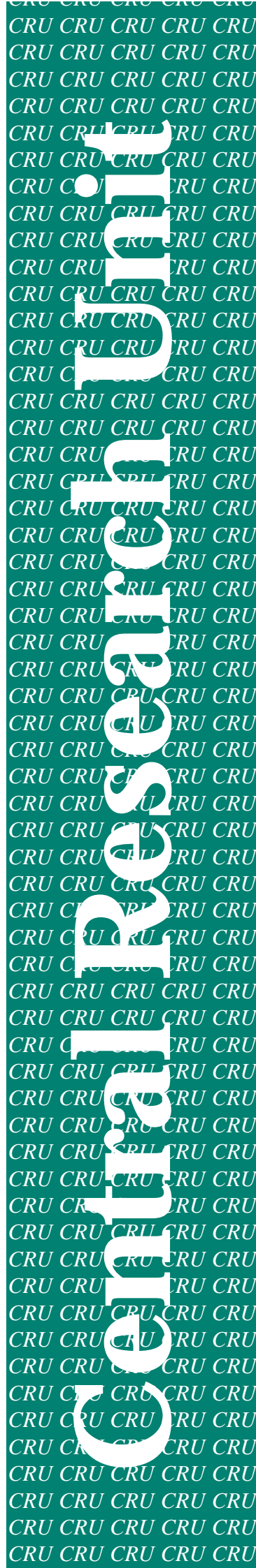# POLICE STOP AND SEARCH AMONG WHITE AND MINORITY ETHNIC YOUNG PEOPLE IN SCOTLAND

SCOTTISH EXECUTIVE

POLICE STOP AND SEARCH AMONG WHITE AND MINORITY ETHNIC YOUNG PEOPLE IN SCOTLAND

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The views expressed in this report are those of the researchers and do not necessarily represent those of the Department or Scottish Ministers.

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EXECUTIVE SUMMARY

The report describes the findings of a piece of research carried out between December 2000 and July 2001 to identify emerging issues in relation to the use of stop and search powers by police forces in Scotland.

In summary, stop and search is a shorthand description for a variety of powers held by police officers to stop, and where necessary, to search members of the public or motor vehicles. There are a range of powers granted by various statutes, most notably the Misuse of Drugs Act 1971, but also a range of more recent statutes dealing with stolen property, weapons, firearms and the carrying of alcohol. There is also increasing evidence of the use of non-statutory, or consent searches, whereby an officer can carry out a search where a member of the public has freely consented to this.

The research has come about following consideration of the issues raised by stop and search by the Justice Minister's Steering Group on The Stephen Lawrence Inquiry. Although there is a widespread perception that there are few issues in relation to the use of stop and search in Scotland, it was acknowledged that there is currently a shortage of data by which to properly test this assumption. This research was commissioned by the Central Research Unit of the Scottish Executive following a request from the Steering Group.

The overall purpose of the research was modest. Although there has been a great deal of research in England and Wales about stop and search dating back over 20 years, as yet little or nothing is known about the use of the tactic in Scotland. The research described here was a relatively small scale exercise, carried out in three well defined, but largely unrepresentative areas, with the express intention of establishing whether or not there were perceived to be issues with the use of stop and search (in the view of police officers or community members) which required to be addressed. The research could not, for a range of reasons, be definitive.

Five aims were established at the outset for the research. The first was to record the number of stops and stops and searches made upon minority ethnic and white young people during the research. The second was to examine the use and impact of the short form designed for the purpose of recording stops and stops/searches. The third was to analyse the views, experiences and perceptions of young people and others in the community in relation to police stop and search powers while the fourth was to analyse the views and perceptions of the police in relation to stop and stop and search. The final aim was to assess the impact that regular monitoring of stops and stops and searches might have on the police and the public.

The research involved a number of strands (described in more detail in the main report), namely a literature review and assessment of current information (including information gathered by police forces, a recording exercise carried out in three divisions, consultations with police officers both in the research area and in all other forces in Scotland and, finally, consultations with young people, community groups and representative organisations). Although the research has a Scotland-wide focus, the primary fieldwork for the research was undertaken in three main areas, broadly defined as north Edinburgh, the south side of Glasgow and the city of Dundee.

The report is in a number of sections. The first section sets out the background to the research and assesses pre-existing evidence on issues relating to black and minority ethnic communities in Scotland, and on racism in general, as well as issues in relation to the use of stop and search largely in England and Wales. The second section sets out evidence gathered from a range of contacts with police officers while the third section sets out the data from a substantial recording exercise covering three police divisions. The fourth section draws together a range of evidence from contacts with community groups (including focus groups, telephone conversations, personal contacts and letters) as well as setting out the findings of a street survey of 114 young people in Glasgow, Edinburgh and Dundee. The fifth section draws a series of conclusions from the evidence presented in the first four sections and the final section sets out a number of recommendations for further action arising from the findings of the report.

A range of conclusions can be drawn from the findings of this research. In terms of the overall impact of stop and search in Scotland at present, there is little evidence that the issue is particularly high profile, although it is noted that stop and search is immensely controversial in England and Wales. There is some evidence that stop and search is regarded in Scotland as an "English" issue.

Although data does not exist on the level of use of stop and search in most force areas, it is self evident that there is a huge variation in the number of searches taking place across different forces. In some areas of Scotland, a very large number of both statutory and voluntary searches are being carried out, while in others, particularly in rural areas, the number is far fewer, even allowing for differences in population density. There are significant differences in the operational approaches of Scotland's eight forces, with two, or perhaps three, engaged in "active" stop and search operations, with the remainder involved in more passive, or intelligence-led operations (although this is something of a misnomer, as all of the operations described, whatever their means of execution are palpably "intelligence-led").

Whether or not some forces, or some officers perceive stop and search to be an issue, it is clear that for many young people living in urban areas in Scotland, it is most clearly an issue, and has for many become a part of "everyday" life. There is evidence that stop and search can have a negative impact, with some young people finding the experience of interaction with the police threatening and a cause of fear and anxiety. It is worth noting that children as young as 6 were reported to have been searched.

The issue of disproportionality (the extent to which searches of people from black and minority ethnic groups exceed that which would be expected given their share of the population) is problematic, and the fact that it cannot be measured in any meaningful way is frustrating, but it does serve to illustrate in one small way the impact of the lack of available data on the extent, nature and experiences of Scotland's black and minority ethnic communities, and this is an issue which needs to be addressed urgently. Overall, although disproportionality in a technical sense cannot be measured, there is **no** evidence that people from black and minority ethnic groups are being specifically targeted for stop and search activities. Overall, the number of searches recorded on people from black and minority ethnic communities was lower even than might be expected given their share of the resident populations of the areas studied.

There is, however, anecdotal evidence that many young people, from both black and minority ethnic and white communities appear alienated from the police, do not trust them, and feel that they are being harassed. It is acknowledged that police officers face a complex and difficult job, being expected to interact with young people in a range of situations, many of which contain the threat of violence, and it is likely that the overwhelming majority do so in an exemplary and professional way, but this research contains examples of poor practice by individual officers, reported by both white and black and minority ethnic young people. Clearly, the issues facing white and black and minority ethnic young people are not the same, and there are a range of additional issues in terms of racism and wider confidence in the police which need to be considered carefully.

One potential area of issue is that it has become clear that there is little real understanding of stop and search powers among members of the public generally, and, in addition, in the view of police officers (supported by findings from discussions with community members) no real understanding of the operational issues facing officers, and which may lead to misunderstanding and misperception.

There is evidence of a worrying issue that some officers may be avoiding contact with people from black and minority ethnic communities for fear that they may be labelled "racist", although at a strategic level, contacts between police and community – based organisations are now at their highest ever level and appear, on the basis of evidence here, to be mutually beneficial.

Fifteen suggestions were made arising from the findings. These are discussed in some detail in section 6 of the main report with supporting justification, but are summarised here:

- The Scottish Executive should consider undertaking a comprehensive assessment of the information currently collected in relation to ethnicity with the development of an action plan to improve this across all areas of public service.
- It is suggested that data on ethnicity should be gathered at all points in the criminal justice system. A standard system of ethnic classification is a pre-requisite of any data gathering and this should be agreed and implemented, with training for all those engaged in its use.
- The Scottish Executive should consider commissioning and publishing the results of a survey of race and the criminal justice system.
- ACPOS, in revising its diversity strategy and associated guidance, may perhaps address the lack of focus on people from black and minority ethnic communities as suspects or perpetrators of crime.
- It is suggested that ACPOS draw together existing good practice on race awareness and anti-racism training and develop guidance to forces on the implementation of this, in order to supplement the guidance in the current strategy and the training being delivered by NEOTS.

- It is suggested that ACPOS, the Scottish Executive Justice Department and the CRE convene a working group to consider a partial implementation of recommendation 61 of The Stephen Lawrence Inquiry, specifically, the best means of implementing a system of recording search information.
- It is suggested that ACPOS, the Scottish Executive Justice Department and the CRE convene a working group to consider the implementation of recommendation 62 of The Stephen Lawrence Inquiry, specifically, the best means of implementing a system of publishing search information, perhaps within the wider context of an "annual report".
- It is suggested that ACPOS develop guidance to forces on the best means of analysing the information gathered to ensure that it forms part of management information systems and decision making.
- It is suggested that the Justice Department commission independent research on an on-going basis to examine the statistics produced by this process and assess whether or not there are issues which require to be addressed.
- It is suggested that ACPOS develop guidance for officers on the legal, civil liberties and practical issues raised by the use of consent, or non-statutory searches.
- It is suggested that ACPOS, in conjunction with the Scottish Police College and individual forces, consider the ways in which search procedures are being taught to officers and, if necessary, make any amendments to address the issues identified by this report.
- It is suggested that ACPOS consider existing guidance in relation to search procedures involving very young children.
- It is suggested that forces consider carefully the way in which performance targets in relation to searches are framed.
- It is suggested that ACPOS considers the experience of English forces in mounting public education campaigns about the need for searching, and both powers and rights in relation to searches, and take this forward, perhaps initially through a pilot scheme. This would be, in effect, a partial implementation of recommendation 63 of The Stephen Lawrence Inquiry.
- It is suggested that, as a matter or urgency, all forces take steps to address the issues set out in this report in relation to the perceived failure of some officers to interact routinely with members of black and minority ethnic communities.

SECTION ONE: INTRODUCTION AND BACKGROUND

1.1   This report sets out the findings of a research project commissioned by the Scottish Executive in December 2000 to assess a number of aspects of the use of stop and search powers by police forces in Scotland and the impact of this on black and minority ethnic and white young people.

OVERVIEW AND PURPOSE OF THE RESEARCH

1.2   This project came about following discussion of stop and search by a steering group set up by the Justice Minister to consider the implications for Scotland arising from The Stephen Lawrence Inquiry[1], and was commissioned by the Scottish Executive in response to a recommendation by the Steering Group, supported by ACPOS and the CRE, that research be carried out. The need for research grew out of a view that, although there was a perception that stop and search had not become an issue of concern in Scotland, there was a lack of data through which to demonstrate this.

1.3   The overall purpose of the research was modest. Although there has been a great deal of research in England and Wales about stop and search dating back over 20 years, as yet little or nothing is known about the use of the tactic in Scotland. The work described here was a relatively small scale exercise, carried out in three well defined, but largely unrepresentative areas, with the express intention of establishing whether or not there were perceived to be issues with the use of stop and search (in the view of police officers or community members) which required to be addressed, or, if necessary, explored further. It is important to state at the outset that this research cannot be definitive. There are many factors which are still unknown which prevent this study from reaching definitive conclusions on the use of stop and search (specifically, for example, in terms of assessing a particular issue raised in English research that the power is used disproportionately against black and minority ethnic young people). None of the specified aims of the research intended that it be used for this purpose. It was however, exploratory, and will point to a range of interesting emerging issues which must be addressed if Scotland is not to face some of the communication/trust issues now apparently common in England.

1.4   Before setting out the background to the research, it is worthwhile re-stating the aims of the research as set out in the original specification.

Aims of the research

1.5   The overall aims of the research were to:

- estimate the number of stops and stops and searches made upon minority ethnic and white young people during the pilot period;

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[1] Sir William Macpherson has made it clear that he wishes his inquiry report to be known as "The Stephen Lawrence Inquiry", and this is the preferred description used throughout this research report. A number of direct quotes, however, refer to the "Macpherson Inquiry".

- examine the use and impact of the short form designed for the purpose of recording stops and stops/searches;
- analyse the views, experiences and perceptions of young people and others in the community in relation to police stop and search powers;
- analyse the views and perceptions of the police in relation to stop and stop and search;
- assess the impact that regular monitoring of stops and stops and searches might have on the police and the public.

The structure of the report

1.6   This report is in six sections:

- The first section sets out the background to the research and assesses pre-existing evidence on issues relating to black and minority ethnic communities in Scotland, and on racism in general, and sets out issues in relation to the use of stop and search largely in England and Wales;
- the second section sets out evidence gathered from a range of contacts with police officers;
- the third section sets out the data from a substantial recording exercise covering three police divisions;
- the fourth section draws together a range of evidence from contacts with community groups (including focus groups, telephone conversations, personal contacts and letters) as well as setting out the findings of a street survey of 114 young people in Glasgow, Edinburgh and Dundee;
- the fifth section draws a series of conclusions from the evidence presented in the first five sections;
- The final section sets out a number of recommendations for further action arising from the findings of the report.

