brixton:

158. In its consultation session held at The Fridge in Brixton on 25 November 2003, the Scrutiny Panel heard a lot of pain and anger as reflected in the following comments by participants:

"We cannot help the police to do stop and search better! To better help them abuse us?"

"We are at war!"

"We are being terrorised!"

"We are being oppressed by an invading army!"

"We cannot accept stop and search! If we refuse to be stopped and searched it will be victory!"

"Stop and search should be stopped. We shouldn't be having this conversation. These are tools to hurt us!"

"Stop and search has a traumatic impact on our young people, on our households! We are being intimidated, harassed, persecuted and victimised!"

"How do we turn the tables? How do we take control?"

"Things today are out of control. This is 'sus' by the back door!"

"We are bashing our faces against the politics of White supremacy!"

"We are emotional and angry because we are abused on a daily basis."

159. A number of witnesses to the Scrutiny Panel described an increased personal or community mistrust of the police. Mistrust can be engendered by personal experiences, witnessing an incident, knowing someone who has experienced a stop/search, or simply due to the widespread perception that disproportionality exists.

160. This mistrust is also heightened if the police themselves are disinclined to acknowledge the concern. Witnesses also explained that their mistrust is compounded by the knowledge that the MPS lacks a representative workforce and there have been other recently publicised indicators of racism within the Met.

161. Some of the words that were used by witnesses to describe the effects on their relationships with police as a result of stop and search experiences included: suspicion, distrust, anger, antagonism, hostility and fear. Some described fearing for their own safety when interacting with police officers and some said that, rather than feeling that the police were there to protect them from crime, they felt they needed to be protected from the police. Parents in particular described feeling terrified that their children, particularly their sons could come to harm every time they leave the house. The need to be constantly 'on your guard' and to be extra careful in dealings with the police significantly detracts from a sense of trust and faith in the institution.

162. When discussing feelings of mistrust a number of witnesses also mentioned that they lacked access to the processes that have been implemented to receive complaints. They were unaware of their rights, were unaware of how to complain or felt they were prevented or discouraged from filing complaints. They also lacked confidence in the complaints process perceiving it to lack independence and that the assumed unsatisfactory outcome further compounded their sense of mistrust or injustice.

163. While the MPS is negatively impacted in its ability to effectively serve the public as a consequence of discrimination based on officer's decision-making, the effect on the individual who develops a mistrust of the police can be even greater. As one young witness told the Panel:

"If it happens too often, teenagers just go ahead and start doing it. They don't care any more. If they keep stopping and searching the same person over and over again, he's going to start doing what he's accused of doing. He'll say they don't trust me anyway so I might as well start committing crimes."

164. Ultimately it is society as a whole that is most harmed if biased and discriminatory decision making results in the loss of confidence in the police. The social cost of creating mistrust of the police includes a lack of respect shown to people associated with the Met, a greater acting out against the police and the law, and an unwillingness to work with the police, for example by not reporting crime, acting as witnesses, etc.

165. And as the Scrutiny Panel was told, because the police represent the guardians of liberty and are the gatekeepers of the criminal justice process, discriminatory policing has the affect of denying whole communities justice.

Diminished Sense of Belonging:

166. A number of witnesses reported to the Panel feeling like an unequal or less worthy member of society as a result of their experience in being repeatedly stopped and searched. This realisation was described as a humiliating, dehumanising and painful one. As one witness said:

“It severely damages the sense of belonging, of believing in a society that will treat you as an equal.”

167. They felt that no matter what they do and how successful they are, they are still assumed to be part of an undesirable element of society. This was very distressing to them.

168. Being repeatedly stopped and searched was described as a sense of being excluded by mainstream society and being told that they would always be considered an outsider.

169. The extraordinary increase in the surveillance of the Muslim and Arab communities as a result of the tragedy of September 11, 2001, has caused concerns of increased deprivations of liberty, loss of privacy, further questioning or worse. Witnesses to the Scrutiny Panel from these communities pointed out that it has been treated as a community to be looked at with suspicion rather than invited to help solve the problem. This community is just as concerned as everyone else with terrorism and would like to be invited to the table to offer assistance or advice on improving security for everyone, rather than to just be seen as a security threat.

170. The feeling of damaged citizenship is undesirable on several different levels. First it is of significant concern to the Scrutiny Panel to know that fellow citizens do not feel they are treated with the same dignity or respect, or feel they are seen as less worthy of recognition or value as a human being and as a member of British society. Secondly, there is a direct cost to our society of fostering a two-tiered sense of citizenship. Experience has shown that persons who do not feel they belong in society find it difficult to participate or contribute to their full potential.

171. Symptomatic of this increasing sense of isolation was evidenced in a recent Guardian/ICM poll that found that nearly half the adult Muslims surveyed want their children to go to separate Muslim schools.

Impact on Communities:

172. The sense of injustice that develops among individuals in minority communities that disproportionality in stop and search rates is symptomatic of a racist police force reinforces their concern that racism is rampant in society and that they may be subjected to it at any time.

173. Delroy Lindo told the Panel:

“Our experience has left us frightened for our children like many members of the Black and ethnic minorities, when they leave the house. Parents begin worrying profusely about the boys as they reach the age of 11. (My son 11 years old was stopped and searched coming home from school). When I

spoke to other members of the community they said their children were also subjected to similar incidents.”

174. It has been impressed upon the Scrutiny Panel that the ‘traditional’ targets of disproportionate stop and search were extended after September 11th. The police have focused massive investigative resources and attention on Arabs, Muslims and others including South Asians.

175. The Scrutiny Panel heard stop and search is being used extensively as part of the Met’s anti- terrorism efforts. Community witnesses to the Panel were concerned for a number of reasons. First, as a police tactic the witnesses questioned whether it is an effective tool against the illegal activity it is designed to stop. How many terrorists have been arrested under Section 44 powers? If it is not particularly effective or productive, it diverts precious anti-terrorism efforts. Secondly, it is based on myths about particular groups and their propensity for particular criminal activity. It therefore also alienates potential allies in the anti-terrorism struggle.

176. As Mr Massoud Shadjareh of the Islamic Human Rights Commission told the Panel:

“The events of the last two years have actually become quite an obstacle to a good relationship between the police and the community. The community especially the youth, are seeing themselves as completely alienated from the police”

177. Additional effects noted by witnesses to the Panel were the heightening of community fear, insecurity, and the disempowering impact that police stop and search practice can have. A number of community witnesses used the words “impotent”, “powerless”, “helpless” and “emasculated” to describe how they felt as a result of one or more police stops and searches.

178. This sense of powerlessness can impact on an individual’s confidence and capacity to seek out and gain positions of responsibility and authority in society. For example, a number of young witnesses before the Panel expressed no interest in pursuing a career in policing. The profession is not seen in a positive light.

Black Youngsters Becoming Policemen:

179. The Scrutiny Panel heard from a number of community witnesses that indicated that improving the representation of the MPS was, certainly in the short-term, going to be problematic, as was the retention of minority police officers.

180. In commenting on a bright, young female Black officer that she works with, Doreen Lawrence told the Panel that as a result of:

“The racism and stuff that she has been suffering within the police, she is looking to resign.”

181. In trying to attract Black people to become police officers, Simon Woolley of the Black Londoners Forum commented:

"I do worry about Black men and women joining the police force and what type of institution we are encouraging them to join. I hear horror stories and I just think to myself why would I want to encourage somebody to be part of that? We have a responsibility to ensure any environment that we are encouraging people to go into is not going to ruin their lives."

182. And as one young witness told the Panel:

"I would never join the police."

183. As a representative from the Metropolitan Police Black Police Association explained to the Panel:

"I go into the Black community where they resent me for just being in the police service and say how can you join the police service which is racist? In certain ways we tend to have to live this bi-cultural life. We come to the police service and we have one culture and we go back into the community and have another culture. I find it quite frustrating at times to live that sort of dual personality"

184. A vicious circle is created where disproportionality in stop and search ratios is a major contributory factor as to why minorities are not attracted to policing. With insufficient numbers of minorities represented in the police, the problem of disproportionality continues unabated.

185. Another effect of police stop and search practice is to create community division or to encourage an unwillingness to become involved with ones own community. The Scrutiny Panel was made aware of this situation, particularly in the Muslim and Arab communities, for fear of being perceived as security threats and subject to interrogations and wrongful persecution.

186. It was reported to the Panel that minority parents raise their children differently because of a fear of them being stopped and searched by the police and to be careful of their behaviour around police. This included counselling their children to behave in a certain way, having rules about how their children dress in public and limiting when their children are permitted to go out and where they go. This type of experience cannot help but have a profound effect on a child or young person; attitudes and behaviours towards the police and the need to alter his or her behaviour becomes ingrained in his or her psyche.

187. Negative stop and search experiences during formative years are likely to have a more lasting impact on a young person than on an adult.

188. Finally, a consistent theme that emerged from community witnesses to the Panel was the normality of stop and search. In other words, minorities, particularly young Black men, accept and expect to be stopped and searched by the police as a normal part of their lives, and there is nothing that they can do about it.

189. People felt that they have no choice but to live their lives around the expectation that their friends and families will experience being stopped and searched as normal everyday experience.

190. Many also expressed a sense of futility at trying to complain, or a fear of attempting to speak out through fear of repercussions.

191. The Scrutiny Panel found this sense of acceptance and futility very disturbing. It showed how deeply ingrained the perception of the problem is in London. It also demonstrated the profound effect it is having on those who experience it.

192. Some witnesses reported rude and abusive behaviour by the police officers during the stop and search further compounding the impact on human dignity.

193. The impact of stop and search on innocent citizens can be profound. Some witnesses before the Panel described feelings of fear, anxiety, intimidation and feelings of helplessness and hopelessness.

194. It is impossible to quantify the cost to these individuals, their families and friends, their communities and society overall. Nevertheless, it is clear to this Scrutiny Panel that the damage inflicted by existing stop and search practice in London is significant and cannot be ignored.

V. DISCUSSION

5.1 Leadership: Recognition of the Problem

194. Even with the tremendous advances being undertaken by the Met over the last number of years in policing London's diverse communities, the Scrutiny Panel heard many instances in which distrust and tensions between the police and the community are high. These tensions affect all aspects of the criminal justice system.

195. The guarantee to all persons for equal protection under the law is one of the most fundamental principles of our democratic society. Police officers should not endorse or act upon stereotypes, attitudes or beliefs that a person's race, ethnicity or nationality increases that person's general propensity to act unlawfully. There is no trade-off between effective policing and the protection of the rights of all Londoners. We can and must have both.

196. The challenge that confronts the Met is how to enhance police legitimacy in the eyes of the diverse communities it serves. Appropriately addressing allegations of racial bias in its stop and search practices is central to this mission.

197. As the submission to the Scrutiny Panel by Lee Jasper on behalf of the Mayor of London states:

"The Mayor endorses the view that the legitimate use of stop and search powers contributes to crime reduction, crime prevention and community safety.

However the disproportional rate of stop and search remains a concern for the Mayor...The GLA believes that disproportionality in the use of stop and search has wide reaching implications for Londoners' confidence in policing and on community safety in the capital. This level of stop and search undermines the confidence of minority ethnic communities in the Police..."