1.7   There are also a number of Annexes, providing a description of the methodology used, the legal basis of stop and search, a summary of issues in relation to racism and racist attacks, a summary of the procedures used in relation to searching spectators at sports matches (where the police and club stewards carry out a substantial number of consent searches) and descriptions of some of the materials used in this project.

Note on terminology

1.8   Throughout this report, the term "black and minority ethnic" is preferred. Other terms, such as "Black", "African-Caribbean" and "Asian" are used in the text in the context of direct quotes. At times, "non-white" is also used to contrast data in relation to visible black and minority ethnic groups with that for white groups.

1.9   It is also worth acknowledging at the outset that this report deals almost exclusively with **visible** black and minority ethnic communities. It is clearly the issue of skin colour per se as a major influence on police behaviour which is being explored and this should be acknowledged and recognised at the outset.

BLACK AND MINORITY ETHNIC COMMUNITIES IN SCOTLAND

1.10   The first part of this section sets out the background of the research as this relates to black and minority ethnic communities in Scotland. This will address issues such as available data and the extent and nature of racism.

The extent of black and minority ethnic communities in Scotland

1.11   It has been recognised for a number of years that there is a great absence of credible data on the extent and distribution of Scotland's black and minority ethnic communities. This is in contrast to the situation in England and Wales where ethnic monitoring has been established practice (although not without problems) since the 1980s (FitzGerald and Sibbett, 1997). Overall, as de Lima (2001) notes, for example:

> *"very few organisations, if any, gathered data on ethnicity. Surprisingly, even agencies with a specific remit for working with minority ethnic groups seemed unable to provide basic information".*

1.12   The most comprehensive data dates from 1991, and was gathered as part of the 1991 Census of Population. There remain issues over this data (which is generally assumed to be an underestimate), but nonetheless, it provides the most reliable estimate available of Scotland's black and minority ethnic population. There is no doubt, however, that the overall number of people from black and minority ethnic groups has risen, both in absolute terms, and in terms of the proportion of the overall population accounted for since 1991.

1.13   Estimates supported by the CRE suggest that there are about 80,000 people from black and minority ethnic groups currently resident in Scotland (CRE, 1999). This represents a rise of around 25% since the 1991 Census, which estimated that that there were around 64,000 people. This 1991 figure represents around 1.3% of the total population of Scotland. In contrast, the comparable figure at UK level is 5.5%. In terms of non-white groups, according to the 1991 Census, the largest is the Pakistani community (21,200), followed by the Chinese community (10,500) and the Indian community (10,000).

1.14   Overall, it is estimated that there are a little over 3 million residents from black and minority ethnic communities in the UK, more than half of whom live in the South East of England (Home Office, 2000g). Proportionately, Scotland has a very low representation of black and minority ethnic groups. White people in Scotland make up 9.5% of the UK white population, while people from black and minority ethnic communities only make up 2.1% of the comparable UK population. The areas of the UK with a higher proportionate share (in terms of the respective UK populations) of black and minority ethnic residents

than white residents are Greater London, the West Midlands and Greater Manchester (CRE, 1999).

1.15   A second issue in relation to this is that the distribution of people from black and minority ethnic groups is not uniform across Scotland. Using the 1991 Census as a base line figure, Glasgow has the highest number of people from black and minority ethnic communities (3.48%), with only 5 authorities overall having more than 2%. Scottish Borders has the lowest percentage (less than one third of one percent). It must be borne in mind that this data is now more than 10 years old and is substantially out of date, but it is also worth bearing in mind that it is, in the absence of other, more credible data, still being used (and quoted) by Scottish local authorities.

1.16   Within local authority areas, there are also substantial differences in the proportions of various communities accounted for by black and minority ethnic residents. It is widely acknowledged that parts of the south side of Glasgow have the highest concentrations of non-white residents in Scotland, but, currently, due to lack of credible data, the exact proportion cannot be estimated other than in a general way. Various estimates (by community groups, local authorities and the police) were offered as part of this research, but were clustered in the band 7 – 12%, with higher concentrations found in areas as small as a few streets.

1.17   There is also an issue in terms of a lack of useful data about non-visible black and minority ethnic communities, such as Travellers and, in the context particularly of the south side of Glasgow and East Renfrewshire (which was one of the areas studied here), the Jewish community.

1.18   As a comparison, using 1991 census data (which is acknowledged to be out of date and in all cases an underestimate), the proportion of black and minority ethnic residents among some London boroughs was, in the case of Brent, as much as 45%, with 42% in Newham, and 36% in Tower Hamlets. In total, 11 English local authority areas or London boroughs were, according to the 1991 census, more than 25% non-white (CRE, 1999). As noted earlier, Glasgow, which has the highest proportion of any local authority in Scotland, had less than 3.5%.

1.19   This lack of credible data impacts on one strand of this research, specifically the extent to which the proportionate, or disproportionate, use of stop and search can be measured. This is an issue which will be discussed in more detail later.

1.20   What is clear is that both the absolute number of people in Scotland from black and minority ethnic groups, and their share of the overall population is, by UK standards, quite small. It is also clear, however, that both the absolute number, and proportions of black and minority ethnic residents are rising in most parts of Scotland, through natural growth, in-migration, and, in Glasgow particularly, through the re-settlement of up to 8,000 refugees and asylum seekers. Data from the 2001 Census of Population is unlikely to be available before 2003, but even this will not take account of more recent changes in the light of government re-settlement policies, and will, therefore, have to be interpreted with care.

RACE EQUALITY ISSUES IN SCOTLAND AND THE UK

1.21   Before examining specific issues in relation to stop and search, it is worth setting out some of the race equality issues which underpin the current debate about the use of stop and search in England and Wales, and which have been, in the last ten years, increasingly voiced in Scotland (although, as will become clear, not in relation to stop and search specifically).

The politicisation of race issues at a UK level

1.22   Aspects of race equality and discrimination have increasingly re-emerged as a significant political issues at a UK level. Although much of this has arisen from The Stephen Lawrence Inquiry and its aftermath, during the period of this research, the focus on race in the media, and in the political arena, has been primarily on four main strands.

1.23   The first of these strands is, in one sense, tangential to race itself, and concerns asylum policy. This has became a cause of political debate between the main parties, in the overall context of issues such as so-called "bogus" asylum seekers, the tests which are applied to those seeking asylum, and through the impact of the government's policy of dispersal. During 2001, these issues became part of the backdrop to the UK general election. Although the issue of asylum transcends race, there have been a number of examples of individuals apparently using asylum as an issue through which to make more general points in relation to race equality policies and practices in the UK.

1.24   The second strand is, in some ways, related to the overall debate on asylum policy, and relates to the re-emergence of divisive language such as "Englishness" (meaning, generally white Anglo-Saxon) when discussing diversity. Such language (often described as "coded language") prompted the CRE to invite all candidates in the 2001 general election to sign a pledge not to use race as a campaign issue.

1.25   The third main strand of debate in relation to race equality has been in relation to recent rioting in English cities such as Oldham, Burnley, Bradford and Leeds. It would not be appropriate to discuss these issues in detail here, but in, for example, Oldham, it was suggested that there had been a build up of tension between black and minority ethnic and white young people over a period of time, with the alleged involvement of a variety of right wing political groups.

1.26   The fourth strand in terms of media attention has focused on the interaction between the criminal justice systems in Scotland, and in England and Wales, and victims of racist or apparently racist violence relating to the conduct of high profile murder investigations, of which Stephen Lawrence is the most prominent in England, with that of Surjit Singh Chhokar the most prominent in Scotland.

1.27   It is also worth noting that stop and search itself has remained controversial, particularly following the publication of, firstly, The Stephen Lawrence Inquiry, and subsequently, a series of research studies undertaken by the Home Office focusing on practice in England and Wales (Home Office 2000a-f).

1.28   The extent of this media attention has served, however, to mask and overshadow the issues which have been raised by the CRE and by local campaigners on the extent and impact of both racism and racist attacks in both England and Scotland. A common thread running through comments made by black and minority ethnic commentators in the wake of The Stephen Lawrence Inquiry has been, in effect, that institutional racism and racist violence did not start with the murder of Stephen Lawrence and the actions of the Metropolitan Police Service, but had been an everyday reality of life for many people in the UK for many years. Some discussion of these issues is necessary in order to place stop and search, and the relationships between black and minority ethnic communities and the police in its wider social and political context.

Racism and racist attacks in Scotland

1.29   Until fairly recently, racism has been a less overt political issue in Scotland, although there is clear evidence that it has existed and been a significant problem for many people from black and minority ethnic communities for many years. A fuller discussion of racism and racist attacks is contained at Annex 3, but it is worth summarising some of the key issues here.

1.30   A series of reports over the last 10 years (Fife Regional Council, 1991; Hampton, 1997; Kelly, 2000; HMIC, 2001) have set out both the nature and impacts of racism in Scotland. Much of this is, however, hidden, as only a small proportion of racist incidents are ever reported to the police, or come to the attention of Racial Equality Councils or the CRE. As de Lima (2001) notes, agencies have, until recently, failed to collect much data which will allow the impacts of racism to be accurately measured.

1.31   In recent years, there has been some progress, for example, within police forces in the recording of racist incidents, but, as HMIC note, there are still shortcomings, for example in the lack of an agreed set of coding categories (see Annex 2), although this is currently being addressed by ACPOS and the Scottish Executive. There are also issues with the lack of a shared understanding throughout Scotland of both the meaning and impacts of racism. This is illustrated by HMIC which notes that although many incidents are categorised by the police as being "minor crimes", the actual impact of these, particularly the cumulative effect of what may be years of abuse, can be "enormous" for the individual and their family. Kelly (2000, op cit) describes a climate of complacency generally, while Hampton (1997, op cit) suggests that many in black and minority ethnic communities feel that that "central figures of authority [are] indifferent [and] disinterested".

1.32   The level of recorded racist incidents and particularly racist attacks is rising, although it is not clear whether this is due to improved monitoring or higher rates of reporting or does actually indicate an underlying increase. There are, however, clear indications, for example, from HMIC (2001) and other research, that members of black and minority ethnic communities can feel alienated from the police. This is particularly true for young people. The impact of this is that there is, among some people, a lack of confidence in the police to address issues of this kind, and a consequent unwillingness to report incidents.

THE POLICE AND THE PUBLIC

1.33   Relationships between the police and the public in Scotland are generally good and policing is undertaken on the basis of consent. The 2000 Scottish Crime Survey (Scottish Executive, 2000b) illustrates that around 72% of people questioned believe that the police are doing a "very good" or "fairly good" job. This level has remained fairly consistent over the last 20 years. The level in England and Wales is slightly higher at 78% (Home Office, 2001b).

1.34   There are variations in the levels of satisfaction by age, with younger people less likely than other groups to believe that the police are doing a good job. In the most recent Scottish Crime Survey, compared to 14% overall who believed that the police were doing a "very good" job, only 9% of 16 – 24 year olds believed this.

1.35   There are also other factors which impact on the level of satisfaction (Scottish Office, 1999), for example, whether or not the respondent was a victim of crime and how the police dealt with the incident, and particularly, in the context of this research, whether or not the respondent had come into contact with the police through being stopped, either in a vehicle or on foot. There is evidence from England and Wales that young people are more likely to come into contact in this way (Home Office, 2001b) and there is little reason to suspect that the situation will be different in Scotland.

1.36   At present, it is not possible to undertake an analysis of crime survey data for Scotland by race, however, this has been undertaken in England and Wales (Home Office, 2001b) with data drawn from the British Crime Survey. The main findings of this are that, generally, white people are more satisfied than other groups. As with the Scottish data, there are considerable variations by age, with young people in all ethnic groups less likely to rate the performance of the police as very or fairly good. There are also significant differences, with, for example, 47% of young white men and women rating the police as satisfactory, compared to only 27% of Pakistani/Bangladeshi, and 33% of black young men and women surveyed. Within older age groups, the level of satisfaction among some black and minority ethnic communities can actually be higher than among white respondents, suggesting that it would be wrong to assume that there is a consistent view of the police within black and minority ethnic communities.

1.37   Again, as with the Scottish Crime Survey, the British Crime Survey report notes that those who had recently came into contact with the police, particularly through being stopped on foot, were much less likely to rate the police as satisfactory (63% compared to 78% overall). Where respondents indicated that they had been a victim of a racist offence, this satisfaction level was still lower (at only 33%).

1.38   The significance of this data in the context of this research is that the relationship between the police and young people particularly is complex and is influenced by a range of factors. Young people are by far the most likely group to come into contact with the police, particularly in terms of police-initiated contact, and this has an impact on the extent to which the relationship is positive and viewed as satisfactory. It is worth reiterating that there are substantial variations in the reported views of the police between people of different age groups in both white and black and minority ethnic communities.

The Stephen Lawrence Inquiry and its aftermath

1.39   The murder of Stephen Lawrence, its aftermath and the subsequent Inquiry chaired by Sir William Macpherson (Macpherson, 1999) is most often described as a "watershed" in police relationships with black and minority ethnic communities. Its impact has been considerable, not least in the extent to which it has raised many issues in relation to the policing of black and minority ethnic communities, and has given rise to the widespread use of the term "institutional racism" to describe a public body which, by its failure to address issues at a policy and practical level, discriminates corporately against black and minority ethnic communities.

1.40   The Inquiry report identified a range of shortcomings in the response of the police to the murder of Stephen Lawrence, including basic failures of procedure at the scene, and subsequently a failure to communicate effectively with the Lawrence family. The issue of stop and search was tangential to the Inquiry, although Sir William Macpherson chose to make four recommendations in relation to its use. These are set out toward the end of this section.

1.41   Following the publication of the Inquiry, the Home Secretary published (and has since updated) an Action Plan to address the recommendations. In terms of the police service in England and Wales, however, in the view of HMIC, there remains work to be done. Over the last four years, HMIC has carried out an extensive inspection of all 43 forces in England and Wales to assess the extent to which their policy and practice in relation to what they term "community and race relations" meets current standards of good practice. The inspection has been published incrementally in three volumes, each entitled "Winning the Race". The most recent, "Winning the Race – Embracing Diversity", consolidates all of the work done to date (HMIC, 1997; HMIC, 1999; HMIC 2000a).

1.42   A range of issues have emerged from that process which are of interest here, not least the simple fact of the level of scrutiny which has been applied to what HMIC calls "community and race relations" and the candour with which continuing shortcomings are identified. Among the specific issues which are raised are the now considerable progress towards the adoption of specific strategies in each force to address community and race relations, the perception that there is a gap between strategy and officer practice, and that, although mechanisms for dealing with inappropriate behaviour have been improved, there remain difficulties in addressing deep-seated attitudes and cultures.

1.43   More widely, however, the extent to which this optimism is shared is not clear. Recent reports by the pressure group, the Campaign Against Racism and Fascism (CARF 1999a; CARF, 2000; CARF 2001b) identify issues facing the police and criminal justice agencies more widely, in terms of, for example, the disproportionate use of stop and search, over charging (the alleged practice of choosing a more serious charge than might otherwise be warranted by the case), the apparent criminalizing of some victims, failure to bring racist incident cases to trial and remaining failures to ascribe racial motivation to some crimes.

The impact of The Stephen Lawrence Inquiry in Scotland

1.44   In July 1999, the Scottish Executive published an Action Plan consisting of an assessment of the relevance of the recommendations made by The Stephen Lawrence Inquiry within a Scottish context (Scottish Executive, 1999). Many of these recommendations were adopted, and several, such as remote reporting and monitoring of racist incidents, have already been actioned. A number of the Inquiry's recommendations relate to issues which are seen to have no specific bearing in Scotland, but, even where specific recommendations were made to, for example, to the Metropolitan Police Service, the Action Plan does consider whether there are wider issues which may have relevance to Scottish forces. The specific comments in relation to stop and search are set out later. A Steering Group was later convened by the Justice Minister to take forward this Action Plan.

1.45   Police forces in Scotland also recognised that they also needed to make a comprehensive and proactive response to the findings. ACPOS specifically considered The Stephen Lawrence Inquiry Report and set up a working group to develop a consistent response from Scottish forces. During 1999, the group convened by ACPOS developed the first diversity strategy covering Scottish forces (ACPOS, 2000a). This was completed in late 1999, published and adopted by ACPOS and forces individually during 2000. Guidance to accompany the strategy was also developed and published during 2000 (ACPOS, 2000b).

1.46   The basis of the strategy is contained within 5 principles. These are set out below:

> ***Intolerance***: *Pursue racism vigorously through an intelligence led approach and pro-active use of legislation. Challenge any Police policy, practice or behaviour, intentional or not, which has racist consequences. Deal speedily and transparently with any wrongdoing.*
> ***Respect and equality***: *Ensure respect and equality permeate throughout Police organisations and in the service they deliver. Act without fear, favour, prejudice or assumption.*
> ***Engaging communities***: *Develop and maintain clear and comprehensive processes for sharing information and concerns between the community and the Police.*
> ***Effective alliances***: *Help to create focused and productive partnerships between all those combating and preventing racism.*
> ***Encourage confidence***: *Share knowledge, experience and information through mutual understanding and agreement. Increase confidence in the Police Service to tackle racism by demonstrating sustained and real commitment through positive action and increased accountability.*

1.47   The strategy sets out a framework which police forces can, if they wish, extend to include coverage of other local circumstances. The framework covers issues such as the reporting and recording of racist incidents, the investigation of racist incidents, and dealing with victims and witnesses, co-operation and joint working with black and minority ethnic communities, as well as a range of internal police issues such as recruitment and training, complaints and monitoring. The strategy does not mention the

issue of stop and search specifically, nor the issues presented by people from minority ethnic groups as perpetrators of crime.

1.48   A set of guidance notes was issued to accompany the strategy, and these detail a range of good practice suggestions in terms of issues such as recording practices, the use of interpreters, and addressing cultural diversity. As with the strategy, there is no specific coverage of issues in relation to suspects from black and minority ethnic groups, and only a tangential reference to stop and search.

1.49   ACPOS continues to work to develop race equality policy and practice. A team has been established based at the Scottish Police College and is currently working on the further development of both the strategy and guidance (as well as a range of other issues such as performance indicators and the police response to the Race Relations (Amendment) Act 2000). A committee, drawing on representatives of all Scottish forces has also met regularly to consider issues in this area.

STOP AND SEARCH

1.50   As will be set out later in this report, there is some debate about the use of the term "stop and search" in Scotland. In England, there is no such equivocation, with the term being recognised by police officers, politicians, activists and members of the public as a shorthand description for a variety of powers held by police officers to stop, and where necessary, to search members of the public or motor vehicles, largely, it must be assumed because of the existence of Section 1 of the Police and Criminal Evidence Act 1984. There are a range of powers granted by various statutes, most notably the Misuse of Drugs Act 1971, but also a range of more recent statutes dealing with stolen property, weapons, firearms and the carrying of alcohol. The term also covers non-statutory, or consent searches, whereby an officer can carry out a search where a member of the public has freely consented to this. As noted, it has also become a controversial political issue. The legal basis of stop and search is summarised in Annex 2.

1.51   In Scotland, however, (as yet), the issue has not gained widespread currency, making common definition more difficult. A pragmatic definition of stop and search in a Scottish situation would be an encounter between a police officer and a member of the public which results in the member of the public being searched. As will be set out later in this section (and in more detail in Annex 2), however, the legal status of stop and search is quite complex (and not necessarily well understood) and there are, in fact, a range of situations in which a person can be searched which cannot be described as "stop and search". This will be discussed in more detail later.

The nature and use of stop and search

1.52   The practical effect of the powers available to a police officer in both Scotland and England and Wales is that he or she can stop and search an individual on the basis of a reasonable suspicion that they may be concealing, for example, a weapon or drugs. In certain cases, no such reasonable suspicion is required (in relation, for example, to terrorism) and, in effect, in these cases, police have the power to stop and search anyone.

1.53   The police are clear in their view that, properly applied, stop and search powers are an essential tool in both preventing and detecting a range of crimes, particularly crimes of violence and, increasingly, crimes relating to drugs. It is suggested that stop and search is now being used in a more targeted manner, with police acting on intelligence received, or on the basis, for example, of evidence gathered using CCTV cameras. Some forces are, for example, using crime pattern analysis to allow better targeting of resources on "hot spots" within which stop and search can be concentrated (see Home Office, 2000b).

1.54   The powers themselves in both Scotland and England and Wales are non-specific and it is difficult to see how, in reality, such powers could be used in practice without some element of discretion. Home Office research indicates that, in England and Wales, more than ten pieces of legislation exist, with five being typically used by police in carrying out specific forms of search (Home Office 2000b, op cit). Issues in relation to the legal status of stop and search in Scotland are set out in Annex 2. It is, however, the use of so-called voluntary, or non-statutory searches (which rely on the use of discretion by individual officers), and the guidance given by senior officers, which is at the heart of the controversy.

The role played by stop and search in police operations

1.55   The Stephen Lawrence Inquiry concluded that:

> '..the powers of the police [to stop and search] under current legislation
> are required for the prevention and detection of crime and should remain
> unchanged.'

1.56   The "Stephen Lawrence Inquiry: an Action Plan for Scotland" (Scottish Executive, 1999) reiterated that, in the view of the Executive, such powers are essential to policing and makes it clear that:

> "nothing in the Macpherson Report [sic] casts doubt on the continuing
> need for the powers available in Scotland".

1.57   This view also appears also to reflect reported public perceptions, and the issue also generally receives considerable favourable media coverage. For example, Fitzgerald (Fitzgerald, 1999) notes that:

> "public perceptions of the legitimate use of the power [of stop and search]
> may go well beyond the strict terms of s1 of PACE; and many people (in all
> ethnic groups) would like to see it exercised more widely."

1.58   One of the main messages coming from communities, particularly in peripheral housing estates, has been that the police should use their stop and search powers more widely to target drug dealers, as well as young people carrying weapons. The ability of the police to stop and search is at the heart of community safety initiatives, and now forms a significant part of the police approach to both violent crime and drugs. Bridges (Bridges, 2000) makes the point that it appears to be the only approach used by the police

in addressing the carrying of offensive weapons and the identification of those going equipped for theft. As Stone and Pettigrew (Home Office, 2000c) note[2], however:

> "respondents broadly supported the principle of stops and searches as a tactic. However, the aggravation, distrust and resentment caused by the way encounters are currently handled by officers outweighs any of the positive effects they were perceived to have. As a result, respondents accepted that stops and searches might have a role but only if there were fundamental changes in the way they are used, how they are targeted, the attitude of officers and the reasons given. The most important focus for change requested by members of all ethnic groups, was for officers to give credible explanations for each stop or search."

1.59   Within this overall context, however, there has been considerable support from many quarters for the use of stop and search powers.

Evidence for the effectiveness of stop and search

1.60   Before discussing the available evidence on the effectiveness of stop and search in England and Wales, it is useful to assess the overall level and pattern of its use. In 1998-1999, over 1 million recorded stops and searches were carried out in England and Wales, leading to arrests in around 11% of cases (Home Office 1999a). This figure is more than 10 times that in 1986 (when the relevant English legislation came into force) (Wilkins et al, 2000) and Mooney and Young (Mooney and Young, 1999) have described the "profligate" use of stop and search. There are also considerable variations in the use of the power in different areas of England and Wales. Miller, Bland and Quinton (Home Office, 2000a) note that even neighbouring forces with similar characteristics, such as Cleveland and Humberside, can record very different rates (101 per 1000 and 6 per 1000 respectively). Information on the use of stop and search in Scotland is discussed later.

1.61   The nub of the issue in both Scotland and England and Wales appears, therefore, not to be the powers themselves (which are often popular with many members of the public, and viewed as essential by police), but the way in which they are used. The effectiveness of stop and search itself has also been called into question and the police themselves suggest that stop and search is only one component of their approach, driven more by intelligence gathered than by on the spot decisions by patrol officers.

1.62   Bridges (Bridges, 2000 op cit), however makes the following point:

> "In fact, there is substantial evidence to suggest that stop-and-search is a relatively ineffective tool against those crimes with which its use in relation to black people is often associated, such as robbery and so-called 'street crime'. Despite this, it is now claimed that it is an effective tactic - indeed, virtually the only one available - against crimes such as 'going equipped for theft' and possession of offensive weapons, and that detection in these areas serves to prevent other, more serious crimes. The trouble is that

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[2] The format of this quote has been slightly amended

these indirect benefits in terms of crime prevention are difficult to prove or disprove, while arrests for these types of offence can often be arbitrary and discriminatory."

1.63   Bridges (2000 op cit) and Fitzgerald (1999 op cit) disagree about the value of stop and search as a means of securing intelligence (a point made by the Metropolitan Police Service in support of the use of their powers in this way). There is also a widespread view that police often use their stop and search powers disproportionately against known criminals and against people from black and minority ethnic groups (discussed in more detail later). Anecdotal evidence obtained during other research undertaken by Reid Howie Associates also suggests that young offenders feel that they are specifically targeted by police in their home areas. Bridges (2000 op cit) makes the point that this approach could be constituted to be harassment in some cases, and can be self-perpetuating in that, if police are targeting specific groups, they, in turn, become better known to them and so more likely to be stopped and searched in the future, with some likelihood of progression to criminalisation (see below). Again, the paradox is that this method of policing is generally popular, and this is an area where forces are under pressure from community groups to be more proactive.

1.64   Miller, Bland and Quinton (Home Office, 2000a op cit), in a wide ranging assessment of the effectiveness of stop and search in terms of wider policing objectives note that:

> *"It is not clear to what extent searches undermine criminal activity through the arrest and conviction of prolific offenders ...There is little solid evidence that searches have a deterrent effect on crime. Certainly, within Metropolitan Police data there is no strong and consistent correlation between searches and crime levels a month later (Penzer, 1999). There is, however, some evidence that the very existence of stops may prevent crime, whether or not they involve searches. This may involve deterrence ... it is also possible that where searches are used intensively in particular locations they may have a localized deterrence or displacement effect."*

1.65   Fitzgerald (1999 op cit) makes the point that the use of stop and search is not without secondary consequences, in that a significant number of people, often young Asian men, have come into contact with the criminal justice system (and, as noted above, become "known" to the police), through seizures and subsequent convictions for possession of small amounts of cannabis for personal use.