198. In its presentation to the Scrutiny Panel, the 1990 Trust argued that redressing disproportionality in stop and search cannot be done without a wider and critical look at the relationship between Black people, the police and the state generally. It proposed that:

"Three central principles should guide all police action in the forming of a 'new agenda'. These are:

- *A human rights foundation*
- *Public confidence*
- *Policing by consent*

Further, these principles are, in turn, dependent on five prerequisites:

- *Accountability*
- *Community involvement*
- *Representation*
- *Improvements in operational policing*
- *An anti-racist police force"*

199. The 1990 Trust concluded that:

“The chasm of mistrust between the police and Black communities must be addressed by a return to policing by consent, and must be based on the principles of human rights. This can only be achieved by a holistic approach to change. Confidence in the police will only be restored by accountability in operational policing, in the complaints system, and in the degree of public ownership and independent scrutiny. Internal reform is not enough.”

200. As Sir Ian Blair described to the Scrutiny Panel, the MPS has undergone a number of phases in its recent thinking and approach to the issue of disproportionality in stop and search. The first phase focused on questioning whether in fact disproportionality exists.

201. In recognising that disproportionality is undeniable, the MPS has consequently moved forward in its approach to addressing disproportionality, by what the Deputy Commissioner described as a technical phase. This is the phase that the Met is presently working on – in addressing some of the technical aspects of the stop and search powers; of testing and developing the appropriate methods and forms for recording all stops and searches; and in addressing some of the existing gaps in the collection and analysis of stop and search data.

202. The Scrutiny Panel certainly endorses the critical importance of using information technology, research, and data collection and analysis to engage officers in more effective and better managed policing. Measurement of police activity around stop and search is a critical first step towards effective management. Comprehensive data collection on stop and search and disproportionality rates sends a clear message that racial bias is inconsistent with effective policing and equal protection. And the Scrutiny Panel considers such data as essential in moving the conversation within local communities away from rhetoric and accusations to a discussion about the effective deployment of police resources. It provides the basis to permit local discussions and local determination of how to deploy police resources.

Community Engagement

203. The third phase identified by the Deputy Commissioner that the MPS needs to move onto is one of public transparency and community engagement around local stop and search practice. If the local community is more directly involved in reviewing, monitoring and discussing the monthly stop and search figures with the police, they are in a much better position to understand and influence local police stop and search practice.

204. In supporting this process, Assistant Commissioner Tim Godwin told the Scrutiny Panel:

“Once you actually get into the data at a local level, local people can contextualise it within the local environment. A local person will know what the population is like there....”

“We have to create the opportunity to have meaningful interaction and debate around what we do and why we’re doing it; we have to get more localised priority setting; we have to get into explaining what we’ve done locally”.

205. In sharing and involving local residents the intent is to increase the level of community ownership of stop and search practice.

Quality of Encounters

206. A fourth phase that the MPS needs to develop, identified by the Deputy Commissioner, is to address the quality of the encounter between members of the public and the police in stop and search situations. This is certainly an issue that was impressed upon the Scrutiny Panel by a number of witnesses. Not only does the Panel need to be concerned with the quantitative aspect of disproportionality, but almost equally importantly, with the qualitative aspect of the encounter.

207. As Assistant Commissioner Tim Godwin told the Scrutiny Panel:

“The hub of the problem is actually when the interaction between the individual officer and the individual being stopped is not handled at all well, and the grounds are not given etc, etc.”

208. When the vast majority of members of the public who are stopped and/or searched (over 85%) are innocent of any offence warranting arrest, it is imperative that the police behave in a professional, respectful manner. Notions of critical encounter training and accreditation to undertake searches are both important areas to address this. Also, the notion of a feedback system of a short survey form to be given by the officer at the end of an encounter to measure how the person stopped felt about the quality of the encounter is an idea that is worth pursuing.

209. One of the main barriers to addressing racial bias in stop and search practice is an unwillingness to admit that it is occurring. It is the Scrutiny Panel’s view that the evidence of racial and ethnic bias is incontrovertible and that this approach of denial does not work and only exacerbates police-community tensions. Bridges have to be built from all sides. But the first priority is for the Met itself to accept the existence of the problem and to address it.

210. Therefore, the Scrutiny Panel recommends that:

1. The Commissioner acknowledges publicly that if racial bias exists in the use of stop and search powers, he gives a commitment that the practice will be eliminated.

2. The MPA reaffirm its duty to hold the MPS accountable to ensure that police procedures in every area of operations and administration are free of racial bias, and that further, the MPA engage with Londoners to strengthen the public scrutiny and monitoring of this commitment.

3. The MPA commit to inform and educate London's communities regarding stop and search practice, and to encourage and support them in asserting their rights and responsibilities as full and equal citizens and to use all avenues of redress and complaint when these rights have not been respected.

211. The evidence hearings touched on many different issues and areas of concern relating to a number of different institutions. As Glen Smythe of the Metropolitan Police Federation told the Panel:

"There is a role for a number of organisations in explaining to the public what the real issues are."

212. Many of the issues touched on cannot be resolved by the police alone. Within the context of leadership and renewed commitment to fair and just policing the Scrutiny Panel also calls upon and recommends that:

4. Community groups take steps to inform and educate members of their communities regarding stop and search practice, and to encourage and support them to use all avenues of redress and complaint when their rights have not been respected.

5. The Home Secretary take urgent steps, through the Home Office Race and Criminal Justice Unit, to conduct a critical evaluation of the effectiveness of stop and search as a police tactic in reducing crime and promoting public trust and confidence.

6. The Association of Chief Police Officers (ACPO) review and revise its guidance on the use of stop and search in the light of the findings of this Scrutiny and other recent findings.

7. The Association of Police Authorities (APA), with respect to Recommendation 63 of the Stephen Lawrence Inquiry Report, expand its public education and awareness strategy regarding citizen rights and stop and search both directly as a national campaign, and indirectly through police authorities.

213. A number of witnesses talked about the need to recognise the influence and interconnectedness of other institutions such as education, the media, etc, in furthering racial and religious myths and stereotypes about different groups. Could these be directed, for example to demolishing racist myths connected to criminality; to creating public understanding of the nature of the stop and search process; and to reducing unjustified fears and improved understanding of the extent and nature of crime? They asked the Scrutiny Panel to consider the appropriate steps by which these sectors can contribute to being part of the solution. In this regard the Panel recommends that:

8. The MPA and MPS, in collaboration with the CRE, engage with the Department of Culture, Media and Sport to review of the arrangements that are in place for ensuring that the statutory requirements of the Race Relations (Amendment) Act 2000 are being fully implemented by the Office of Communications (Ofcom), Press Complaints Commission and the Advertising Standards Authority, specifically in relation to the ways in which stop and search and crimes affecting and committed by members of the Black and minority ethnic communities are reported.

9. The Secretary of State for Education be requested to review the effectiveness of the secondary school curriculum so that all pupils are provided with an understanding of the basic tenets of citizenship and human and civil rights and are provided with and have an understanding of the information contained in literature such as the stop and search 'Know Your Rights' literature.

10. The MPA and MPS commission research, in partnership with the Secretary of State for Education, to determine if there is any correlation between the Department's policy on school exclusions, and the early interface by those thus excluded with the criminal justice system.

11. The MPS demonstrates its commitment to the Specific Duty of the Race Relations Amendment Act 2000 by requiring all Borough Commanders to carry out a race equality impact assessment of stop and search and Recommendation 61 implications within 4 months of the publication of this report as a priority.

12. The Commission for Racial Equality publishes as an urgent report the outcomes of the work underway to examine whether continuing disproportionate figures based on race could be grounds for prosecution under the provisions of the Race Relations Amendment Act 2000, and demonstrate its commitment to initiate judicial proceedings on behalf of members of the public.

13. The Home Secretary provides clarification on people's right to complain if they have been mistreated in a stop and search under all statutory provisions, including Section 44 of the Terrorism Act 2000 and that such information is placed in the public domain and accessible to all who require it.

14. The Home Secretary ensure, in the spirit and intent of Recommendation 61 of the Macpherson Report, that all stops and searches be recorded, including those undertaken under Section 44 of the Terrorism Act 2000 and Section 60 of the Criminal Justice and Public Order Act 1994, and that this data be broken down on ethnic lines and be placed in the public domain.

15. The Government of London Office (GOL), through its funding initiatives such as the BME Cracking Crime, consider support for community-based initiatives to monitor and engage with the police around stop and search practice.

5.2 Regulation of Stop and Search Practice

214. The Scrutiny Panel were told that stop and search powers are indispensable. Community witnesses before the Scrutiny Panel were by and large also supportive of the power as long as controls and regulations are in place to ensure that each and every stop and search encounter is conducted for legitimate reasons and is conducted in an appropriately sensitive manner.

215. It was also posited to the Scrutiny Panel that it is an essential tool in terms of contribution to arrests, intelligence and prevention. It serves to detect crime not only by virtue of the arrests it produces for crimes which might otherwise go undetected but also because of its contribution to intelligence which feeds into tackling crime more generally. It is argued that it also has a significant effect on preventing crime, both directly and indirectly.

216. 'Beat officer' witnesses to the Scrutiny Panel explained why they undertake stop and search:

"The community needs to be protected..."

"Innocent people will be arrested if stop and search powers are taken away..."

"The data gained from stop and search is invaluable..."

"Stop and search doesn't just lead to an arrest. It is also useful in taking dangerous items off the street, deterring crime and disrupting criminal activity, but this is not so easily quantified."

217. The Scrutiny Panel looked at these arguments more closely.

Arrest Rates:

218. While the police argue they need to use stop and search tactics to identify criminals, Home Office research concluded that the tactic has an extremely limited impact on crime – including its role in detection, disruption and deterrence (Miller, Bland and Quinton, 2000, Bowling and Foster 2002).

219. In a survey of the three pilot sites with the largest number of street crimes in the study undertaken for the MPS on evaluating stop and search practice by Marion Fitzgerald in 2000, she found that arrests from searches accounted at most for only a fifth of arrests for street crimes in these areas.

220. This raises the question for the Scrutiny Panel as to what were the other methods used by the police in obtaining the other 80% of arrests for street crimes?

221. Fitzgerald notes in this same study that arrests from searches accounted for just 12% of arrests overall. And the majority of these were for minor crimes (i.e. small amounts of cannabis for personal use). This is not, as far as the Scrutiny Panel is aware, high on the list of public priorities for the police.

222. In this regard, in his work for the West Midlands Police Service (2003), Ben Bowling notes that since the national *per capita* rate of stop and search is eight times

greater for Black 'suspects' compared with their White counterparts, while the arrest rate is about the same for both ethnic groups, then eight times as many innocent Black people are unnecessarily stop/searched in comparison with White people.

Intelligence Purposes:

223. It is of interest to quote the conclusions of the 2000 study by Fitzgerald for the MPS:

"In practice, the extent to which officers recognise the intelligence value of information they uncover in the course of searching is variable. Within the constraints of the limited space on the 5090 form, some will record the detail of their searches in ways which are amenable to analysis for intelligence purposes when entered onto the database. Others will not. And whether officers take the initiative separately to provide an intelligence report depends not only on whether they find the time to do so: competitiveness with regard to individual and team performance can also militate against sharing this information. At the same time, officers' ability to use the information on the database as a resource in their-day-to-day work is limited. In particular, the extent to which it informs briefings before officers go out on duty seems to be very variable, as is the ability of individual officers to interrogate it.

Intelligence Officers and crime analysts, in turn, are not only dependent on the quality of the raw material they have to work on, they themselves vary in experience and in the resources available to them. This in part explains local variation in the extent to which they are proactive in analysing the search database; but other important factors include whether senior management recognise the potential for this analysis and actively support it."

224. However, this report also highlights more fundamental concerns about the legitimacy and the wider, real-world implications of using PACE searches to acquire some of this information. The search database was clearly valued for its intelligence potential; and many officers seemed to hold the view that one of the main purposes of searches was to keep track of 'known' individuals. Taken together, these observations suggest that some searches are conducted primarily as a way of providing this type of information.