1.66   The actual evidence in relation to the efficiency of stop and search is not clear-cut. Home Office statistics indicate that there is a wide disparity in terms of the efficiency of stop and search as a means of securing arrests (from around 8% to 14% of stops and searches). The proportion of all arrests arising from stop and search overall is only around 5%, although again, there is a wide variation between forces (from around 2% to 11%), suggesting that the level of reliance on the tactic varies considerably across England and Wales. As Mooney and Young point out, this means that, even judged on the basis of arrests, more than 90% of those stopped are innocent. As FitzGerald and Sibbett (1997 op

cit) make clear, there are substantial issues in terms of under-recording which mean that any comparisons of this kind are problematic.

1.67   In summary, Miller, Bland and Quinton (Home Office, 2000a op cit) note that:

> *"Searches appear to have a minor role in detecting offenders for the range of all crimes that they address, and a relatively small role in detecting offenders for such crimes that come to the attention of the police. Thus, based on the British Crime Survey, there are 106 crimes which, in theory, might be detectable by searches for every search arrest for such crimes. Similarly, for every 26 such offences recorded by the police, there is one search arrest."*

1.68   When combined with other factors (see below), the net effect of this has been that, for some sections of the community, stop and search has become particularly problematic.

1.69   The issue of the operation of stop and search powers by the police in the UK, and particularly in English cities, has, to some extent, always been controversial. Although the issue has been brought to the forefront by The Stephen Lawrence Inquiry, during virtually the whole period of the existence of the relevant legislation there have been significant criticisms of the police, on the basis of what is perceived to be racial bias in the operation of the powers. The concerns are summarised in a recent report by CARF (CARF, 1999) which noted that:

> *"The report of The Stephen Lawrence Inquiry singles out countrywide racial disparities in the use of stop-and-search as one of the key areas of 'institutional racism' in the police. In doing so, the report does no more than to confirm what has long been widely known in the black community."*

1.70   This issue has been raised on many occasions, and the use of stop and search powers in the 1980s in England were no less controversial than they appear to be currently. As early as 1982, the Scarman Inquiry was critical of the stop and search tactics used by the Metropolitan Police on the basis the so-called "sus" powers which dated from the 19th Century (Home Office, 2001b), and viewed these as having been a contributory factor to the Brixton riots (Quinton and Bland, 1999). It is perhaps a measure of how complex and difficult this issue is that it remains problematic today. It would be a mistake, however, to assume that stop and search is simply an English issue, without a specific Scottish dimension, and it has become increasingly recognised that this requires further examination (prompting this research).

1.71   There are a range of specific reasons why stop and search has become controversial. In some ways, it has become a metaphor for a loss of confidence among black and minority ethnic communities in the police, largely as a consequence of a perception of disproportionality (see later in this section), and hence unfairness, in terms of the use of the powers. NACRO (NACRO, 1997) in evaluating a pilot project undertaken in Tottenham notes that:

"There is an enormous gulf between local communities and the police service… The evaluation report noted that, in practice, PACE was not providing the protection envisaged, it was poorly understood in terms of "reasonable grounds", police continued to make stereotypical assumptions about black people, [and] the use of search powers was not effectively managed and supervised."

1.72   Data from the 1994 British Crime Survey suggests that there are also issues in the way in which encounters are handled by police officers, with lower levels of satisfaction evident among non-white groups. This is supported by wide ranging research undertaken by the Home Office (Home Office, 2000c). In it, although people from all ethnic backgrounds reported a range of negative experiences with being stopped and searched, the report noted that Asian and African Caribbean respondents were least likely to recall any positive experiences. There were issues identified with the approach and attitude of police officers, for example, in terms of being openly racist, or, for example, targeting only some members of a group (either on foot or as passengers in a car), or being perceived to be openly rude (or ruder) to those who were not white. There were also reports of police using offensive language, or behaving in an intimidating manner, particularly towards Asian women.

1.73   In more general terms, as noted by Quinten, Bland and Miller (Home Office, 2000d), there were also more general issues in terms of the way in which searches were carried out, and particularly in terms of the concept of reasonable suspicion:

"A number of key problems were identified:

- *a wide variation in officers' understanding of the concept of reasonable suspicion;*
- *low levels of information are recorded on the grounds for the search;*
- *the legal requirement of reasonable suspicion is probably not fulfilled for some searches; and*
- *differences in officer practice about building grounds (i.e. developing grounds for a search after a person has already been stopped).*

1.74   As noted earlier, there is a clear perception among black and minority ethnic groups that one reason for the disproportionate use of searches is that officers' suspicions are built on prejudice and stereotypical assumptions, despite the clear guidance set out in PACE Code A (see above). Dixon et al have argued that one reason why PACE has been ineffective in protecting members of black and minority ethnic communities has been that it is based in a misunderstanding of the nature of "suspicion". In effect, the PACE code treats suspicion as being based on the *individual*, whereas, in their view (supported by Quinten, Bland and Miller), that suspicion is *contextual*. The practical application of this is that officers' suspicions tend (in the view of both Dixon et al, and Quinten, Bland and Miller) to be based on the extent to which an individual is "out of place". Individual officers could, therefore, be satisfied that they are acting to the letter of PACE Code A in terms of skin colour, dress or appearance, while still making stereotypical judgements

about whether or not an individual was in, or out of, place in the setting in which they were observed. This is described by Mooney and Young (Mooney and Young, 1999) as the "incongruity" thesis.

1.75   As both Quinten, Bland and Miller (op cit) and Young (in work addressing the use of searches against both visible black and minority ethnic groups, and Irish people, in North London in 1994) have noted, the use of contextual suspicion is not necessarily intrinsically bad practice. To be effective, however, it has to be supported by clear intelligence (in terms, for example of fitting the description of persons known to be offending, or being observed to behave in a suspicious manner) in order to identify those who provide genuine grounds to be suspected, and those who simply do not conform to officers' stereotypes (for example, due to their mode of dress or simply being from a visible minority ethnic group in a predominantly white area).

1.76   The cumulative effect of all of these factors has been that there has been perceived to be a loss of confidence in the police among black and minority ethnic communities.

Disproportionality

1.77   As noted, the perception among many in black and minority ethnic communities is that police discretion is being used in a way which unfairly targets people from black and minority ethnic groups, and this issue requires further discussion in itself. Disproportionality (the extent to which searches of people from black and minority ethnic groups exceed that which would be expected given their share of the population) is a complex and problematic issue, which has become immensely controversial. Recent Home Office research (Home Office, 2000e), which purported to show that, on the basis of pilot sites, there was no evidence of disproportionality, was strongly criticised. There are a number of problems with disproportionality which are inherent in the concept, and which make it virtually impossible to form a definitive view as to whether or not it exists. In essence, disproportionality (and whether the proportion of individuals from black and minority ethnic groups searched is higher than their population share) can be measured in two main ways. The first is on the basis of resident populations. This has a range of difficulties, not least that it takes no account of the fact that, at any one time, in a city centre area, many residents may be elsewhere and there may be many visitors. Evidence from the Metropolitan Police suggests that, at some times, and at some locations, over 50% of those searched did not live in the immediate local area.

1.78   To address this, the concept of "available population" has been developed (see for example Home Office 2000e). This attempts to take account of the numbers of people available to be searched at any time, including visitors to the area. In theory, this ought to be more accurate, but it is also fraught with difficulty, not least in that it is difficult to develop a representative sample. Populations change depending on the time of day, week and year, and may not be internally consistent across these times. To undertake this accurately would require a large cordon survey to be undertaken, but this would be prohibitively expensive in all but the smallest areas (and would inevitably influence the actual pattern of searching in ways which would render the actual research most probably invalid).

1.79   As Mooney and Young (Mooney and Young, op cit) also note, there are a range of structural and demographic issues which must be taken into account and which can obscure the true issues. In a small piece of research in North London, they were able to demonstrate that age and class were at least as good, and in some ways better predictors of the likelihood of being searched than was ethnicity. An analysis of the 2000 British Crime Survey (Home Office 20001b) suggests that the best predictors of being stopped (rather than being stopped and searched per se) are being under 25, being male and going out after dark more than 3 times per week. According to this analysis, ethnicity (and, in this case, class) were not significant factors. There are also differences in the way in which young people from different ethnic groups socialise which may also bring them into the proximity of police officers more often.

1.80   An added area of difficulty is that the extent to which police "target" an area has a very large impact on the extent of searches, however disproportionality is measured. As MVA and Miller (Home Office, 2000e, op cit) note, forces are increasingly using crime pattern analysis to target specific areas for stop and search activities. The effect of this is that only part of an area may be targeted, and this may impact disproportionately on one group over another.

1.81   At an individual level, it is generally young, working class men who commit most offences and who might be targeted by stop and search activity. In many parts of England, this group is most commonly represented in terms of available population by Asian and African Caribbean young men, and, on the surface, this would suggest the police officers are justified in such targeting (by available statistics). As Young (Young 1995) notes, however, even among this group, it is only a tiny proportion who are ever arrested and charged with significant offences, leading to the possibility (which clearly, from much of the available information is the reality in many areas) of alienating very large numbers of law-abiding people from all ethnic groups.

1.82   The extent to which different ethnic groups are the target for search activity is by no means fixed over time even in one police area. This issue was raised, for example, in the presentation of evidence to the House of Commons Select Committee in 1999 (relating to improvements undertaken by the Metropolitan Police) when it was suggested that changes in the use of discretion by officers meant that there had been a "significant change" in the probability of being stopped and searched for black and minority ethnic young men in London.

1.83   The net effect of all of this is that disproportionality is not readily understood, and there is inevitable confusion in terms of the actual significance of available data (or even whether it is meaningful at all at any level). It is possible for all sides in this debate to draw evidence from the available data which supports competing theses, but it seems, from the evidence, as Fitzgerald suggests, that at the least:

"there are significant differences in the patterns of stopping, searching, arresting and convictions of different ethnic groups which cannot be satisfactorily explained".

1.84   In an earlier report (FitzGerald and Sibbett, 1997 op cit), FitzGerald also makes the point that the disproportionality debate has also had an impact on individual officers:

"the research found that most police officers appeared to view ethnic monitoring as irrelevant at best; at worst, it was resented and/or feared as a stick deliberately designed to beat them with. Of those who actually supported it, some did so mainly because they expected the figures would simply vindicate their claims to treat all groups fairly while others looked to the figures to 'prove' ethnic differences in levels and patterns of involvement in crime and, there by, justify the higher rate at which they searched and arrested black people."

1.85   The situation in Scotland is more problematic. The available base data is so poor, so general and so out of date as to make any meaningful assessment of resident, let alone available populations, impossible at this time.

CONCERNS, CURRENT ISSUES AND THE NEED FOR RESEARCH

1.86   It is clear from this summary that there are a range of issues in relation to the use of stop and search in England and Wales. The Stephen Lawrence Inquiry Report made 4 specific recommendations (nos. 60 – 63) in relation to the use of stop and search:

"60. That the powers of the police under current legislation are required for the prevention and detection of crime and should remain unchanged.

61. 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.

62. That these records should be monitored and analysed by Police Services and Police Authorities, and reviewed by HMIC on inspections. The information and analysis should be published.

63. That Police Authorities be given the duty to undertake publicity campaigns to ensure that the public is aware of "stop and search" provisions and the right to receive a record in all circumstances."

1.87   The Home Office accepted these recommendations, and over an 18 month period, undertook a series of pilot programmes to determine the best way of addressing each of these. These have been published as a series of Home Office studies (Home Office 2000,

a-f). In Scotland, however, a more cautious approach has been taken, and "The Stephen Lawrence Inquiry: an Action Plan for Scotland" (Scottish Executive, 1999 op cit) makes it clear that powers vary between Scotland and England and Wales, and cites the fact that:

> *"... there has not been the same criticism in Scotland about the use of police powers to stop and search against ethnic minorities as there has been in parts of England. However, there is a need to guard against complacency."*

1.88   The report made a recommendation that the pilot projects being undertaken by the Home Office be considered carefully before what the report describes as "large bureaucracy" is implemented in Scotland.

1.89   The issues in England and Wales point to the need to identify and address any emergent issues. The Fitzgerald report (Fitzgerald, 1999), for example, although supportive overall of the approach of the Metropolitan Police (and, as noted above, consistent in the view that the powers are required), nonetheless finds (as well as the issues relating to approaches to different ethnic groups discussed earlier) that:

- *the manner in which some officers use the power causes unnecessary bad feeling – whether or not they have the reasonable grounds for a search required by PACE;*
- *searches conducted in this way may have a profound impact in particular on young people who have had little other contact with the police and on members of the public who observe such searches.*

1.90   It is important to identify whether there are similar concerns in Scotland.

1.91   One of the problems in Scotland, however, is that statistics relating to stop and search are very poor, as are statistics relating to the extent and nature of the black and minority ethnic population. This has been highlighted by a range of authors (including Bridges (op cit), Fitzgerald (op cit) and Kelly (op cit) as well as the Home Office itself (Home Office 2000 a – f)).

1.92   The situation relating to the availability of information in Scotland is, as was noted earlier, worse still, to the extent that such statistics are not routinely gathered on stops and searches, and no systematic information on the use of these powers is currently published (for example, in Chief Constables' Annual Reports). In addition, criminal justice statistics which allow for the disaggregation of ethnicity are not yet routinely collected. Until recently, no statistics on ethnicity were even collected, for example, relating to those arrested, charged or sentenced in relation to offences in Scotland (Scottish Office, 1995).

1.93   In the light of all of this, although there is a need to identify whether there are perceived problems with stop and search in Scotland, it is difficult to assess the actual scale of both the issue and the problem. Similarly, there is little direct research relating to perceptions of the police in Scotland among black and minority ethnic communities. Some criminal justice research comparing the views of white and black and minority ethnic groups was undertaken in 1996 (Ditton, 1999), but this dealt mainly with

victimisation. This lack of data, together with the increased focus on the application of discretionary powers by the police brought about by The Stephen Lawrence Inquiry, underpins the need for the current work described in the remainder of this report.

1.94   The research described in the forthcoming sections set out to explore some of the issues discussed above in a Scottish context. Although it would clearly be impossible to fill all of the gaps in information in Scotland in one short piece of research, this allowed an initial exploration of the approach taken to stop and search by Scottish police forces, the patterns of stop and search during a defined period and some of the ways in which stop and search in Scotland is experienced by those directly affected and the wider community. The findings relating to these issues are discussed in the following sections.

SECTION TWO: EVIDENCE FROM THE POLICE

2.1   This is the first of three sections which detail the findings of this research. This section describes the findings relating to the police views of their approaches to stop and search in Scotland, while Section 3 sets out findings in relation to the recording exercise and Section 4 explores perceptions of stop and search amongst communities.

OVERVIEW OF THIS SECTION

2.2   This section presents evidence from three main sources. The first of these is a survey of all eight Scottish police forces in relation to a range of issues related to the use of stop and search, together with a range of documentary evidence provided by forces specifically for this research. The second is the results of a series of more detailed discussions held with senior officers in all eight forces, expanding on issues covered in the survey and examining both the use of stop and search and its wider context, including issues relating to the nature of crime in the area, the strategic approach of the force and the extent and nature of contact with black and minority ethnic groups. The third source is a series of in-depth discussions held with officers in each of the three forces participating in the recording exercise. These discussions focussed on specific operational issues in relation to stop and search, particularly the perceptions of these officers of their powers and how they approach the use of these powers.

2.3   The purpose of this section is to provide an overview of the strategic and operational context within which the tactic of stop and search is used, and the perspectives of police officers at a range of levels on both this and operational practice. This is not an inspection of police practice in all eight forces. To have done this would have been far outside the scope of the research, and would, in any event, have been quite inappropriate and cut across the operational role of Her Majesty's Inspectorate of Constabulary. The discussion in relation to each of the issues raised will draw on evidence from forces involved in the research, and can be taken to be representative of current practices or approaches, but it is important to recognise that the examples given cannot be taken to form a comprehensive record of the approach of all eight forces in relation to each issue.

OVERALL STRATEGIC APPROACHES

2.4   As noted, this work was not an examination of the overall policy and practice of all eight Scottish forces, but there are a range of issues which impact on the use of stop and search which are important, and which set the overall context both for a clearer understanding of the findings set out in this section, and for the use of stop and search more generally.

The use of stop and search

2.5   There are distinct differences in the ways in which Scottish police forces approach the use of stop and search. Broadly, forces divide into two main groups. The first group is characterised by a pro-active use of searches, with the specific deployment of officers to

undertake these. The second group is characterised by a more passive approach to the use of searches.

Operation Spotlight

2.6   The most visible use of stop and search as a tactic in Scotland has been by Strathclyde Police. The force has a pro-active approach to the use of searches, both within the context of specific operations and more generally as a tactic used by patrol officers. Since the mid-1990s, the force has run a series of operations, starting with Operation Blade, and more recently, since October 1996, a series of "Spotlight" campaigns, which have specifically targeted prohibited articles which may be recovered through searches. The current campaign relates to drugs (in line with the overall Safer Scotland campaign), but the most relevant to this research is Operation Spotlight on Safer Streets. There have been "Spotlight" initiatives covering diverse public order issues such as underage drinking, housebreaking, licensed premises, retail crime and public transport, each of which has placed some reliance on the use of stop and search powers.

2.7   The rationale for these campaigns is based in the observed crime patterns within Strathclyde. In the view of senior officers consulted as part of this research, weapon carrying is "endemic" in parts of the force area, and levels of violent crime are much higher than elsewhere in Scotland.

2.8   The general approach of the force in relation to these campaigns is to be very high profile, with a considerable amount of media coverage both before and after the campaign, and a focus on the deterrent value of searching, as well as the extent to which weapons are recovered. This is evidenced by extracts from the press release covering a Spotlight on Safer Streets campaign launched in February 2000 (Strathclyde Police 2000a):

> *"The three month Spotlight Initiative will not only target those responsible for violent crime but also reassure the public of the restricted extent of the problem at a time when crime in Strathclyde, over the last 10 months, has fallen by over 8% and detections for crime are at an all time high of nearly 43%.*
>
> *A previous Spotlight Initiative on Safer Streets conducted by Strathclyde Police in July and August 1999 highlighted the successful extent of searching targeted groups likely to be carrying weapons. A total of 832 weapons were found during the two month period when 35,085 people were searched - a search weapon ratio of 42:1.*
>
>
> *Mr Orr [the then Chief Constable] concluded: "Incidents of violence - be they on the streets, in and around licensed premises, in the family home or wherever - are all unacceptable in a civilised society. People have the fundamental right to go about their business, their social activities or simply their home life in a safe environment and without fear. For the vast majority of us these basic qualities of life apply. But I give fair and firm warning to the tiny minority who think it is cool to carry knives or engage in other activities which can result in injury or even death. The message is*

DON'T - because Strathclyde Police and our many partners will spare no effort in pursuing and catching you. Only the foolish will ignore this clear message and total commitment because we are all determined to make our communities even safer and more pleasant areas in which to live and work."

2.9   The campaigns generally involve a range of strands, including publicity, visits to schools and businesses, and the provision of advice to members of the public. As can be seen from the press release, however, there is also a considerable reliance on searching members of the public. There have been more than 100,000 searches carried out since 1996. Evidence from police officers suggests that these searches are tightly targeted on specific types of individuals in specific locations, based on force intelligence. As one officer noted "grannies don't, generally, carry knives". There is, therefore, an inevitable disproportionate impact on those who fall within the target groups, generally, young men aged between about 12 and 30, and people in the vicinity of "hot spots", locations where violent crime is known to be likely to occur (pubs, clubs, shopping centres, sports venues, routes to and from schools etc). In this sense, what is often viewed by young people (and expressed in this research) as indiscriminate searching is, in fact, in terms of the approach of the police, seen to be closely targeted and intelligence-led. In practice, as will be seen later, the actual pattern of searching is wider than this, and can encompass a much broader range of both targets and objectives.

2.10   One important aspect of the Strathclyde approach is that these searches are, for the most part, non-statutory and rely on the freely given consent of the person to be searched. As set out in Annex 2, this is a particularly grey area legally, but the force is content both that its officers operate within the law as it stands and that it has widespread public support for its approach. This was described by one officer in the context that members of the public "may be prepared to surrender a part of their civil rights in order to feel safer". This is supported to some extent by evidence from young people in Glasgow spoken to as part of this research, whose view increasingly was that it was not worth carrying, for example, weapons, as it was likely that, on any given day, anyone could be stopped in the street. An officer in another force drew a parallel with Christmas drink-drive campaigns. In the view of this officer, a number of police forces are effectively operating a random breath test regime, using the flimsiest of pretexts, but that this, although technically an infringement of civil liberties, is actually welcomed by virtually everyone stopped in this way and supported by the public generally. Community officers in Strathclyde described campaigns against Christmas drink-drive "homicides" in a similar context.

2.11   As will be set out in more detail later, officers are provided with extensive briefings prior to each Spotlight campaign on the legal basis of stopping and searching, both in terms of statutory searches (for example in terms of s23 of the Misuse of Drugs Act in current briefings) and in terms of the extent to which consent or voluntary searches can be employed.

2.12   Although it was not possible to discuss this issue directly with the Procurator Fiscal Service or the Crown Office as part of this research, Strathclyde Police was not aware of any specific legal issues having arisen in terms of the use of voluntary searches, with, for example, cases either being rejected by the Procurator Fiscal or failing in court due to procedural issues. It is clear from evidence from senior officers that there is a considerable level of co-operation between the Procurator Fiscal Service and the police and although none of the officers with whom this was discussed were a party to the discussions, it was suggested that there would have been "extensive" discussion at the outset on the legal issues arising from Spotlight Campaigns. (Evidence from another force is that such discussions took place with the local Procurator Fiscal Service prior to the introduction of a similar campaign early in 2001.)

2.13   The impact of Spotlight is not yet clear, although levels of violent crime are seen to be dropping in Glasgow. There is some evidence that the extent of recovery of weapons is falling slightly (which may be evidence that fewer weapons are being carried), but, as one officer noted, despite five years of campaigns, "there are still a lot of knives out there".

The approach of other forces

2.14   Although Strathclyde Police is the only force which mounts this form of campaign on a semi-permanent basis, two other forces have also undertaken campaigns involving a significant component of stop and search.

2.15   Tayside Police has run a similar operation periodically since the mid-1990s "Operation Combat", targeted specifically at knives. More recently, Central Scotland Police has launched a series of initiatives under the banner of "Safer Central", a part of which targets violent crime and drugs and uses proactive stopping and searching. At the time of the research, however, this campaign had not been fully rolled out. It is also interesting to note that Central Scotland Police has established a performance indicator relating to searches and to the number of positive searches.

2.16   Overall, with the exception of specific operations in Tayside and Central, however, only Strathclyde Police adopts a fully pro-active approach to searches. The other forces with whom this issue was discussed in general terms cited a number of reasons why they have chosen not to take a similar approach.

2.17   The first reason, mentioned by all of the forces, was that there is no operational priority for such an approach based on the patterns of crime in the force area. One force noted that "a glass smashed on the corner of a bar is the weapon of choice here". Violent crime in this force area was perceived to be linked to alcohol misuse, and the priority for officers at peak times for violence was to work with landlords and stewards to address this.

2.18   Other forces, including city forces, indicated that the level of weapon-carrying was not, based on local evidence, sufficient to warrant high profile, pro-active campaigns. As one force noted, "this is not Glasgow". Each of the forces mentioned "intelligence-led" policing as their preferred model (although, in fairness to Strathclyde Police, as noted, their approach is also seen to be intelligence-led, but with a different outcome).

2.19   One force indicated that it did not perceive that "blanket" operations were justified, nor were they practical in the light of the nature of the area covered. However, this force did indicate that there had been a small number of intelligence – led operations where the extent of searching was stepped up in the light of a view among senior officers that disturbances were likely to occur. In these cases, the force had chosen not to use the powers available under s60 of the Criminal Justice and Public Order Act 1994 which could have permitted blanket searches to take place, but instead chose to rely on officers' own discretion.

2.20   The second reason, mentioned by a majority of forces, was a perceived lack of resources to undertake such work. Examples of this includes one force which indicated that it may have only "a handful" of officers available at any one time, some of whom may be deployed on "intelligence led" operations, or may simply be responding to calls from members of the public. One force noted that it was unable to call in officers from other divisions within their force - as it perceived that Strathclyde were able to do - except for major operations. A sergeant in one force, setting out the resources available to them at the time of the discussion, indicated that it would be impossible to meet the conflicting demands of initiatives and still provide responsive policing. In the view of this sergeant, the public were seen to prefer swifter response times to "less tangible initiatives". One force, however, had recently undertaken a staffing review and identified means by which "significant" additional resources could be diverted from administration to front line police work to support the development of pro-active operations.

2.21   Two forces (or more properly, the officers interviewed) also mentioned that, in their view, there was no legal basis for mounting such pro-active operations. One force, responding to a questionnaire indicated that:

> *"there is no provision in Scots Law for Police to adopt a Stop and Search policy. All police "stop and search" powers are conferred by statutory legislation and are **conditional** on there being "**reasonable cause to suspect**". (original emphasis)*

2.22   Another officer interviewed described stop and search as "an English concept", and maintained that voluntary searches "did not happen in Scotland". Officers in one force described their reluctance to take part in operations involving the use of voluntary searches, as in their view, there was no legal basis to this and left the officers "exposed". It was suggested that the initiative concerned had not been a particular success as a number of officers were unwilling to put themselves at risk (as they perceived it) by undertaking such searches. One force described their approach as perhaps "a bit old fashioned in needing to have reasonable grounds". Another force in discussing Strathclyde's "robust" approach questioned whether, at times, it may verge on illegality. A senior officer in one force suggested that constables "were very reluctant to misuse powers".

2.23   Two forces indicated that they were in the process of undertaking ECHR compliance checking on all standing orders, and that stop and search would form part of this consideration (although, in both forces, searches were perceived to be carried out on the "reasonable suspicion model").