225. If this is the case, it would in turn imply that – valuable as this information may be – it is produced on occasion by searches which cannot be justified in terms of PACE at all. Such searches may be tantamount to harassment of certain individuals on the grounds of their criminal record or associations and would be illegal.

226. In this regard, Doreen Lawrence, in her statements to the Scrutiny Panel, noted that if the police had actually used the intelligence from their stop and search data, the killers of her son Stephen Lawrence may have been more readily identified.

Prevention:

227. The common-sense view of the preventative impact of the power was presented to the Scrutiny Panel by the police, from borough commander level to the beat officer. This was argued on anecdotal evidence (trying to pin down by direct cause

and effect whereby searches can have a deterrent effect is not readily amenable to statistical approaches).

228. Given the discretionary power under S1, the power can only be justified legally if these are 'reasonable grounds'; it is difficult to know when officers are using the power primarily for the purposes of deterrence. However and again to quote the conclusions from the Fitzgerald study:

“Almost certainly the power is being used proactively as a disruptive tactic; but it must also be recognised that this is happening, at least in part, in response to public demand: that the police should do something about ‘youths hanging around on the street’. It was apparent from interviews with officers (and discussions with the young people) that – especially in areas where this was perceived to be a local problem – searches were being used as a way of meeting this perceived need. Since a proportion of searches that are primarily intended to break up groups of young people will produce arrests (mainly for possession of drugs), this blurs the boundary between the use of the power for crime control and for social control.

Young people without previous criminal records stand to be criminalised as a result; and the group identified by the study as being most at risk for these reasons is a demographic bulge from people from the poorer Asian groups. Their socio-economic circumstances (including high levels of youth unemployment and serious overcrowding) are likely to amplify their presence in the street population in certain areas. Unlike the equivalent cohort of black young people 20 years previously, this bulge will not simply pass through. Rather the numbers in succeeding cohorts become larger.”

As a means of ‘social control’?

229. The argument of using stop and search powers as a means of “social control” is a troubling one to the Scrutiny Panel. In her evidence to the Scrutiny Panel, Marian Fitzgerald suggested that the MPS might be circumventing the problems of using Section 1, of PACE as a means of ‘social control’ by using section 60 of the CJPO Act instead (where ‘reasonable grounds’ for each individual search do not have to be justified legally). The data presented in section 3.1 would tend to confirm this.

230. But what is ‘social control’? The concept does not exist in the legislative authority. Instead, the Scrutiny Panel is left to ponder whether there is an underlying assumption here- and central to the occupational culture of policing – of the centrality of the imperative for absolute control of police territory? And police territory is, if nothing else, the streets.

Stretching the Statutory Authority:

231. One of the areas of concern to the Scrutiny Panel is the apparent tenuous relationship between the intentions of the law pertaining to stop and search and the ways in which these have been negated, changed or ignored as they have been passed down the chain of command to the lower ranks.

232. The discretionary freedom officers possess, the difficulties of supervising police work, the power of traditional ways of doing police work and so on create a difficult

organisational context for a formal, rational progression from written policy to implementation by rank and file.

233. The Scrutiny Panel recognises that policy will always be moulded, and to some extent changed as it is implemented, to meet the practical circumstances of an incident. Discretion is central to police practice. But discretion should not be exercised without or outside of clear guidelines. Whilst selective it should be within the law.

234. In addition, the Scrutiny Panel is concerned with the huge number of vacant sergeant positions in the Met. This, combined with the lack of supervisor attention by sergeants and inspectors, will tend to preserve traditional attributes and ways of policing. It further reinforces the power and authority of the occupational culture to ignore the guidance and parameters of stop and search powers.

235. As already noted, the use of stop and search is viewed as an essential police tool not only in achieving detection, but also in contributing to deterrence, as a source of intelligence, as a reassurance strategy, and as a means of helping make communities safer.

236. While these objectives are laudable and necessary police responsibilities, the Scrutiny Panel seriously questions the assumed effectiveness of stop and search as a means of achieving these broader strategies. But more importantly, the Scrutiny Panel is concerned that the police are using stop and search powers in such an open and widespread fashion that is beyond the statutory powers. The police are, first and foremost, accountable to the law. The 'rule of law' becomes an abstract and meaningless concept if it is not actually carried out in practice.

237. Having said that, however, the Scrutiny Panel also acknowledges that the existence of discretion in stop and search law in fact means that the law is permissive. The law has defined when a police officer may act, but it does not act as a control on police activity during encounters with the public. As a number of commentators have noted, the consequence of this is that the concept of 'reasonable suspicion' is so permissive that, in practice, the police can stop and search anyone in almost any circumstance.

238. Legal regulation of stop and search powers does not prevent the abuse of discretion. Police officers have to interpret legal rules for which no amount of guidance could cover every eventuality. The concept of "reasonable suspicion" is vague and police officers, in their discussions with the Panel, differ widely in their understanding of it.

239. Disturbingly even Home Office research concludes that "PACE may have had limited impact on police search practice" (Research Paper 128, Home Office, 2000). Such a conclusion tends to reinforce the comments made to the Scrutiny Panel at its public meeting in Brixton that stop and search practice is now as bad as it was in the old days of 'sus'.

240. With respect to stop and search practice within the MPS, the Scrutiny Panel is disturbed that this legislative authority does not provide an adequate and clear account for police action.

241. The Scrutiny Panel therefore might conclude that an explanatory factor might indeed be institutional traditions and historic practice. They certainly appear to be a contributory factor in overriding the legislative attempts of the last twenty years to provide greater clarity and safeguards to stop and search authority and powers.

Misusing Section 44 Terrorism Act:

242. As noted in Section 3.1 of this report, the number of stops and searches used under Section 44 of the Terrorism Act has increased dramatically. The Panel has already noted that the Home Secretary should publish data on all stops and searches, including those carried out under Section 44. In addition, the lack of awareness of ones rights when stopped under this power, the differential impact on Black and minority ethnic communities, and the lack of a need for reasonable suspicion, are all issues of concern to the Scrutiny Panel. The Panel is concerned that the power is being excessively used and improperly used. In his annual review of the operation of the Terrorism Act (published April 26, 2004), Lord Carlile expressed similar concerns about the police's resort to these powers when they should have used other powers instead.

Reasonable Suspicion

243. In her research for the MPS in 1999, Marian Fitzgerald found that stop and search makes a considerable contribution to the detection and prevention of certain types of crime, such as arrests for offensive weapons. She also found that "reasonable suspicion" is frequently absent and, more importantly, the power is not even being used for the catching of suspects, but for the purpose of 'gaining intelligence' or for 'social control, that is, for keeping the peace and maintaining order.

244. These findings were confirmed to the Scrutiny Panel in our discussions with police officers, from the Deputy Commissioner, to Borough Commanders through to officers on the beat. It became apparent to the Scrutiny Panel, based on the evidence presented to it by officers from the MPS at every level, that police officers frequently use stop and search powers for other purposes such as 'gaining intelligence' on people 'known' to the police, to break up groups of young people, and for 'social control' more generally. The use of stop and search was therefore presented, as having much broader functions than the legislation appears to permit.

245. A number of concerns were brought to the attention of the Scrutiny Panel about the guidance on searches and "reasonable suspicion"

246. The distinction that has been made between 'low discretion' and 'high discretion' stops indicates that there are significant differences in the way 'reasonable suspicion' is understood and applied by officers. There is a need to clarify the level of intelligence required to justify a stop and /or search. In addition, clarification is required as to whether grounds for searches can be developed once a person has been stopped.

247. As one young witness told the Panel:

“They should ... try and find a better way of choosing the people they stop and search. I don’t know how, but they pick the wrong people most of the time anyway.”

248. The Scrutiny Panel is concerned that the huge gap between “policy as it is written” and “policy in practice” needs to be closed. It needs to be urgently closed not least because of the potential for legal challenges and civil action against the MPS under Human Rights legislation as well as the Race Relations Amendment Act.

249. The Mayor of London submission to the Scrutiny Panel reinforces this point:

“We note and share the overarching principle that the powers to stop and search must be used fairly, responsibly, with respect to people being searched, without unlawful discrimination and with due regard to the Race Relations (Amendment) Act 2000. However we believe that the Human Rights principles of proportionality, legality, accountability, necessity and best information, set out in the ACPO Guide to Stop and Searches, should also be applied to all decision making in relation to Stop and Search. The adoption of these additional principles will ensure that the human rights of offenders, suspects, victims, and potential victims of crime were upheld and protected.”

250. In addressing the implications of the permissiveness of existing statutory authority, the Scrutiny Panel is inclined to agree with Fitzgerald’s conclusion that:

“Police discriminatory behaviour is most likely where there are no clear guidelines or criteria for decision – making: where decisions depend on subjective judgements rather than (or in addition to) objective criteria; where decision making criteria are not strictly relevant to decisions and have disproportional adverse impact on certain groups; where there is considerable scope for exercise of individual discretion; where there is no requirement to record or monitor decisions or the decision making process; and where local and organisational cultural norms (rather than the requirements of service delivery) strongly influence decision-making....”

251. While the Scrutiny Panel recognises that no written policy can anticipate all situations and mechanistic adherence to formal procedures could chill the use of sound judgement and experience, it is in agreement with the Mayor of London’s submission:

“The GLA welcomes the attempt to give guidance on the meaning and application of the concept of ‘reasonable grounds for suspicion’. Furthermore we support its emphasis on the importance of basing such grounds on a range of factors including up to date and accurate intelligence information being communicated to police officers as a safeguard against abuse. When coupled with the duty to record all stops and searches, such guidance offers the opportunity for senior police officers and the courts to scrutinise whether the necessary conditions for the exercise of the stop and search power was present and should go some way to preventing random or discriminatory stops.”

252. In achieving a more coherent constraint and strategic use of the power, which will minimise the current difficulties while ensuring the widest possible public support, the Scrutiny Panel recommends that:

16. The present MPS review of Special Notice 12/01, "Metropolitan Police Service Guide to the use of Stop and Search" provide clear direction as to:
 - a. The proper definition of 'reasonable suspicion'
 - b. Guidance and policy on the use of S.60 of the CJPO Act 1994 and the administration procedures to be followed.
 - c. What the power can best contribute to tackling the crimes, which are of concern to the public
 - d. The situations in which it is the appropriate tool for achieving these ends

That further, these draft policy and operational guidelines be fully impact assessed under the requirements of the RRA and be submitted to the MPA through the Equal Opportunities and Diversity Board for adoption before September 2004 including an action plan for implementation of this and the other recommendations contained in this report.

253. A distinction has been between 'low discretion' and 'high discretion' stops. Low discretion stops are those for example that are based on externally generated reports of a crime or suspicious activity directed by clear intelligence-based briefings, on detailed descriptions of the suspect profile, and on good information received from the victim or members of the public. High discretion stops are defined as being undertaken at the officer's own initiative – on a hunch, on intuition, on experience. It may involve those who look suspicious but are not engaged in any specific criminal violation or activities.

254. Research by FitzGerald suggests 75% of all stop and searches are 'high discretion'. This is confirmed in the PCA study on Stop and Search Complaints that found a 77% rate of high discretion stops. Similar ratios have been found in American research.