2.24   A small number of officers across a number of forces also indicated at interview that, in their view, operations and initiatives tend to be "detrimental" to overall policing, as resources can be lost to other, apparently equally important areas. A number of officers cited the disruption which is caused on an on-going basis in city force areas by, for example, football and other sporting fixtures, cultural and arts events, the influx of tourists, and political events such as party conferences or demonstrations. A senior officer indicated that it was often experienced officers who were diverted to specific operations and that, even where monies were secured for replacement officers, these tended to be inexperienced recent recruits – the frustration with this was described as "you can't magic up experienced officers out of nowhere". One force described its approach as "long term" and "sustainable", in contrast to the "hit and run" nature of Safer Scotland – inspired initiatives (although acknowledging that these had their place).

2.25   A contrast was drawn by some officers between the "cultures" of individual forces in terms of the extent to which they were "performance - led", meaning by this that there was a considerable focus on the achievement of agreed performance indicators covering many aspects of policing, with a supporting bureaucracy to inform this. One force, specifically, indicated that it did not yet "have a 'performance culture'", contrasting this with at least two other forces in their knowledge. This force was described as "results oriented, not driven". A senior officer in another force indicated that they felt "some pressure" for numbers, but allied to this, their force was also stressing "quality", and that, on the basis of this, this officer was content that the balance between quantity and quality (in relation to, for example, numbers of arrests) was appropriate. One officer indicated some level of concern about the possible introduction of key performance indicators in relation to searches, perceiving that, without adequate safeguards, this could be problematic given the perceived "Scottish" approach of 'reasonable suspicion'.

2.26   In summary, therefore, the majority of forces in Scotland stated that they take a largely passive approach to stop and search, which involved using searches only in a "reactive" way, when clear evidence (or at least "reasonable suspicion") exists.

Factors influencing the approach of individual officers

2.27   The basis of the approach taken by individual officers was seen to derive from a number of sources. This first of these was perceived to be the basic training provided to all recruits to the service at the Scottish Police College at Tulliallan. This was mentioned by a number of forces as being the only, or at least the main, formal training provided to officers (although this is not the case in all forces). The training provided is not specific to stop and search as set out here, but deals with two main issues which are relevant, namely interaction with members of the public and both legal and safe searching procedures. Extensive guidance to new constables is provided both on the legal bases of search powers and their practical application. Examples of the issues raised include the need to ensure that evidence is obtained from legal searches, the need for corroboration (in the interests of demonstrating the integrity of the evidence and for the protection of the searching officer) and the importance of ensuring the safety of both officers and suspects. There is also a considerable focus on procedural issues in relation to, for example, statutory searches.

2.28   Two examples of locally – derived training materials were provided by forces as part of the research. The first was a distance learning module relating specifically to stopping and searching, and is designed to update and focus the basic training which officers may have received some years before. The approach taken in the module is based firmly on the "reasonable suspicion" model and the module notes that:

> *"searching people is a real invasion of privacy, so the law dictates the circumstances which must prevail before we can legitimately override an individual's right to go about without interference from us".*

2.29   In relation to voluntary searches, the module is circumspect, noting that:

> *"It is well established that you can search someone if they agree that you can – i.e. they give you their permission freely and without pressure or under duress. Be careful with this one – if circumstances give you authority to detain/search you **SHOULD USE THEM**".*

2.30   The module sets out the legal basis which prevents the use of speculative or tentative searches to gather evidence in order to decide whether or not to apprehend a suspect, and makes it clear that officers may be required to demonstrate the basis of their "reasonable suspicion" in court.

2.31   The second example provided was specific to statutory searches carried out under s23 of the Misuse of Drugs Act. Although more specific in focus, the module is similar in tone and presentation to that described above, with an emphasis on the importance of establishing the basis of reasonable suspicion and the importance of ensuring that evidence is obtained legally. The module also emphasises the importance of using interpersonal skills to ensure that a suspect was put at ease (for the protection of the suspect and officers) and of ensuring that, at all times, the suspect is made aware of the reasons why officers are carrying out a search.

2.32   Two forces pointed to the benefits which were seen to be flowing from their adoption of an intranet-based information system. Among the advantages of this identified in relation to stop and search were, in one force, a section dealing with available powers in the form of an aide memoir. The other force identified that the system held up to the minute information on incidents and suspects, and that, as this was made available to every constable at the start and end of their shift, this was likely to lead both to higher detection rates and to more focused stop and search activities. (Another force, without such a computerised system uses a spiral binder system to store good practice guidance notes in relation to specific powers and operational briefings.)

2.33   A range of other actual and potential influences (in addition to formal training) were described by forces to be shaping the way in which an individual officer may carry out his or her duty in relation to stop and search. Among the examples provided by forces in response to the questionnaire was also the input from supervisors and this was mentioned by both constables and supervisors at interview. Two issues were raised by an Inspector in relation to this. The first was that, as policing has become more bureaucratic and complex, the opportunities for supervisors (even sergeants) to accompany foot patrol officers has declined, potentially weakening this area of interaction. A second

consequence of this, noted by the same officer, was that constables are now "not used" to being accompanied in this way, and there is a danger that they are prompted to behave in an artificial, or forced way, as this is seen as "checking up" rather than as routine supervision.

2.34   Allied to this, a number of forces identified quality control procedures as being in place to address the performance of individual officers. These included, in each case (at the most general level), a clear approach to personal performance appraisal. However, at a local level, there is also seen to be a high level of supervisory checking of work. In one force, it was identified that a supervisor assesses each case report and each contact report, and that "patterns" can become obvious which may identify a training or other need. At a divisional level, this force also monitors the overall pattern of searching on a weekly basis, and any patterns emerging from this (or anomalies identified) are followed up very quickly. In most areas, however, there is no real recording of stop and search (see below) and, therefore, this level of proactive supervision is not available.

2.35   A further area of influence was described by forces and by individual officers as peer group pressure (or, as one force described it "peer group advice"). Some officers consulted as part of this research were clear that there had been something of a change in the impact of peer group pressure over their time of service. They indicated that what were described as "rogue" officers were now no longer able to "get away" with poor quality interaction with members of the public, and that it was more likely that this would be addressed directly by colleagues, either on a one to one or group basis, or through internal reporting mechanisms. One officer indicated that:

> *"cops don't want to work with bad cops and you very quickly get to know who they are".*

2.36   An officer indicated that, in their view, what they perceived as "old fashioned policing" was a "waste of time", indicating that policing by consent, with a high level of inter-personal communication was the only viable approach to take. This officer acknowledged, however, that not all officers were either able, or willing to accept and work to this model.

2.37   The final area of influence was described as the overall "tone" taken by senior officers and by the force as a whole. In terms of officers consulted as part of this research, it was clear that they recognised the approach taken by their force, and that they were clear both as to their priorities and what is, and is not, seen to be acceptable.

2.38   It is interesting to note that none of the officers interviewed mentioned the personal value set of individual officers directly (although this may be implied in the comments set out at paragraph 2.35 above). There is evidence (from, for example, the recent Home Office research series) that police officers cannot be, as with any other profession, value neutral, and that this will also have an impact on their approach. It is interesting to contrast this with the approach of members of the community interviewed, who did not perceive issues in relation to force culture or training policies, but identified individual officers as "racist", "heavy handed", "cheeky" or "rude".

The approach of individual officers

2.39   The officers consulted were asked to set out the considerations which they had in terms of the use of stop and search powers. Across forces, there was a high level of consistency in these. Most of the factors described here were mentioned by most, or all of the officers interviewed.

2.40   All of the officers stressed the need to ensure their own personal safety at all times. Although this was generally expressed in terms of the need to ensure that officers were not exposed to the risk of finding syringes or blades, a number of other comments were made which are useful in setting the context for other findings later. An officer in one force described the fact that officers are often faced with a group of ten or fifteen young men in an open area (circumstances described by a number of young men in both group discussions and street interviews). In these situations, the officer indicated that a cause of tension with such groups was brought about by the need to ensure that all members were in sight at all times. The officer described that the group may be moved to a more controlled location, perhaps bounded by a wall or fence, and this was often described by young people as being "herded". They also indicated that they would choose the first one or two people to search on the basis of the intelligence which they held (which might include prior knowledge, a report or simply the behaviour of one or more individuals). This, in the view of the officer, often led to the same individuals being chosen to be searched first, or, as they noted, this being viewed by the young people as the same people being "victimised". The officer recognised that this view was often exacerbated by a decision by the officers concerned to allow the group to disperse after one or two negative searches.

2.41   The second factor mentioned by all officers was the need to ensure a "high level" of communication with those being searched. An officer described "communication" as the "key to a successful encounter", although another (in another force) indicated that "a lot of police are horrendous communicators". All of the officers spoken to indicated that they would always tell members of the public why they had been stopped, and the basis of why they wished to search them. In cases linked to initiatives, the basis of the initiative was always described (although it is worth noting that some officers appeared to be more comfortable with statutory searches, where they can be completely clear about the legal basis of the stop and search and where the element of discretion in terms of what, and when, to communicate is removed). Where a search was to be voluntary, most officers indicated that they would say so, making it clear that an individual had a right to refuse to be searched. Set against this was the view, both from these officers and from other senior officers, that they were aware that this was not the case with all officers, and that there was still some bad practice evident. One officer described this as the "culture of I told you so", and indicated that good work done by, for example, community officers could be undermined by such an approach. Officers from one force described their favoured approach as being to be cheerful and pleasant at all times, whatever the circumstances.

2.42   A third area mentioned by a number of officers was the fact that members of the public often do not have a clear understanding of police practice, the law and their own rights, and this can cause tensions in encounters. In the view of one officer, this often led members of the public to find themselves arguing with officers, running the risk of conflict emerging (with the result that an arrest might follow). Anecdotal evidence was given by some community respondents in relation to a perception that police officers would bring breach of the peace charges against individuals following the break down of stop and search encounters in this way. This issue was discussed with all of the patrol officers interviewed, and each was clear that only in the last resort would they consider an arrest in these circumstances. (It was acknowledged by some officers, however, that they were aware of colleagues who may be likely to do this more readily.) This issue was also discussed with a number of senior officers who were, in each case, unaware of this as a widespread issue, but acknowledged that it may happen on a case by case basis. One senior officer made it clear that, in their view, any supervisor would consider the circumstances of the breakdown of the encounter very carefully, and if they had any suspicion that it was a failure on the part of the officer to, for example, communicate their intention clearly, they would treat this as a training issue for the officer concerned. Officers at all levels made it clear that they would not support the use of the power of arrest by colleagues to compensate for inappropriate practice.

2.43   The fourth main area, again mentioned by a number of officers, was a lack of time and resources. In one case, this was manifested as an inability to maintain continuity in the officers patrolling sensitive areas, while in another, the issue was expressed in terms of being unable to spend enough time on each encounter to build up rapport with the members of the public involved. Officers described having to abandon encounters to respond to radioed requests from their control room, leading, potentially, to a situation where there was a perception that the police were not taking the matter in hand seriously. One specific impact of this was described by community officers in more than one force. In their view, at times of staff shortage, officers drafted in from other divisions (or other duties) may be unaware of on-going local issues or initiatives and by "calling it as they see it", and failing to "take a long view", may actually make matters worse (by, for example, inflaming local opinion, or cutting across local work taking place).

2.44   The final area mentioned by most officers was the need to ensure that proper procedures were followed. Officers in one force identified that they received extensive briefing notes from time to time, including at the outset of specific operations, reiterating both the law and good practice. Examples of these provided for the research illustrate that this guidance includes not only legal procedural issues, but also issues related to communications, establishing trust and showing respect for members of the public involved. Officers from another division within the same force indicated that all of their notes in relation to arrests following searches were scrutinised for procedural issues prior to consideration being given to a referral to the procurator fiscal. They indicated that emerging issues were addressed through anything from a quiet word to specific re-training.

2.45   The issue of what would happen where an individual refused to be searched voluntarily was also discussed with officers at various levels and, in most cases, officers were aware that the legal position was clear and that the individual would have to be allowed to go. Officers working in a city centre area indicated that this, in their

experience, happened "routinely" and that they would always accept this situation. One officer in other force, however, did indicate that they would try to convince the individual and that, if this still did not lead to an agreement to a voluntary search their "suspicions would be raised" and that, therefore, it might become "one for the lawyers".

2.46   It became clear, from all of these discussions, that there are a wide range of factors which influence the conduct of officers carrying out stop and search operations. It appears, from this, that there is a good deal of clarity in relation to overall force strategy and local policy, as well as a clear understanding of the law as it relates to stop and search. It also appears, however, that there are considerable variations in the practical application of the powers and, therefore, inconsistencies in the way in which individual encounters are managed. This will be supported by further evidence which will be presented in Section 4.

Approaches to recording stops and searches

2.47   It was also found that, at present, there is no consistency in the way in which stops and searches are recorded by forces in Scotland. As far as can be established, stops are not recorded by any force. The table below summarises the position in relation to searches as provided by each force on the basis of a questionnaire circulated as part of this research (and further contact with the forces concerned).

Table 1. Current recording of searches

Force A	Searches are recorded only under certain circumstances, namely searches carried out under S23 of the Misuse of Drugs Act and under Section 60 of the Civic Government (Scotland) Act 1982. Gender and race of those searched are recorded. Beyond this, searches may be recorded in officers' notebooks.
Force B	Searches are not routinely recorded, although those undertaken as part of operations will be recorded. Searches may be reported and recorded by the central control system.
Force C	Only drugs searches are recorded, but no information in relation to age, gender or ethnicity is collected.
Force D	Some statistics are collected about searches as part of the overall control systems of the force, but this is not done systematically and the data is difficult to use, with search and retrieval difficult.
Force E	Extensive statistics are collected about searches, with more detailed statistics being collected in relation to initiatives.
Force F	Statistics are not currently collected on searches, although this is expected to change in the next few months with the introduction of new force procedures.
Force G	New procedures in place since 2000 have standardised the collection of statistics on searches through the use of a cardbox computer programme. Gender, race and age data are recorded.
Force H	Only collects information on certain categories of searches such as drugs, offensive weapons or firearms. Some recording of overall statistics in relation to "Safer Scotland", but no breakdown by gender, age or ethnicity.

2.48   From this table, it is evident that no clear picture could be obtained of the use of stop and search powers in Scotland at present. Of the current procedures in place, only 2 (with a third about to commence) routinely collect stop and search data. Even in the force with the most advanced collection systems, only a subset of the available data is collected on non initiative days. In terms of assessing available data, this is not done routinely in relation to ethnicity, although, at a divisional level, officers in this force reported undertaking an exercise to examine stop and search data in terms of ethnicity and gender (producing figures broadly comparable to those in the recording exercise set out in the next section).

2.49   In terms of anecdotal evidence, one force indicated that it had evidence of about 200 searches having been carried out in the most recent 6 month period. Officers in another force indicated that they might carry out "4 – 5" searches a week (on all bases, including searches under common law following an arrest), while officers in a third force indicated that they might go a week or more without searching anyone (other than those detained or arrested). In contrast to this, G Division in Strathclyde (which took part in this research) could routinely record more than 200 searches on a single Spotlight initiative day, and might routinely record 40 – 50 searches on a typical midweek day, rising to over 100 on a weekend day.

Views on the desirability of recording searches

2.50   Overall, there was support (although this was qualified in some cases) from virtually all forces for the concept of recording searches (with no specific distinction being made between statutory and non-statutory searches), although none for recording stops. In all cases, there was an assumption that such a development in relation to searches was inevitable. A number of respondents specifically mentioned the Race Relations (Amendment) Act 2000 in this context.

2.51   A number of respondents, however, indicated that there would need to be caution exercised in the way in which this was done. One force indicated that there was a danger that statistics would be misused, or at least misinterpreted. One example was given of an incident in which two cars were stopped and 10 occupants, described as "Asian" were searched. If this figure was to appear in a table without explanation, in the view of this officer, a misleading picture could be obtained (as this division was perceived to average no more than one or two searches per month of people who were not white).

2.52   This issue was also raised by officers in two forces in the context of there being, in their view, a relatively small number of black and minority ethnic young men engaged in on-going criminal activity, and who would, therefore, on the intelligence – led policing model, be legitimate targets for searches. Concern was expressed that this activity against a small number of known offenders might be seen to distort the "true" picture.

2.53   Officers in another force expressed concern about being asked to carry "yet another" form – one officer joked that his stab-proof vest could be made from layers of peel-off forms. Concern was also expressed by some officers about whether or not a record of the encounter would have to be given to the person at the time, and the impact

that this might have on their ability to respond to other incidents. One officer indicated that it was "inefficient" to record searches which found nothing.

2.54   These views point to the perception of the need for the careful identification of the most appropriate means of recording. It is recognised that there may be some resistance to the recording of searches per se, and to recording the ethnicity of those searched. This was found to be the case in England and Wales when ethnic monitoring was introduced, and comments set out elsewhere in this report suggest that this is also likely to happen among some officers in Scotland.

CONTACT WITH BLACK AND MINORITY ETHNIC GROUPS

2.55   Both prior to, and following The Stephen Lawrence Inquiry, all of Scotland's forces have established on-going contacts with black and minority ethnic communities in their areas and these were also identified in the research.

Overview

2.56   There is no doubt that all Scottish forces take consideration of race equality very seriously. It was clear from discussions with all forces that, following The Stephen Lawrence Inquiry, race equality is now one of the key issues in terms of strategic planning. The structural basis of interaction with black and minority ethnic groups is one aspect of this, and was set out in the recent HMIC inspection (and will be re-inspected shortly). There is, therefore, little point in re-stating the detail here, and the issues set out will be those which impact directly on the use of, and consequences of, stop and search and which are, therefore, most pertinent to this research.

2.57   One point made by a senior officer interviewed as part of this research is that, taken together, The Stephen Lawrence Inquiry, and the two HMIC inspections (in Scotland and England and Wales) made a total of 155 recommendations in relation to race equality and police practice. (This was described as a "tidal wave".) The point was also made that many of the recommendations will require extensive joint working, or at least some measure of consultation to be undertaken prior to any implementation, and that this was placing a strain on what may be relatively limited resources both within the police and within, for example, Racial Equality Councils (RECs).

Partnership working

2.58   Partnership working with relevant communities and organisations is now accepted by all forces as the most appropriate mode, not only in terms of race equality, but also in most other areas of policing. In most force areas, there are a range of formal structures in place, together with more or less formal arrangements at local levels. In terms of race equality issues, this can involve a range of arrangements, discussed below, from participation in multi agency groups to face to face contact with individuals.

2.59   There was some frustration expressed by community officers in all three forces which took part in this research (and by senior officers in other forces) in relation to partnership working. While all officers were committed to it both philosophically and professionally, there was seen to be a difference in approach between the partners, which could lead to the police being seen to be leading on issues which could, more properly, be led by community groups or other public agencies. The reason for this was considered to relate to the decision making and budgeting structures which were seen to be in place in the agencies concerned. While, for example, police forces could commit resources quickly and over more than one financial year, this seemed to the officers concerned to be difficult for partners to do. There was also frustration at the levels of bureaucracy which partnership appeared to bring. In one force, there was seen also to be some frustration with the fact that local partnerships did not always appear to work well together, and that, although each faced similar issues, they appeared to work in isolation, with only the police presence providing a link between them.

2.60   The consequences of this in relation to stop and search were seen to relate mostly to any future arrangements which may be developed, for example, for community education initiatives or for scrutinising policy and practice, and the way in which these would need to be managed.

The nature of the contacts

2.61   As stated above, the extent of formal contacts between forces and black and minority ethnic communities will not be described in detail here, but there are a range of structural factors which impact on the issue of stop and search and which are, therefore, relevant to this research.

2.62   At present, there are only six Racial Equality Councils in Scotland, covering Grampian, Tayside, Fife, the Lothians, Central Scotland and the west of Scotland. There is currently no REC covering the Highlands and Islands, nor the Borders and Dumfries and Galloway, although a number of informal arrangements exist to provide support to individuals in these areas. (The REC network is currently under review.)

2.63   In places where there is a REC, police and REC contacts reported a high level of interaction. Examples of this have included[3]:

- *Secondments of officers to the REC to work either on specific projects or on general case work;*
- *Senior officers on REC boards (various areas);*
- *Joint working, for example on the development of Racial Incident Monitoring (all forces);*
- *A joint conference on the implications of The Stephen Lawrence Inquiry;*
- *Development of a "rooting out racism" card for officers and others to carry;*
- *Development of a Community Audit;*

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[3] This is by no means a comprehensive list – see the recent HMIC Thematic Inspection for more detail.

- *Remote reporting of racist (and other) incidents now being developed in most forces;*
- *Delivery of race equality training to officers by REC staff;*
- *Participation in thematic Social Inclusion Partnerships dealing with race equality issues;*
- *Development of "open" events focussing on community safety issues for different black and minority ethnic groups;*
- *Participation in Community Safety Partnerships.*

2.64   Where RECs exist, these can provide a conduit through which concerns can be raised with the police about, for example, stop and search. Evidence from informal contacts with the RECs suggests, however, that there is a very low level of casework generated by stop and search currently, and that it is not a "burning" issue for their service users.

2.65   The situation facing rural forces is more complex, as there are no such formal arrangements in place. In these force areas, there are very small numbers of people from black and minority ethnic communities, and few representative organisations. In these areas, forces have taken proactive steps to bring together members of black and minority ethnic communities to discuss emerging issues.

2.66   Even in areas where RECs exist, there remain issues about the disparate and often fragmented nature of the black and minority ethnic communities. One force indicated that it maintains contact not only with its local REC, but also more directly with community leaders in each of the main constituent communities. As has happened in England and Wales, the concept of the lay advisory panel is now becoming more accepted, with a current example in one force, and this is being considered in other forces.

2.67   There are, however, a much wider range of local contacts. Officers interviewed (both community officers and senior officers across a range of forces) described these as including, for example:

- *Accepting invitations to address community groups on issues such as personal safety, crime concerns and procedures for victims to receive support;*
- *Developing small events focused on community safety;*
- *Accepting invitations to attend cultural and religious gatherings;*
- *Developing materials on, for example, police procedures in community languages;*
- *Working with individual families, or groups of families;*
- *Attending schools;*
- *Arranging a day out specifically for women from black and minority ethnic communities, and promoting other working with young women promoting empowerment (in the broader context of community safety);*
- *Developing holiday programmes for young people.*

These examples are typical of the work which is done by all Scottish forces.

2.68   One example of a specific local initiative was given as the establishment of a part-time police station in a library in a city area with a largely black and minority ethnic population. This was done in response to representations made by members of the black and minority ethnic communities about the lack of a local visible police presence, in part because the nearest full-time police station was in another area. This experiment was seen by the force concerned to have been a success, and a commitment has been secured to allow it to continue.

2.69   Various forces have also set up a number of formal and semi-formal arrangements to allow for the consideration of both public safety and specific crime-related issues affecting black and minority ethnic communities. One such example was found in one area of Glasgow, where a forum has been established bringing together a range of community groups and the police. This forum also has the support of councillors and the local MP.

2.70   There are also a wide range of ways in which both senior officers and the police generally both provide and receive feedback from black and minority ethnic communities. The most obvious example is the designation in most forces of a specific liaison officer (who may often be described as the "ethnic minorities liaison officer") as the first point of contact, although, as was noted in one division, over time, person-to-person contacts are developed between community leaders and senior officers. One senior officer noted that their phone could "go into meltdown" following any incident involving black and minority ethnic communities in their area, but indicated that that this was, in their view, entirely positive.

Officers' perceptions

2.71   As noted, a range of officers across a number of ranks were interviewed (formally and informally) as part of this research. A range of issues arose out of these interviews which are pertinent to the research and which are worth reviewing here. These relate to two main areas: contact with people from black and minority ethnic groups as victims and perpetrators of crime and contact in relation to stop and search.

2.72   It is fair to suggest that all of the officers (of whatever rank) were unanimous in the view that there is relatively little contact between the police and people from black and minority ethnic groups as perpetrators of crime, although there is little actual evidence available to formally substantiate this (given the lack of information available on race and the criminal justice system in Scotland). One officer with more than 20 years service indicated that he had never had cause to arrest someone from a black or other minority ethnic group. A senior officer from a rural division also indicated that, in his knowledge, he was unaware of any incidents involving people from black and minority ethnic communities as perpetrators of crime.

2.73   Officers in two city areas did, however, point to a number of emerging issues. In both cities, officers indicated that a small number of black and minority ethnic young men were known to them as serial offenders. Officers in one force in particular indicated that they were aware of the emergence of younger black and minority ethnic men who are increasingly taking part in criminal activities. Also in this area, there was seen to have been more recent evidence of, for example, the use of weapons by "gangs" of black and minority ethnic men. Overwhelmingly, however, in all forces, contacts between police and people from black and minority ethnic groups are currently in relation to their being victims, rather than perpetrators of crime.

2.74   Overall, officers in all areas were positive, although not complacent, about the state of "race relations" in their force area. In one area, officers were aware of emerging tensions between and within various communities, to some extent heightened by the riots in English cities and the local issue of the housing of asylum seekers in various parts of the city. It is not yet clear what impact the issue of asylum seekers and the emergence of racist violence, culminating in the murder of Firsat Dag in Sighthill on 5th August will have in other areas of the city, but it is reasonable to assume that there will be wider effects of this. In other force areas, there was less evidence of racial tension coming to the notice of the police.

2.75   Most, although not all, officers made positive overall statements about race equality issues and appeared to believe that they had a general recognition of the extent of both discrimination and racism in Scottish society and an understanding of the role of the police in addressing this. Overall, all officers of whatever rank and function believed that they had a good relationship with black and minority ethnic communities within their area. However, beyond this, in some cases, the level of understanding of race equality issues was often more limited than initial statements implied, and additional comments which were made suggested that there may be underlying issues which remain to be addressed. One officer, for example, indicated that they felt "suspicious" of the motives of local race equality groups. Others indicated that they were unhappy about what were perceived to be moves to "racify everything", a reference to the acceptance by forces in Scotland of The Stephen Lawrence Inquiry recommendation on the classification of racist incidents on the basis of the views of the victim (recommendation 12). Some officers indicated that they were concerned about what they described as the "race card" and one officer gave an example of an incident where a large number of cars were vandalised but, in the view of this officer, one owner was determined to allege a racist motive, even though cars belonging to white owners had also been attacked. An officer suggested in this context that "positive action has gone too far".

2.76   The use of language by some also raises a number of questions about their approach, and in the context of these discussions, a small minority of officers referred to "ethnics" and "coloured people".