255. In its discussion with Borough Commanders, the Scrutiny Panel was persuaded that this distinction between high and low discretion may be considered somewhat academic and arbitrary, but there was agreement that all discretionary stops should be intelligence based. And in that regard it was encouraged to hear that of the 300-400 monthly stops in Hackney, it is estimated that ‘high discretion’ stops are down to an estimated 62%. The Scrutiny Panel therefore recommends that:

17. The MPS, in applying more rigorous, objective, intelligence-led criteria for ‘reasonable suspicion’ as identified in the above recommendation, reverse the existing ratio of ‘low discretion’ stops and searches (that is, robust suspect profiles that are based on police intelligence and / or information received from the public) to high discretion stops over two years. This is a performance measure upon which progress and achievements should be reported to the EODB on an annual basis.

256. The use of the power should be much more linked to local people’s concerns and priorities and for officers to exercise it confident in the knowledge that they have the backing not only of their senior management but also of the police’s local partners. Employing the power clearly within an agreed ‘operating framework’ should make it easier to convey to the public when and how they should expect to see the power used. At the same time, it would also make it easier for line managers to challenge officers who used the power outside this framework in ways, which contributed little to tackling crime but were likely unnecessarily to antagonise members of the public – even if the officers in question might be able, technically, to cite ‘reasonable grounds’ for such searches.

257. While Special Notice 12/01 does state “strategies must involve local advisory groups. A media strategy must also be devised. This should focus on those groups that fear or lack confidence in police”. This directive, which stresses transparency and community engagement, needs to be highlighted and expanded upon, because it appears that, with notable exceptions, it has been largely ignored. The initiative being carried out in Lambeth is an example that may be worthy of emulation.

A Community-Police Partnership Model: Towards Community Ownership:

Stop and Search Sub-Group of the Lambeth Community Police Consultative Group

Over recent months, a sub-group of the Lambeth Community Police Consultative Group (CPCG) has been addressing the use of stop and search in the borough. The subgroup is comprised of officers from the Borough police and CPCG members, working closely with members of Lambeth Youth Council.

The broad thrust of the work being undertaken has been to benchmark the current operations of stop and search in the borough in respect of:

- Effectiveness – what are the gains?
- Fairness – how proportionate is the use of the power?
- Respect – how is the power applied?

The Group has a programme of activity to:

- Monitor progress against the current position
- Provide ongoing feedback to both the community and the police to resolve differences and improve performance.

Lambeth Youth Council have been involved in developing materials to help officers understand the “quality issues” involved in use of the power and these will have a significant and ongoing input into officer training. The Group’s proposals going forward will also include a feedback mechanism whereby some quantified measure of the reactions of those stopped can be monitored.

Work in Lambeth has demonstrated that progress can be made by the community and police working together to develop a common understanding of the operation of stop and search in the borough. Such work has not produced unanimity, but has narrowed and clarified differences and focussed our attention on areas that need ongoing work.

The Group’s plans are most likely to have the following elements (although this is yet to be formally approved by the Lambeth BCU and the CPCG):

- Routine monitoring (on a quarterly basis) of stop and search data, in terms of effectiveness and fairness as set out above.
- Ongoing refinement of analysis, to develop quarterly reporting. Extending monitoring to include judicial disposals routinely is a priority, with subsequent extension to court outcomes. Likewise, ad hoc work is planned to “drill down” and further explore disproportionality in terms of types of crime, age, geography and so on.
- A system for feedback on people’s experiences of being stopped and searched, using a simple feedback form through third party sites.

- Ongoing input into officer training and induction, using both materials developed by Lambeth Youth Council and the results of the quarterly monitoring exercise.
- Additional research as resources permit, for example in surveying opinions and perceptions of stop and search, in the borough.
- To bring Section 60 stops within the framework and likewise stops alone, when recording of stops is implemented.

5.3 Effectiveness of Stop and Search Practice

258. As Doreen Lawrence commented to the Scrutiny Panel:

"It's just done sort of randomly. Anybody. Sometimes there is no clear motive for when they stop and search somebody. If there are more than two Black kids walking down the street then they are more likely to be stopped. It's almost as if they'll just stop somebody because they don't like the clothes they wear or they don't like the car they are driving."

259. And, as the Metropolitan Police Black Police Association put it:

"...if everything is so intelligence based - or stupidity based, depends how you look at it – why do we still have such a low hit rate? If it is supposed to be intelligence led, why are over 80% of people being stopped for no reason? And why do we have a disproportionate number of people being stopped that are Black? Especially Black youth."

260. As the Deputy Commissioner acknowledged:

"It is an immensely indiscriminate practice...and of all the police encounters with the public, it is the most public."

261. In this submission to the Panel on behalf of the Mayor of London, Lee Jasper commented:

"I think the tactic of a stop and search may well be a sledgehammer to crack a nut. I think street crime represents roundabout 10 or 12% of the total crime in London and we deploy massive resources in relation to our stop and search activity. In terms of its present usage, I don't think it is appropriate at the level at which it is now deployed."

262. The concern raised here is the appropriateness of different police tactics to address different forms of criminal activity, and secondly the proportionate allocation of police resources commensurate with the seriousness of the criminal activity.

263. As the Chair of the Black Londoners Forum told the Scrutiny Panel:

"The two most serious cases of criminality that is poisoning Black communities is gun crime and crack cocaine. I would ask how much success

do the police have in finding guns through stop and search? How much crack cocaine is retrieved by the levels of stop and search.”

264. The issue this raises for the Scrutiny Panel are what are the appropriate indicators of effectiveness and success. Is it a quantitative measure against the local crime rates or the ratio to arrest rates or judicial disposal rates? Or secondly should there also be a qualitative indicator of the level of tolerance, confidence and support of the community? And thirdly should the quality of the encounter be an additional component in the criteria of effectiveness? The Scrutiny Panel recommends that:

18. The MPS, in conjunction with the Home Office, undertake a cost benefit analysis of stop and search practice and identify and develop the appropriate comparators and indicators regarding the optimal trade-off between the appropriate use of stop and search and the potential increase to community trust, confidence and cooperation in policing by consent.

(i) Connecting the Dots: Data Analysis and Collection

265. One of the ways that the Met is addressing concerns regarding discriminatory policing is through data collection. By collecting information on the nature, character and demographics of police practices around stop and search, the MPS is in a better position to enhance its ability to assess the appropriate application of the power and the broad discretion entrusted to the police.

266. These data collection efforts have the potential for shifting the rhetoric surrounding disproportional stop and search rates from accusations and anecdotal evidence to a much sounder discussion about the appropriate allocation of police resources. Well-planned and cohesive data collection efforts can serve as a catalyst for nurturing and shaping this type of community and police discussion.

267. The collection and sharing of such information will either allay community concerns about the activities of the police or help communities ascertain the scope and magnitude of the problem.

268. Sharing the results of the data collection system also sends a clear message to the entire police force community, as well as to the larger community, that the police have nothing to hide and that any racial bias in stop and search practice is inconsistent with effective policing and equal protection. When implemented properly, such data can also help to shape and inform police training about the conscious and subconscious use of racial stereotypes and to promote courteous and respectful police –citizen encounters.

269. When implemented as part of a comprehensive early warning system, data collection processes can also help to identify whether certain groups are disproportionately targeted and identify potential police misconduct and deter it. By detecting and addressing instances of disparate treatment of minorities by the police, the Met is much better positioned to prevent the development of persistent, systemic patterns of discrimination.

270. Finally, the Scrutiny Panel is of the opinion that a good data collection system can also improve police productivity by enabling the Met to assess and study the most effective stop and search practices. It should be able to provide the MPS with information about the types of stops being made by officers, the proportion of police time spent on 'high discretion' stops, and the results of such stops. The Scrutiny Panel therefore recommends that:

19. The MPS strengthen its management, monitoring and supervision of the use of stop and search powers by establishing clear lines of accountability, reporting relationships and monitoring responsibilities including delineating responsibilities between senior management and the BOCUs. And that further the MPS provide a progress report on Operation Diamond, which is modernising the MPS data systems, and identify how it is integrating further analysis of stop and search data with respect to:

- Further breakdowns by ethnicity
- Times of offences compared to times of searches
- Suspect ethnicity compared to ethnicity of persons searched
- Comparative analysis of other tactics used to counter these offences
- Use of completed search forms as a basis of monitoring supervision and analysis
- Ward based information on the above

20. The MPS identify a specific department to take responsibility, and be held accountable by the MPA, for the collation and monitoring of all stop and search data, including disproportionality, to inform policing intelligence and policing management. This department also must be responsible for dissemination and publication of this information internally and externally on its website, and to stakeholder groups. And that further, each BOCU be required to establish a further set of key performance indicators pertaining to stop and search in partnership with key community stakeholder groups, and that this stop and search performance information is produced and disseminated on a regular basis to the local media, the CDRP, and community groups.

271. The Scrutiny Panel has been particularly concerned with wishing to measure the effectiveness and productivity of stop and search. By productivity, the Panel wishes to see data that refers to the number of searches that result in seizures, arrests and judicial disposals, the nature of the arrests and the quality of the seizures. It should also be able to identify certain strategies to improve the likelihood of 'low discretion' stops and more productive search techniques that will result in an arrest or seizure of contraband. It will also enable both the police and the community to assess the quality of police-citizen encounters.

272. The Scrutiny Panel is concerned with the high proportion of 'high discretion' stops and searches: That is, stops that are based on the generalised experiences and judgement of the beat officer rather than on the use of accurate, up to date intelligence and detailed suspect descriptions.

273. Of particular interest to the Scrutiny Panel was the much higher percentage of arrests resulting from stops and searches undertaken by the Territorial Support Group (TSG). This is an Operational Command Unit of Territorial Policing with 825 police officers located in five geographical bases across London. One of its primary tasks is to support safer streets and crime hotspots in relation to street crime as well as gun crime interventions in boroughs. When they are deployed in a borough, they have liaison with the borough prior to the development and at the time of the deployment in terms of briefings, objectives and intelligence information.

274. With arrest rates of around 24% resulting from stops and searches, the quality of the intelligence briefing prior to deployment has been identified as the major causal factor. As Assistant Commissioner Tim Godwin explained to the Panel:

"TSG, who have the highest arrest rate, are always deployed on a tasked operation where the intelligence products are probably better than the general officer will get when they are going out on patrol."

“where you have the better intelligence products, you have the better arrest rates”

275. In its discussions with briefing officers, the Panel was told that the daily briefing sessions for officers before they go out on patrol generally would incorporate:

- All types of crime recorded over the previous 24 hours
- Crime trends drawn from the criminal intelligence database
- Identification of where the crimes are
- Arrests
- Suspects descriptions and any vehicles involved.

276. The briefing sessions do not provide any guidance regarding stop and search. As one briefing officer told the Panel:

“I merely provided intelligence for them to go out and do their patrols with.”

277. Commander Brian Paddick pointed out to the Scrutiny Panel:

“You get descriptions of people circulated, of people who have just committed an offence which are totally inadequate. For example, in Lambeth I have been out with officers at the scene of the crime and the victim says the person who carried out this robbery was a young black male who was wearing a hooded top, jeans and trainers. Unfortunately you could probably find at the time of that offence about 400 people in Lambeth on the street at that time who fit that description.”

“...It is not accurately focussed enough, and to that extent it’s a blunt instrument that needs to be sharpened.”

278. The real issue is the way it is implemented.

279. The data that is being gathered on stop and search would appear to the Scrutiny Panel to be incomplete, unreliable and out of date. Assistant Commissioner Tim Godwin told the Scrutiny Panel:

“We are extremely data-rich in the sense that we keep records of lots of things. Data quality is still a problem. We do have to win local trust and the only way we can do that is with proper information.”

280. While every police officer before the Scrutiny Panel agreed for the need and effectiveness of the power, the Panel was frustrated in its attempts to be able to quantify the results of stop and search. While the MPS can relate Stop and Search to arrest rates, it does not have access to the data systems to compare with their judicial disposal rates. As Assistant Commissioner Tim Godwin told the Scrutiny Panel:

“Trying to get crime information down to a ward level is problematic. The actual cost of the software solutions for things like CAD and CRIS is expensive. There is a lot of work that needs to be done across all our data systems because we do need to link stop and search activity. Yes, we don’t have that data and we should have.”

“We need to make sure that the database systems, our CAD systems can be broken down by location, by neighbourhood, and the mechanisms put in place where people can go to community forums where it is explained.”

281. But even if the quality of raw data were to be improved, there still appears to be a structural problem of a severe shortage of qualified analysts who can interpret the data for intelligence, monitoring or supervisory purposes.

282. The Scrutiny Panel is concerned with the severe shortage of personnel, at the borough level as well as at the centre, not only to compile stop and search data, but to undertake any kind of analysis of what the data might suggest for either supervisory, intelligence, or community engagement purposes.

283. While the Scrutiny Panel notes that a large number of analysts have recently been recruited to increase the MPS's intelligence capacity, it also notes that the police staff pay budget has been cut over recent years. This has resulted in high turnover of staff, which suggests that the MPS may need to review the salary level for analysts if it is to attract and retain these specialists.

Evidence emerging from the Rec 61 implementation in Hackney and Tower Hamlets is indicating that the lack of available meaningful data is placing the implementation at real risk of disengaging the very community it was aimed at reassuring. The planned London wide implementation of the recommendation is likely to significantly increase the formation and distrust of the community if the MPS does not allocate appropriate money and responsibility to address this fundamental problem.

284. The Stephen Lawrence Inquiry Report made clear the view that there was a need for an enhanced statistical picture of police stops of the public, particularly in relation to stops of people from Black and ethnic minority communities. It is therefore recommended that:

21. The MPS increase the quantity, quality and status of analysts at BOCUs who can produce and disseminate publicly understandable data on local stop and search rates, as well as for monitoring and supervisory purposes as a necessary precondition of the roll out by October 2004 of Recommendation 61 of the Stephen Lawrence Inquiry Report.

22. The MPS report to the EODB on the feasibility of identifying, assessing and training those police officers who are unfit for operational duties as analysts.

23. The MPS review and accelerate the current mechanisms for selecting sergeants and provide a timetable for solving the current shortage.

24. The MPS revise the sergeant job descriptions to ensure accountable management structures are in place to ensure that beat officers receive adequate supervision, and report on progress before December 2004 to the EODB.

25. In conjunction with Recommendation 14, the Home Office develop appropriate performance measures with respect to stop and search within Policing Performance Assessment Framework (PPAF) that emphasise quality rather than quantity, and that these compare BOCU performance.

26. The MPS ensure that BOCUs have procedures to ensure that s60 authorisations are effectively managed from inception to conclusion, including appropriate quality assurance checks, and these are reviewed by the MPA on an annual basis.

27. The MPS monitor the systems that are already in place for managing and supervising, at BOCU and OCU level, individual officer use of the stop and search powers (and of the requirements for recording as per Recommendation 61). This monitoring incorporate 'exception testing', i.e. officers whose racial disproportion in stops and searches is significantly above the average for officers in their borough, and that regular quarterly reports be presented to the Equal Opportunity and Diversity Board (EODB) on the outcomes of this monitoring.

28. The MPS provide a report to the Equal Opportunities and Diversity Board (EODB) outlining the range of actions, including disciplinary actions that could be taken, in accordance with the Code of Conduct, and the requirements of the Race Relations Amendment Act 2000 against officers who consistently use stop and search powers with no sound reason.

29. The Home Office provide guidance attached to the police Code of Conduct to include unjustified disproportionality in stop and search figures as grounds for discipline.

Policing Communities

285. Community policing is not just about more visible policing, more officers on the street. It is about officers knowing their communities. The Scrutiny Panel is concerned with the stability in the deployment of officers. As the Metropolitan Police Federation told the Panel, it is

“It is daily interactions that aren’t conflictual that builds relationships... yet present arrangements encourage...the potential danger of police officers retreating further away from the public.”

It is therefore recommended that:

30. The MPS review the specialist skills required to implement the whole concept of community policing which requires officers to have in-depth and specialist knowledge of the communities they police. Further the MPS review its special priority payments and promotion structure in order to encourage officers to view ‘beat’ policing as an attractive career option. And that further the Safer Neighbourhoods programme be monitored with regard to this concern and how it informs the effectiveness of stop and search in boroughs.

(ii) Monitoring and Supervision

286. The Lawrence Inquiry Report recommended that police officers should be held more accountable for the use of stop and search powers. Monitoring and supervision of the use of their powers is essential.

287. Again, Special Notice 12/01 stresses this responsibility, but it has become very apparent to the Scrutiny Panel that it is not being done.

288. In fact, it appears that there are some structural weaknesses in the organisation of the Met, further compounded by staff shortages at the level of Sergeant, that suggests that since the publication of the Macpherson report the Met has become less, not more accountable for the use of stop and search powers. The present state of confusion about who is responsible for what happens on the street (i.e. the role of the sergeant, the BOCU and Headquarters) needs to be addressed urgently.

289. While the Scrutiny Panel recognises the enormous efforts put into, and difficulties encountered in rolling out the Recommendations of the Lawrence Inquiry Report, it is of interest to note that the considerable research undertaken by the Home Office itself even concludes that their successful implementation is “unlikely to produce significantly positive outcomes in relation to fairness and community confidence in stops and searches”.

290. In exposing her sense of frustration at the lack of progress in implementing the recommendations of the Macpherson Inquiry report, Doreen Lawrence suggested to the Scrutiny Panel that if they are not working then they should be updated and changed. If the implementation of Recommendation 61 is not reducing disproportionality, if the recording of stop and search data is riddled with flaws, if it is not providing usable police intelligence, and if the process is further compounding poor police-community relations, then alternative remedies need to be sought.

291. In getting at the issue of supervision and monitoring, the Scrutiny Panel has been made aware of a number of challenges.

292. First, is what has been described as the ‘independent office’ of the police constable. Constables are not employees; they are independent Officers of the Crown. Discretion in the MPS, in many ways, is greatest at the police constable level. The decisions and behaviours of police officers when dealing with member of the public are “invisible” to supervisors and, therefore, effectively ‘unreviewable’.

293. As the Metropolitan Police Federation described it to the Panel:

“The primary unit of policing in London is the single constable patrolling on their own. Parliament has vested unique powers in the officer constable and discretion is one of the most important powers that the police officer has. Therefore we feel that if you were to remove that power of discretion from the individual police officer, you are threatening the very unique role of the constable itself. We would not want to see that power removed.”

294. But while the decision to carry out a stop and search should continue to reside with the officer, the Scrutiny Panel was reminded of the challenges of supervisory behaviour. The Deputy Commissioner acknowledged this:

“The kind of intrusive supervision that this would require to have a sergeant seeing what was going on with all his or her officers - is very difficult to imagine in the modern age”.

295. And Commander Paddick suggested:

“The real key to this is getting police officers to be professional in the way that they carry out stop and search rather than the supervision of it.”

296. Secondly, not only is most stop and search ‘unreviewable’, but there is also a dire shortage of supervisors, in particular sergeants, who can undertake any kind of reviewing or monitoring.

297. The Submission by the 1990 Trust to the Scrutiny Panel raises the concern for protecting the autonomy and discretionary powers of the police officer:

“In our view, the culture of operational independence of the police has become firmly entrenched over the years detracting from the founding principle of the police service of policing by consent.

“Cashmore and McLaughlin argue that the police have utilised the idea of crisis (whether or not crisis actually exists) to further their own progress towards professional autonomy and political influence. Increasingly, Cashmore and McLaughlin have suggested, ‘the police have drawn legitimacy from a largely supportive public, convinced that a crisis of law and order is upon us and equally convinced that the police should take appropriate measures to deal with it’ (1991:15) In this respect, ‘the concept of crisis with black youth at its centre has been of great utility to the British police.’ (Cashmore and McLaughlin, 1991:15)” “

298. The Scrutiny Panel was disturbed to discover that there are currently over 470 vacancies for sergeant across Territorial Policing. This severe shortage of supervisory staff at the borough level raises the serious question of how much supervision and monitoring of beat officers is actually being undertaken.

299. While the Scrutiny Panel recognises that the MPS is presently pursuing a number of initiatives to address this acute shortage, the Scrutiny Panel is in agreement with the Metropolitan Police Federation who told us that:

“We do not consider that there are sufficient supervisors capable of patrolling with constables on the streets. We would rather see an increase in the first level of supervision in the rank of sergeant.”

300. This problem is further exacerbated when a large proportion of officers on the beat are young, inexperienced and fresh out of Hendon. Over 7000 of the 21,000 officers in Territorial Policing are probationers.

301. Or as the Metropolitan Police Federation told the Panel:

“Half our patrolling officers are probationers ...an awful lot of very young and inexperienced people. This ratio of inexperienced and experienced officers is now at a level which is really undesirable and frankly dangerous.”

302. Monitoring of borough statistics on stop and search is undertaken by the Diversity Directorate (DCC4).

303. However there appears to be some confusion regarding oversight. Assistant Commissioner Tim Godwin observed to the Scrutiny Panel:

“I think it fell between two streets”

304. It became apparent in its discussions with representatives of the MPS that no system was in place for monitoring levels of public satisfaction with stop and search. While a more comprehensive complaints process is one indicator, on its own it is clearly an imperfect auditing mechanism. Additional indicators need to be explored about whether there are perceivable improvements in the operation of stop and search.

305. An additional auditing mechanism that the Scrutiny Panel favours involves consideration of ongoing customer satisfaction surveys. Such surveys randomly poll those who have had some interaction with the police. The respondents are asked a few questions about the quality of the service they received and their satisfaction with it. This approach could be useful in stop and search situations. Such a survey helps to ensure the accuracy of the information recorded by the officer and provides useful information about the quality of stops and searches from the perspective of the individual stopped.

(iii) Training and Accreditation:

306. The need for more thorough and relevant police training was repeatedly mentioned by witnesses to the Panel.

307. In his submission to the Panel the Mayor of London stressed:

“A training programme that focuses on both the strategic and tactical use of stop and search is imperative. We believe that such a training programme must actively promote Dr. Marian Fitzgerald’s recommendation that local commanders should systematically conduct an audit examining the way in which stop and search powers are currently used. This information should be shared with local Crime and Disorder Reduction Partnership agencies and used to develop a plan for using the powers in the context of the Partnerships crime reduction strategy and explicitly linked to specific objectives. Police managers would then be in a position whereby they could not only check on the reasonableness of the grounds recorded in individual cases, but they could also require officers to account for searches which made no contribution to public priorities within the crime strategy. We believe this would give police officers the opportunity to become part of the solution by re-engaging and motivating them in using the powers professionally and within a clearly defined framework.”

308. While the Panel has been made aware that significant improvements have been made with respect to the pre-service stop and search training at Hendon, a major concern for the Scrutiny Panel is not only **who** gets stopped but also **how** they are stopped, and as the Scrutiny Panel heard from community witnesses this is an area requiring urgent attention.

309. The behaviour and approach by the police in a stop and search situation was described by one young witness to the Scrutiny Panel as:

“Rowdy... with no explanation of why they were doing it... they twisted my arms, searched me, handcuffed me and arrested me”

310. Another young witness commented:

“They should change their approach to the way they do it. They should be a lot calmer when they do it”

311. And another young witness:

“...There will never be a good way of it happening. I reckon that there isn't much else you can do really, cos stopping and searching is never going to be a good thing...They do understand that there is reasons for things like this and that there needs to be stops and searches, but its just the way its done.”

312. For those witnesses to the Scrutiny Panel who have experienced being stopped and searched, perhaps the most important issue that needs to be addressed are the attitudes and behaviours of the officer. The overall experience of being stopped was very negative. Improving the quality of the encounter is a priority. This entails training in communications skills, in mediation and conciliation skills, in how to treat the public politely and with respect.

313. With respect to the adequacy of training, Commander Brian Paddick told the Scrutiny Panel:

“I don't think it is enough.....One of the most valuable things that young patrol officers can do is sit down with innocent victims of stop and search, where young officers and these people can sit down together in a non-conflict situation, and they experience the stop and search process.”

314. The submission to the Scrutiny Panel from the Mayor of London expressed concern that:

“The level of training given to officers in their introduction training at Hendon on PACE which relates to stop and search is limited. It currently stands at 18 hours in total and covers legislation, arrest procedure, practical exercise and a debriefing session, which looks at the impact or likely impact on individual and communities.

Although officers continue to receive training while on probation, consideration should be given to the level of support that is offered to officers undertaking stop and search duties. In particular officers need training on how stop and

search can feed into the wider experience of discrimination faced by minority and marginalised communities in London.”

315. It is therefore recommended that:

31. The MPS review and identify the ingredients of a ‘good’ stop, develop modules for ‘critical encounter training’ and incorporate them into existing training curricula.

32. In endorsing the recommendation of the MPS Inspectorate on its Thematic Inspection of s60 Criminal Justice and Public Order Act 1994 (August, 2003), the MPS assess its training on the use and application of s. 60, and this include all ranks involved in this process.

316. With present priorities devoted to recruitment of more police officers, the Scrutiny Panel is aware that the capacity to provide in-service training has been severely curtailed. And while the Panel acknowledges the difficulties of organising training around shift patterns, with respect to stop and search practice, the Scrutiny Panel is particularly concerned that it is refresher training rather than recruit training that requires particular emphasis. It is what happens after Hendon that is important. As Glen Smythe of the Metropolitan Police Federation told the Panel:

“It is one thing to train officers in the intricacies of the Code of Practice, and what the law is around stop and search. It is quite another issue about training officers on actually how to do it. Stop and search is probably the equivalent of cold calling. It is the most difficult single policing tactic... In that context, it seems to me that the Met would wish to do this better... Training is an area we could vastly improve upon... we need to train them properly to do the work that you expect of them. There is no organised provision for in-service, refresher training. It’s very ad-hoc. It needs to be built in. That is where the majority of officers need the training.”

317. It is therefore recommended that:

33. The MPS develop an ongoing programme of refresher training on stop and search that addresses the implications of the revised guidelines and the skills required to ensure the high quality of the encounter, and that a timetable be developed for delivering the programme to all front-line

officers over the next 2 years. And that further the stop and search training also engage with children and young people from communities disproportionately affected by stop and search practice, that it include content on Islamophobia, the provisions of the Human Rights Act (especially articles 5, 9, 10, 11 and 14), that it be work based, and that it involve peer reviews.

318. In addition to the recommended in-service training for all officers, an additional element to help overcome the difficulties of supervising searches is to require a fuller accreditation qualification to undertake searches. The Scrutiny Panel finds favour in this notion and recommends that:

34. The MPS undertake a feasibility study to determine the requirements, implications and timetable for implementation of police accreditation to undertake searches.

35. The MPS develop an ongoing programme of training for accreditation on stop and search that addresses the implications of the revised guidelines and the behavioural skills required for ensuring the high quality of the encounter. And that further, a timetable be developed for delivering the programme to all front-line officers at the Borough level over the next 3 to 4 years.

319. The Scrutiny Panel was impressed with the argument presented to it by the 1990 Trust that:

“As with other professions, we believe that the police training should take place in a university or college of further education. This would have three important benefits. First, training in the rule of law. Second, officers would have the opportunity to develop relationships that are more enduring with members of other professions. Third, police trainees would not be directly employed by police forces and therefore would not be in an obligatory relationship with them... In addition to transforming their relationship to the wider community, training in a civilian context would raise the professional standing of the police to a level similar to that of other professions’.

320. The Scrutiny Panel therefore recommends that:

36. The MPA and MPS undertake a feasibility study, including a cost-benefit analysis, of the provision of police training on stop and search through civilian organisations particularly in inner city boroughs with high stop and search rates.

37. The MPS report back to the EODB on the feasibility of establishing a programme of secondment for probationers to be placed in inner city schools and community organisations and Non Governmental Organisations (NGOs) before they are posted to boroughs.

5.4 Complaints Process:

321. Witnesses to the Scrutiny Panel were clear in expressing their view that the current process for receiving complaints against the police does not have public confidence. The overwhelming feeling was that the process is not accessible, lacks independence, and is not effective in resolving concerns. A local complaint process that has the trust of the local communities is critical.

322. As Delroy Lindo told the Scrutiny Panel:

“There is not enough publicity to make the public aware that they can complain if they are badly treated. Most public services are very keen to make their customers aware of the complaints procedure if they are unfairly treated. Most members of the public don’t know how to complain regarding police officers. When they do know where, and how to make the complaint, they are quite often left to wait for a length of time”

323. In a qualitative study commissioned by the Scrutiny Panel and undertaken by the 1990 Trust, 304 individuals were interviewed to assess their experience of stop and search and whether or not they complained. The main findings of the study were:

324. Almost half the respondents who had been stopped by the police had already been stopped more than five times, and 88% had been stopped more than once. So for many respondents in this study, and many young Black and Muslim men and boys, being stopped and searched by the police is a normal part of their everyday lives.

325. Most participants were given inadequate reasons for being stopped. One in five of those stopped said that the reason they were given was false or an excuse for

stopping them, and many others were told the stop was 'routine'. A quarter of respondents who had been stopped were given no reason for the stop, and those stopped under the Terrorism Act were informed that no further reason had to be given. Just 11% of respondents who had been stopped and not made a complaint said this was because there was nothing wrong with the stop or search.

326. Respondents felt 'intimidated' by the idea of complaining to the police about the police, and did not trust the police to investigate themselves. 63% of respondents who had been stopped but had not complained said that complaining to the police would be a waste of time and nothing would come of it.

327. Respondents stopped under the Terrorism Act thought they had no right to complain about the stop, and one respondent had been told this by a police officer.

328. 27% of respondents who did not complain were unaware of their right to complain. A quarter of respondents who did not complain did not know how to complain.

329. Many respondents expressed a feeling of powerless against the system, and that 'the law is the law'. Many respondents felt that the police were institutionally racist and 'do not care' about Black, Asian and Muslim people. 36% of respondents were afraid that complaining would lead to further harassment. Most respondents felt that complaining to the police would achieve nothing, a feeling which was overwhelmingly supported by the experience of respondents who had actually complained. Respondents stopped under the Terrorism Act were particularly likely to see complaining as pointless.

330. Respondents who had been stopped described the feeling of the normalisation of being continually stopped by the police. None of the eighteen respondents who had complained to the police were satisfied with the outcome. One dropped the complaint because of repeated stopping and searching after lodging the complaint. Two thirds of complainants found the process unclear. All the respondents said that their case had been handled badly, two explicitly mentioning racism as the reason the case was handled badly. 85% had a negative experience of how they were treated during the course of the complaint, including being treated like a criminal, feeling the police didn't care and being told the complaint would not make a difference.

331. The Final Report of the MPS Thematic Review of Race and Diversity in the MPS (March 2004) notes that the Directorate of Professional Standards (DPS) has a significant concern that local managers on boroughs and operational command units are resistant to using the informal complaints resolution rate and too readily seek the support of DPS. This leads to significant delays and consequent frustration, dissatisfaction and a lack of confidence in the police on the part of the complainant.

332. With the commitment to localised policing, Borough units should assume much greater responsibility for dealing with complaints, using a standardised framework. Based on these findings, the Scrutiny Panel recommends that:

38. In recognising the need for alternative non-intimidating means by which members of the public may make a complaint regarding stop and search, that the MPA, the Independent Police Complaints Commission (IPCC) and the MPS formally endorse and support the appropriateness of third party reporting.

39. The IPCC develop a standard public complaints form that be made available not only at every police station but widely distributed to community agencies, and that this also be made available electronically on police and NGO websites.

40. The IPCC consider the feasibility of establishing a funding programme in support of third party reporting centres.

41. The Commission for Racial Equality review its funding programme for Racial Equality Councils that incorporate support for third party reporting.

42. The MPA establish a separate funding programme in support of community monitoring initiatives of stop and search practice and third party reporting by established community advocacy groups.

43. The MPS develop a training module in the handling of public complaints, and that officers so trained initiate monthly community forums and other community outreach activities, such as visiting youth clubs, to take complaints and receive feedback.

44. The MPS, in conjunction with the above recommendation, in each BOCU identify a Public Complaints Officer and that this information is publicised on the BOCU website, in the local community through NGOs, Race Equality Councils and other local voluntary organisations as a means of improving public trust and confidence in making complaints to the police.

45. The MPS require each BOCU to submit an annual report, at the end of the fiscal year, to the MPA on their complaints handling procedures and their resolution, and this be publicised under the Specific Duty of the Race Relations Amendment Act.

46. The principles of restorative justice and mediation be considered as appropriate alternatives by the IPCC and MPS in their procedures to formal stop and search complaints.

47. The IPCC assume responsibility for reviewing and updating present information on how to make a complaint regarding stop and search. This should clarify the process regarding taking complaints at the local police station, to the IPCC, or to the police authority.

48. In ensuring greater public transparency in the investigation of complaints, the IPCC monitor, evaluate and report on all complaints resulting from stop and search on an annual basis; and that further, the IPCC identify the appropriate procedures by which complainants are kept regularly informed of the progress of investigations into alleged violations.

49. The IPCC, in partnership with the Association of Police Authorities and the MPA, undertake a public information campaign so that the complaints procedure and rights on stop and search are well publicised. This strategy should incorporate posters, leaflets and web-based information and utilise not only radio, television and print based media but also NGOs and other community based agencies.

50. As part of the above information campaign, and as part of its commitment in implementing Recommendation 63 of the Lawrence Inquiry Report, the MPA provide support for the provision of training and information sessions for community groups, schools, and other local fora on people's rights specifically on stop and search but also on the relevant Articles of the Human Rights Act (particularly 5,9,10 and 11).

233. The MPA is naturally concerned with the increasing costs of civil litigation, Civil court proceedings of alleged police misconduct are increasingly being pursued. For example in 1979 only 7 cases against the police in London were heard, resulting in damages of £1,991 being paid. In 1986, 126 cases were heard; in 1994/95 it was 731, and 1000 in 1996/7. Damage payments tripled from £1.3 million in 1994/5 to £3.9 million in 1999/2000.

234. With the establishment of the Independent Police Complaints Commission, and the implementation of the above recommendations, the Scrutiny Panel hopes the level of confidence in the public process will increase and thereby avoid the need to pursue civil court proceedings.

5.5 Raising Public Awareness:

235. If there was one issue on which the Scrutiny Panel heard unanimity it was the need for raising public awareness. There is a clear need for taking proactive steps to ensure that the public are aware of police stop and search powers and people's rights. The 'know your rights' leaflet on stops and searches should be widely distributed and targeted marketing campaigns should be undertaken.

236. The Mayor of London's submission to the Scrutiny Panel notes that:

"Information gleaned from the Metropolitan Police Authority's (MPA) 2001 consultation on the recording of police stops has shown that Londoners believe adequate information is a defining factor in improving, rather than undermining, trust and confidence through stop and search procedures. Greater awareness may also encourage police officers to think carefully about why they are conducting a stop and search. The use of publicity campaigns to make the public more aware of stop and search provisions is, therefore recommended"

237. And as one young witness told the Panel:

"I reckon them stop and search things, I've never seen them before, but I think they're wicked, cos just to know your rights, cos I never knew my rights before I read that thing. It would make it so much better. Loads of people look at police as authority, like they could do anything, and then for that to say no, they can't, this is what they can do, is a lot better, I reckon. Cos that's the big thing about everything. If you know your rights then it makes you feel a lot safer."

238. It is therefore recommended that:

51. The Association of Police Authorities (APA), with respect to Recommendation 63 of the Stephen Lawrence Inquiry Report, expand its public education and awareness strategy regarding citizen rights and stop and search both directly as a national campaign, and indirectly through police authorities.

52. The MPS explore the feasibility of introducing a feedback system to assess the quality of police public encounters in stop and search situations by test piloting a feedback form to be given at the end of the encounter.

5.6 Police Community Partnerships:

239. The Mayor of London's brief to the Scrutiny Panel stressed the need for stronger community partnerships:

"There is a need for a much more organised and rigorous system of local democratic accountability for the police, involving the most deprived and marginalised sections of the community. Local Police Community Consultative Groups currently do not reflect the communities the police serve or provide a forum for marginalised groups to have their views heard and grievances aired. The Mayor has noted with interest the developments currently undertaken in relation to developing Police Community Consultative Groups and wants to see further progress made in this arena.

The Mayor believes that many community safety concerns can also be addressed through leadership and by working with partners at a pan-London level."

240. What is clear from the witnesses appearing before the Scrutiny Panel is that many persons who are directly affected by disproportionality are eager to engage in a constructive process to work with the police to identify their concerns. In a few areas of London, such as in Brixton, Newham, Lewisham and Hackney, this is already happening. There have been some positive gains made in terms of building solid police-community relationships and concrete measures to tackle local issues of disproportionality. The Scrutiny Panel supports and emphasizes the importance of this type of partnership.

241. The Met's Operation Trident was mentioned by a number of community witnesses to the Scrutiny Panel as an excellent example of police community partnership that should be followed in other areas of concern.

242. The Scrutiny Panel is persuaded that the most effective approach to officers using their stop and search powers effectively and professionally is to define, at the borough level, a clear framework in close partnership with the community. It is through this community-police partnership that a plan should be developed and agreed upon for the use of stop and search within the context of local crime strategies. The plan should then be widely disseminated and promoted.

243. Lee Jasper, the Mayor of London's representative told the Panel:

"I really think the future for policing difficult areas is establishing a very vigorous civic voluntary sector capable of engaging in constructive partnerships tackling the crimes that are of most concern for that community.

What is lacking at the moment is the resources to enable those partnerships to actually become real at a local community level."

244. In discussing the need for much greater community engagement in policing Lee Jasper commented:

"I think it's absolutely critical. I think that where we see community partnerships on policing criminality you see a great deal of trust and

confidence being engendered. Operation Trident, of which I'm the Chair of the Independent Advisory Group, is an example. If you can get the trust in a particular area with that community, then you can enjoy a level of tolerance about policing operations and the development of particular tactics, because they enjoy the consensual support of that community. Where you don't have the consensual support then you are in somewhat of a difficulty. So it's absolutely key to trust and confidence and I would suggest that criminality within Black communities would be much more effectively policed if the level of trust and confidence within our communities were to continue to increase across the board in relation to policing activities. I see it as fundamental to improving the extent to which we tackle criminality within the areas of BME communities across London"

245. Mr Jasper went on to emphasise the involvement of young Black people in this process:

"The first principle would be to stop treating young Black people as problematic. If you start treating young Black people as part of a solution to tackling criminality, I think you'll find there's a huge number of them out there whose fear of crime is such that they want to actively be engaged in making their communities safer.

It affects the places where they go, it affects the associations that they have. It is a strong and very real phenomenon for young Black people and I think therein lies part of the solution. If we can begin to tackle youth schemes, such as they have in the Netherlands , where they've got young Black kids to be part of a street warden scheme that tackles local criminality where these youth wardens have referral powers to all sorts of youth support services, then I think you would see a much more sustainable and effective reduction in street crime . You would also shift the balance of perceptions for police officers themselves, when they begin to see active citizenship being affected through those kinds of youth initiatives. In relation to further initiatives, the Lambeth Youth Council actually goes in and trains officers around stop and search, gives them the experiential feel of what its like to be young, Black and in Lambeth. I do think that engaging with young people is part of the solution. A fundamental psychological and philosophical shift is needed in order to build on that trust and confidence"

246. The Scrutiny Panel endorses this analysis and recommends that:

53. Each borough commander be directed to meet with concerned and attached communities on an organised and ongoing basis to establish a citizen feedback system for sharing and reviewing stop and search data and activity and to discuss concerns and work with these communities to facilitate improvements in practice and in community-police relations.

54. The MPA identify and disseminate 'best practice' models, not only in London but also nationally and internationally, of community monitoring activities and ownership of local police stop and search practice.

55. The MPS establish an Independent Advisory Group (IAG) on stop and search practice to oversee the implementation of these recommendations and to monitor and promote best practice on a pan-London basis.

VI CONCLUSIONS

Weighing the Balance:

247. As stated in the submission to the Scrutiny Panel from the Lambeth Community Police Consultative Group:

“We start from the premise that community consent for the widespread use of stop and search must rest on confidence that gains from the power (in terms of apprehending criminals, dissuading wrongdoers and gathering intelligence) are substantive. Moreover, such gains must demonstrably outweigh the costs to the community (and the police) not only in the short-run terms of resource use but crucially in terms of the potential damage to trust and confidence in the fair, effective and non-discriminatory policing”

248. The compelling statistical evidence of stop and search practice in London shows that minorities are disproportionately targeted by the police.

249. The steady and dramatic increases in the levels of disproportionality in stop and search rates suggest that race, ethnicity and religion are a decisive factor.

250. The current increases in disproportionate stop and search rates has raised community concerns about a return to uglier periods in London’s history when overt racism was common police practice.

251. The Deputy Commissioner, Sir Ian Blair, told the Panel that stop and search has primarily been seen as an issue of one community, about young Black men. But disproportionality is an issue for the whole of the community. In moving the agenda forward:

“We need to separate and disconnect the stop and search issue from race. The issue is competent, professional policing.”

252. The effects of stop and search practice generally on innocent victims identified in this report raise significant human rights issues to which we must respond.

253. Disproportionality in stop and search practice compromises London’s future through its impact on our children and youth, creates mistrust in our institutions, impedes communities’ sense of belonging and level of civic participation and impacts on human dignity.

254. We cannot afford to allow the growth in disproportionate stop and search rates against BME communities. This cannot be tolerated or practiced in London. The cost is simply too great. It is imperative that swift and effective action be taken.

255. As Sir Ian Blair acknowledged to the Panel:

“The Metropolitan Police needs to continue to improve the stop and search processes. We need to get into this quality of encounter. We need to get into the management information. We need to deal with issues of community engagement...If we go forward with the community, explaining to the community what we are doing then we could win.”

256. To this end, the Scrutiny Panel is proposing some measures for action. The Scrutiny Panel urges greater efforts and commitment to the changes and present initiatives being undertaken by the MPS, and urges the adoption of its recommendations which it believes, in the long run, will result in a more acceptable and equitable use of stop and search powers. This is not intended to be an exhaustive list. Part of the Scrutiny Panel's purpose is to raise public awareness about stop and search practice in London, and to bridge the divide between those who deny the existence of racial bias as a major determinant in who is stopped and searched, and the communities who have long held that they are targets of discriminatory policing.

RECOMMENDATIONS

A. LEADERSHIP: RECOGNITION OF THE PROBLEM

1. The Commissioner acknowledges publicly that if racial bias exists in the use of stop and search powers, he gives a commitment that the practice will be eliminated.

2. The MPA reaffirm its duty to hold the MPS accountable to ensure that police procedures in every area of operations and administration are free of racial bias, and that further, the MPA engage with Londoners to strengthen the public scrutiny and monitoring of this commitment.

3. The MPA commit to inform and educate London's communities regarding stop and search practice, and to encourage and support them in asserting their rights and responsibilities as full and equal citizens and to use all avenues of redress and complaint when these rights have not been respected.

4. Community groups take steps to inform and educate members of their communities regarding stop and search practice, and to encourage and support them to use all avenues of redress and complaint when their rights have not been respected.

5. The Home Secretary take urgent steps, through the Home Office Race and Criminal Justice Unit, to conduct a critical evaluation the effectiveness of stop and search as a police tactic in reducing crime and promoting public trust and confidence.

6. The Association of Chief Police Officers (ACPO) review and revise its guidance on the use of stop and search in the light of the findings of this Scrutiny and other recent findings.

7. The Association of Police Authorities (APA), with respect to Recommendation 63 of the Stephen Lawrence Inquiry Report, expand its public education and awareness strategy regarding citizen rights and stop and search both directly as a national campaign, and indirectly through police authorities.

8. The MPA and MPS, in collaboration with the CRE, engage with the Department of Culture, Media and Sport to a review of the arrangements that are in place for ensuring that the statutory requirements of the Race Relations (Amendment) Act 2000 are being fully implemented by the Office of Communications (OFCOM), Press Complaints Commission and the Advertising Standards Authority, specifically in relation to the ways in which stop and search and crimes affecting and committed by members of the Black and minority ethnic communities are reported.

9. The Secretary of State for Education be requested to review the effectiveness of the secondary school curriculum so that all pupils are provided with an understanding of the basic tenets of citizenship and human and civil rights and are provided with and have an understanding of the information contained in literature such as the stop and search 'Know Your Rights' literature.

10. The MPA and MPS commission research, in partnership with the Secretary of State for Education, to determine if there is any correlation between the Department's policy on school exclusions, and the early interface by those thus excluded with the criminal justice system.

11. The MPS demonstrates its commitment to the Specific Duty of the Race Relations Amendment Act 2000 by requiring all Borough Commanders to carry out a race equality impact assessment of stop and search and Recommendation 61 implications within 4 months of the publication of this report as a priority.

12. The Commission for Racial Equality publishes as an urgent report the outcomes of the work underway to examine whether continuing disproportionate figures based on race could be grounds for prosecution under the provisions of the Race Relations Amendment Act 2000, and demonstrate its commitment to initiate judicial proceedings on behalf of members of the public.

13. The Home Secretary provides clarification on people's right to complain if they have been mistreated in a stop and search under all statutory provisions, including Section 44 of the Terrorism Act 2000 and that such information is placed in the public domain and accessible to all who require it.

14. The Home Secretary ensure, in the spirit and intent of Recommendation 61 of the Macpherson Report, that all stops and searches be recorded, including those undertaken under Section 44 of the Terrorism Act 2000 and Section 60 of the Criminal Justice and Public Order Act 1994, and that this data be broken down on ethnic lines and be placed in the public domain.

15. The Government of London Office (GOL), through its funding initiatives such as the BME Cracking Crime, consider support for community-based initiatives to monitor and engage with the police around stop and search practice.

B. STOP AND SEARCH POWERS

16. The present MPS review of Special Notice 12/01, "Metropolitan Police Service Guide to the use of Stop and Search" provide clear direction as to:

- a. The proper definition of 'reasonable suspicion'
- b. Guidance and policy on the use of S.60 of the CJPO Act 1994 and the administration procedures to be followed
- c. What the power can best contribute to tackling the crimes, which are of concern to the public
- d. The situations in which it is the appropriate tool for achieving these ends

That further, these draft policy and operational guidelines be fully impact assessed under the requirements of the RRA and be submitted to the MPA through the Equal Opportunities and Diversity Board for adoption before September 2004 including an action plan for implementation of this and the other recommendations contained in this report.

17. The MPS, in applying more rigorous, objective, intelligence-led criteria for 'reasonable suspicion' as identified in the above recommendation, reverse the existing ratio of 'low discretion' stops and searches (that is, robust suspect profiles that are based on police intelligence and / or information received from the public) to high discretion stops over two years. This is a performance measure upon which progress and achievements should be reported to the EODB on an annual basis.

18. The MPS, in conjunction with the Home Office, undertake a cost benefit analysis of stop and search practice and identify and develop the appropriate comparators and indicators regarding the optimal trade-off between the appropriate use of stop and search and the potential increase to community trust, confidence and cooperation in policing by consent.

C. ORGANISATIONAL MANAGEMENT

19. The MPS strengthen its management, monitoring and supervision of the use of stop and search powers by establishing clear lines of accountability, reporting relationships and monitoring responsibilities including delineating responsibilities between senior management and the BOCUs. And that further the MPS provide a progress report on Operation Diamond, which is modernising the MPS data systems, and identify how it is integrating further analysis of stop and search data with respect to:

- Further breakdowns by ethnicity
- Times of offences compared to times of searches
- Suspect ethnicity compared to ethnicity of persons searched
- Comparative analysis of other tactics used to counter these offences-
- Use of completed search forms as a basis of monitoring supervision and analysis
- Ward based information on the above

20. The MPS identify a specific department to take responsibility, and be held accountable by the MPA, for the collation and monitoring of all stop and search data, including disproportionality, to inform policing intelligence and policing management. This department also must be responsible for dissemination and publication of this information internally and externally on its website, and to stakeholder groups. And that further, each BOCU be required to establish a further set of key performance indicators pertaining to stop and search in partnership with key community stakeholder groups, and that this stop and search performance information is produced and disseminated on a regular basis to the local media, the CDRP, and community groups.

21. The MPS increase the quantity, quality and status of analysts at BOCUs who can produce and disseminate publicly understandable data on local stop and search rates, as well as for monitoring and supervisory purposes as a necessary precondition of the roll out by October 2004 of Recommendation 61 of the Stephen Lawrence Inquiry Report.

22. The MPS report to the EODB on the feasibility of identifying, assessing and training those police officers who are unfit for operational duties as analysts.

23. The MPS review and accelerate the current mechanisms for selecting sergeants and provide a timetable for solving the current shortage.

24. The MPS revise the sergeant job descriptions to ensure accountable management structures are in place to ensure that beat officers receive adequate supervision, and report on progress before December 2004 to the EODB.

25. In conjunction with Recommendation 14, the Home Office develop appropriate performance measures with respect to stop and search within Policing Performance Assessment Framework PPAF that emphasise quality rather than quantity, and that these compare BOCU performance.

26. The MPS ensure that BOCUs have procedures to ensure that s60 authorisations are effectively managed from inception to conclusion, including appropriate quality assurance checks, and these are reviewed by the MPA on an annual basis.

27. The MPS monitor and review the systems that are already in place for managing and supervising, at BOCU and OCU level, individual officer use of the stop and search powers (and of the requirements for recording as per Recommendation 61). This monitoring incorporate 'exception testing', i.e. officers whose racial disproportion in stops and searches is significantly above the average for officers in their borough, and that regular quarterly reports be presented to the Equal Opportunities & Diversity Board (EODB) on the outcome of this monitoring.

28. The MPS provide a report to the Equal opportunities and Diversity Board (EODB) outlining the range of actions, including disciplinary actions that could be taken, in accordance with the Code of Conduct and the requirements of the Race Relations Amendment Act 2000, against officers who consistently use stop and search powers with no sound reason.

29. The Home Office provide guidance attached to the police Code of Conduct to include unjustified disproportionality in stop and search figures as grounds for discipline.

30. The MPS review the specialist skills required to implement the whole concept of community policing which requires officers to have in-depth and specialist knowledge of the communities they police. Further the MPS review its special priority payments and promotion structure in order to encourage officers to view 'beat' policing as an attractive career option. And that further the Safer Neighbourhoods programme be monitored with regard to this concern and how it informs the effectiveness of stop and search in boroughs.

D. TRAINING

31. The MPS review and identify the ingredients of a 'good' stop, develop modules for 'critical encounter training' and incorporate them into existing training curricula.

32. In endorsing the recommendation of the MPS Inspectorate on its Thematic Inspection of s60 Criminal Justice and Public Order Act 1994 (August, 2003), the MPS assess its training on the use and application of s.60, and this include all ranks involved in this process.

33. The MPS develop an ongoing programme of refresher training on stop and search that addresses the implications of the revised guidelines and the skills required to ensure the high quality of the encounter, and that a timetable be developed for delivering the programme to all front-line officers over the next 2 years. And that further the stop and search training also engage with children and young people from communities disproportionately affected by stop and search practice, that it include content on Islamophobia, the provisions of the Human Rights Act especially articles 5, 9,10 and 11, and 14), that it be work based, and that it involve peer reviews.

34. The MPS undertake a feasibility study to determine the requirements, implications and timetable for implementation of police accreditation to undertake searches.

35. The MPS develop an ongoing programme of training for accreditation on stop and search that addresses the implications of the revised guidelines and the behavioural skills required for ensuring the high quality of the encounter. And that further, a timetable be developed for delivering the programme to all front-line officers at the Borough level over the next 3 to 4 years.

36. The MPA and MPS undertake a feasibility study, including a cost-benefit analysis, of the provision of police training on stop and search through civilian organisations particularly in inner city boroughs with high stop and search rates.

37. The MPS report back to the EODB on the feasibility of establishing a programme of secondment for probationers to be placed in inner city schools and community organisations and Non Governmental Organisations (NGOs) before they are posted to boroughs.

E. PUBLIC COMPLAINTS

37. In recognising the need for alternative non-intimidating means by which members of the public may make a complaint regarding stop and search, that the MPA, the Independent Police Complaints Commission (IPCC) and the MPS formally endorse and support the appropriateness of third party reporting.

39. The IPCC develop a standard public complaints form that be made available not only at every police station but widely distributed to community agencies, and that this also be made available electronically on police and NGO websites.

40. The IPCC consider the feasibility of establishing a funding programme in support of third party reporting centres.

41. The Commission for Racial Equality review its funding programme for Racial Equality Councils that incorporate support for third party reporting.

42. The MPA establish a separate funding programme in support of community monitoring initiatives of stop and search practice and third party reporting by established community advocacy groups.

43. The MPS develop a training module in the handling of public complaints, and that officers so trained initiate monthly community forums and other community outreach activities, such as visiting youth clubs, to take complaints and receive feedback.

44. The MPS, in conjunction with the above recommendation, in each BOCU identify a Public Complaints Officer and that this information is publicised on the BOCU website, in the local community through NGOs, Race Equality Councils and other local voluntary organisations as a means of improving public trust and confidence in making complaints to the police.

45. The MPS require each BOCU to submit an annual report, at the end of the fiscal year, to the MPA on their complaints handling procedures and their resolution, and this be publicised under the Specific Duty of the Race Relations Amendment Act.

46. The principles of restorative justice and mediation be considered as appropriate alternatives by the IPCC and MPS in their procedures to formal stop and search complaints.

47. The IPCC assume responsibility for reviewing and updating present information on how to make a complaint regarding stop and search. This should clarify the process regarding taking complaints at the local police station, to the IPCC, or to the police authority.

48. In ensuring greater public transparency in the investigation of complaints, the IPCC monitor, evaluate and report on all complaints resulting from stop and search on an annual basis; and that further, the IPCC identify the appropriate procedures by which complainants are kept regularly informed of the progress of investigations into alleged violations.

49. The IPCC, in partnership with the Association of Police Authorities and the MPA, undertake a public information campaign so that the complaints procedure and rights on stop and search are well publicised. This strategy should incorporate posters, leaflets and web-based information and utilise not only radio, television and print based media but also NGOs and other community based agencies.

50. As part of the above information campaign, and as part of its commitment in implementing Recommendation 63 of the Lawrence Inquiry Report, the MPA provide support for the provision of training and information sessions for community groups, schools, and other local fora on peoples rights specifically on stop and search but also on the relevant Articles of the Human Rights Act (particularly 5,9,10 and 11).

F. RAISING PUBLIC AWARENESS

51. The Association of Police Authorities (APA), with respect to Recommendation 63 of the Stephen Lawrence Inquiry Report, expand its public education and awareness strategy regarding citizen rights and stop and search both directly as a national campaign, and indirectly through police authorities.

G. COMMUNITY - POLICE RELATIONS

52. The MPS explore the feasibility of introducing a feedback system to assess the quality of police public encounters in stop and search situations by test piloting a feedback form to be given at the end of the encounter.

53. Each borough commander be directed to meet with concerned and affected communities on an organised and ongoing basis to establish a citizen feedback system for sharing and reviewing stop and search data and activity and to discuss concerns and work with these communities to facilitate improvements in practice and in community-police relations.

54. The MPA identify and disseminate 'best practice' models, not only in London but also nationally and internationally, of community monitoring activities and ownership of local police stop and search practice.

55. The MPS establish an Independent Advisory Group (IAG) on stop and search practice to oversee the implementation of these recommendations and to monitor and promote best practice on a pan-London basis.

APPENDIX A

Witnesses Appearing Before the MPA Scrutiny Panel on Stop and Search

20th June

New Scotland Yard

- Commander Broadhurst
- Chief Inspector Dalley

10th July

Borough Commanders

- Chief Inspector Derek Benson (Hackney)
- Chief Inspector Ian Thomas (Southwark)

Home Office

- Paul Pugh

18th July

Police Officers

- 6 officers from Hackney, Southwark and Westminster

Young People

- 6 young people representing The Peabody Trust (Hackney) and Boyhood to Manhood (Southwark)

9th September

Young People

- 2 young people representing the MPS Youth IAG

Black Londoners Forum & Operation Black Vote

- Simon Woolley

25th September

Professor Marian Fitzgerald (LSE)

NACRO

- James Riches

17th October

Mayor's Office

- Lee Jasper

1990 Trust

- Karen Chouhan

CRE

- Phillip Pavey

24th October

Metropolitan Police Federation

- Glen Smythe
- Don Radcliffe
- Bob Drew

Black Police Association

- Leroy Logan
- Bevan Powell

6th November

Briefing and Supervision Police Officers

- Inspector Sean Wilson – Lambeth BOCU
- PS Derek Fleeman – Lambeth
- Steve Poole – BIU Brixton

Islamic Human Rights Commission

- Massoud Shadjareh

25th November

Community Meeting (Brixton)

Lambeth Youth Council

- 3 representatives

Minority Ethnic Concerns Committee of Southwark Diocese

- Simone Bowman

Lambeth CPCG Working Group on Stop and Search

- James Toohil
- And others

28th November

- Cmdr Brian Paddick
- Delroy Lindo

23rd January

- Assistant Commissioner Tim Godwin
- Doreen Lawrence

27th January

- Deputy Commissioner Sir Ian Blair

In addition, the Scrutiny Panel gratefully acknowledges the written submissions from Jonathan O'Dea of the Action Group for Irish Youth and Rev. Michael Maddix of Living Waters Apostolic Church.