2.77   In relation to stop and search specifically, there were also a range of issues raised by officers of all ranks. The first, and most significant point, raised by a number of officers, relates to a perceived fear of what some described as the "race card". In this context, one patrol officer indicated that a complaint from a white person would be dealt with by a sergeant, while a complaint from a black person would go straight to a superintendent. In their view, this was making officers reluctant to interact with people

who were not white. (A senior officer in this force suggested, however, that this perception was mistaken, and there is no effective difference in the way in which complaints are handled or the extent to which they are taken seriously.) A community officer in one force indicated that some officers were "afraid", and often "avoid encounters" with people from black and minority ethnic groups. It was also indicated that it had been difficult for some officers to understand and accept a range of cultural issues in relation to interactions with people from black and minority ethnic communities.

2.78   One officer described that being labelled as "racist" would be very problematic in relation to career prospects. Similarly, some officers expressed a perception that people from black and minority ethnic communities used the threat of describing officers as "racist" as a tool, or claimed that any intervention from the police was "racist" in its motivation. The consequence of this, described by a number of officers, was a reluctance to engage with members of black and minority ethnic communities, except where they had no choice, or where they were absolutely sure of their ground. Senior officers confirmed that they had become aware of this problem, recognising that some officers were avoiding interaction with people from black and minority ethnic communities, but that the forces concerned were attempting to address this through race equality and other training, as well as interventions from supervisors. There is support for this perception of different approaches from research carried out by the Home Office on the early implementation of ethnic monitoring in forces in England and Wales (FitzGerald and Sibbett, 1997). That research showed that officers were far more likely to record searches of people from black and minority ethnic communicates as "PACE" or statutory searches than they were of people from white communities.

OVERVIEW

2.79   This section has provided information relating to the overall approach of the police to stop and search in Scotland and some of the procedures which are in operation currently. It has also drawn attention to some perceptions of the role and functions of police officers in relation to stop and search. The implications of these findings will be discussed further later, in terms of both the issues which they raise in relation to practice and the broader concerns relating to some of the assumptions which they imply.

2.80   The next section will set out the evidence gathered from a recording exercise carried out in three divisions, one each in Strathclyde, Lothian and Borders and Tayside.

SECTION THREE: EVIDENCE FROM THE RECORDING EXERCISE

3.1   One of the key issues to emerge from the consideration of background information in relation to the use of stop and search is that very little information currently exists on the extent and nature of the use of the tactic. There are two exceptions to this. In Strathclyde, some data is collected in relation to Spotlight campaigns and, since late 2000, Fife Constabulary has been collecting some relevant data. It is understood that Central Scotland Police will shortly commence the collection of data of this kind.

THE BASIS OF THE RESEARCH

3.2   Given the lack of data, as part of the research, a recording exercise in 3 divisions, one in each of Lothian and Borders, Strathclyde and Tayside was carried out over two four-week periods in Spring 2001.

3.3   The overall purpose of this strand of the research was to gather data in relation to stops, and to searches carried out on both a statutory and consent basis. The data could then be analysed in order to identify patterns in relation both to the nature of the stops and searches, and of the age, gender and ethnicity of those stopped and searched. Due to the lack of any prior useful comparator data, this data has to stand alone. It is expected, however, that if one of the recommendations made as a result of this research is carried out, data in relation to searches will become available covering all parts of Scotland in due course. In this way, intra and inter area comparisons can be made on a valid basis over time. In the absence of this, the data here remains a "snapshot" and must, therefore, be regarded as reliable only in terms of providing a picture of the areas in which it was gathered.

The choice of divisions

3.4   Although the objectives of the research are clear in addressing stop and search issues in Scotland across a broad front, and not only in relation to black and minority ethnic groups, there is a specific strand relating to race. In order to attempt to address this directly, it was necessary to choose areas in which there was likely to be a sufficient diversity of people from various ethnic groups to allow meaningful data to be collected. (It must be borne in mind throughout this analysis that there are no areas in Scotland in which the concentration of people from black and minority ethnic groups is as high, for example, as in some of the London boroughs, which have been the focus of pilot work undertaken by the Metropolitan Police.)

3.5   The south side of Glasgow (covered by Strathclyde Police G Division) is the only area of Scotland where there are particularly high concentrations of residents from black and minority ethnic groups, particularly in the area around Pollokshields. This division has an Ethnic Minorities Liaison Officer, and covers a wide range of both inner city and suburban areas. There are also a number of black and Asian development projects operating in the south side area. Even here, however, at the level of the division as a whole, the overall percentage of non-white residents is likely to be little more than 7%,

rising to perhaps double this in some areas. By urban English standards, this is a very small percentage.

3.6   In reality, there are no areas of either Edinburgh or Dundee with particularly high concentrations of residents from black and minority ethnic groups. In Edinburgh, the highest concentrations (although still in absolute numbers very small) are thought to be in Leith and the Pilton/Muirhouse area. In Dundee, the highest concentrations, although, again, very small in terms of absolute numbers, are in the Stobswell and Hilltown areas. These areas are covered by D Division (Coastal Division) of Lothian and Borders Police and Central Division of Tayside Police.

3.7   Contact was made with each force through a nominated liaison officer and agreement secured to undertake the research in these divisions. A series of meetings was held with senior officers in each division to introduce the research and to identify any issues which might emerge.

3.8   For each force, a briefing note (see Annex 4) was then prepared and made available to the nominated liaison officer. It is understood that the briefing method actually used varied slightly between forces (in line with the usual practice in each force), but operational officers suggested that this had no impact on the research. In Strathclyde and Tayside, senior officers were provided with the briefing and this was cascaded through normal briefing channels. In Lothian and Borders, a similar approach was followed, with the addition creation of an operational order which was provided to all officers involved. At the request of Lothian and Borders Police, a small card was developed for each officer to carry, to set out some of the objectives of the research. This is reproduced in Annex 5.

What was measured?

3.9   In terms of stops, officers were provided with A4 sized tear-off pads each containing a form to record a small amount of information in relation to people stopped on a shift by shift basis. It was intended that this would be completed by each officer, or pair of officers (if working together) at the end of the shift. The information collected included age (by category), visible ethnicity and gender of people stopped. (The form is reproduced in Annex 6.)

3.10   In terms of searches, all searches other than those set out below were recorded using a specific form adapted and developed from those used by the Home Office in England and Wales. (The form used is reproduced in Annex 6.) The searches **recorded** can be summarised as:

- *Searches which are undertaken using statutory powers such as s23 of the Misuse of Drugs Act 1971 or s60 of the Criminal Justice and Public Order Act 1994;*
- *Searches which are undertaken on a non-statutory basis following the granting of consent by the individual to be searched ("voluntary" searches, but see the note below relating to football matches and sweeps of licensed premises);*

- *Searches of vehicle drivers or passengers which arise following a vehicle stop (whether or not the grounds for the initial stop were related to the eventual grounds for the search).*

3.11   The only searches specifically **excluded** from this research were:

- *Those searches undertaken under the provisions of Prevention of Terrorism legislation;*
- *Searches of prisoners in custody;*
- *Searches arising from the discharge of a warrant (for example a search arising from a drugs-related house search);*
- *Searches arising from the use of powers to search those entering designated sporting and other events, particularly football matches;*
- *Voluntary searches undertaken as part of specific operations (for example those as part of the Safer Scotland campaign) which target large numbers of people in licensed premises. Voluntary searches other than these were recorded.*

3.12   The form used in each force area is set out at Annex 6. Specific guidance was given to officers in the use of the form, and this is also reproduced at Annex 6.

The conduct of the research

3.13   A number of discussions were held with officers administering the forms in order to address any issues which they had identified. In each of the areas, it appears, from these discussions, that the process of completion of the forms caused no specific difficulties. It was identified that most officers had acquainted themselves with the content of the forms following their initial briefing and preferred to complete the forms at the end of their shift in the time set aside for administration. Details required to allow completion of the forms were summarised in notebooks and subsequently transferred to the forms. There is no reason to suspect that there was any loss of information or systematic errors introduced, as the recording of information in this way is a well-established standard police procedure.

3.14   All forms, once completed, were countersigned by a supervisor before being passed to a nominated contact within each division. Again, this system was perceived to have worked well.

3.15   Officers in all cases indicated that they had found the forms straightforward and easy to complete. The extent to which the forms were perceived to be an intrusion was less than had been anticipated. Officers indicated that they regarded this as "just another form". In the Strathclyde force, recording of information of this kind was described by officers as being undertaken "routinely". In other forces, although there was perceived to be less of a "form filling" approach, the research forms were not seen as unduly burdensome. In terms of suggestions from the officers as to how the collection of information could be made more effective, one officer suggested that a more productive

way (assuming such monitoring would be undertaken in the future) could be for this to be radioed to a controller who, at the time, could enter it into a central database linked to a command and control system. Other than this, there were no specific suggestions made.

3.16   In terms of the extent to which data was actually recorded, evidence from the forces concerned (and discussions with officers) suggests that the search data is likely to be very substantially complete for the period of the research. The extent of the searches is close to that which was expected by the liaison officers. In terms of stops, on the other hand, it is likely that, although nearly 7,000 were recorded, this is probably an under-estimate. It was suggested that, faced with a range of priorities at the end of a shift, officers would concentrate on the more "important", i.e. in this case, the search form. On the other hand, it was suggested that officers would be more likely to complete the stop record when searches took place. There is also evidence that, towards the end of the period, although provided with clear instructions by liaison officers to complete the forms on a shift by shift basis, some patrol officers were completing weekly records. Evidence from England and Wales does suggest that the recording of stops is problematic, even where specific efforts have been made to ensure that the data is comprehensive and accurate.

Limitations to this data

3.17   It is important to set out issues in relation to limitations contained within the search data at the outset. As was detailed in Section 1, disproportionality is, for many, the key issue in terms of stop and search. Disproportionality is, in effect, the difference between the absolute number of people from black and minority ethnic groups stopped and searched and the number which could be inferred by their overall representation within the population. This issue is fraught with difficulty, as the recent Home Office research clearly illustrated. Although mention was made of the issues in Section 1, it is worthwhile addressing them in more detail here, in order to provide an immediate context to the discussion of the research findings which will follow in the remainder of this section.

3.18   The main problem in relation to the measurement of disproportionality in the context of this research relates to the issue of "available populations". There are two main ways in which this can be defined, firstly in terms of place of residence, or, secondly, in terms of the numbers of people on a given street at a given point in time. Both methods have advantages and disadvantages, but the main issue in a Scottish context is that data is simply not available to allow either method to be used with any reliability. In order to form an accurate assessment either of place of residence or available street populations requires a detailed estimate of both the number of people from black and minority ethnic groups in that area, and the relative proportion which this represents in relation to the population as a whole. In Scotland, currently, there is little reliable data on the absolute numbers of residents from black and minority ethnic groups even at a Scottish level, let alone the level of an individual police division. For this reason, research could not currently provide a definitive view on whether disproportionality exists in Scotland.

3.19   A second limiting factor is that the information gathered relates to officers' own perceptions of ethnicity for reasons detailed below. This has been the approach traditionally taken in England and Wales to ethnic monitoring undertaken in relation to

PACE, generally, although not always, using codes approved by the Home Office (the so called "IC" codes). It was, however, a recommendation of The Stephen Lawrence Inquiry that self-defined ethnicity be used.

3.20 There are a range of advantages to this, not least that it respects individuals' own views and is likely to be more accurate. However, as work undertaken by the Home Office showed, it is also fraught with difficulty (Home Office 2000b). In a pilot exercise in Leicester, a total of more than 600 unique self-defined ethnic codes were generated, even accounting for "spurious" responses. The Home Office researchers, in assessing this data, identified that only three categories, "white European", "Asian" and "African – Caribbean" were sufficiently robust to allow any analysis to be undertaken, and, even within this, there were issues in terms of the extent to which there were potentially anomalous variations.

3.21 It was clear from the Home Office pilot sites that self-defined ethnicity raised a series of procedural issues, not least in terms of the perceived need for specific officer training in terms of the best approaches to use in securing the information. In the light of the fact that this research was a small scale pilot exercise, with no opportunity for prior training, it was accepted that the form used should use officer defined, rather than self defined ethnicity, and should use simplified codes with which officers would be familiar. This ruled out, for example, the use of "dark European" (which is one of the Home Office codes), which is not a familiar description to officers in Scotland. Following discussion with the forces concerned, it was agreed to use:

- *White;*
- *Indian/Pakistani/Bangladeshi;*
- *Chinese/Japanese;*
- *African/Caribbean;*
- *Other.*

3.22 In terms of the impact of the use of this classification on the findings, the Home Office research suggests that officer definitions are a "reasonable approximation" to self-defined ethnicity, suggesting that the overall impact would be marginal. It should be acknowledged, however, that there are likely to be, at the level of individual forms, some discrepancies. The Home Office research does not suggest that there were any systematic errors present in the use of codes in their pilot areas, with error being broadly spread across all groups, but care should be taken when interpreting this data.

3.23 The issue of which codes to use and how these should be collected is currently being addressed by ACPOS and the Scottish Executive in relation to the criminal justice system as a whole. A suggestion will be made arising from this research that, in relation to the ability to monitor the use of stop and search (as well as a range of other indicators in relation to the criminal justice system), whichever categories are used, these should be consistent with those used in the 2001 census, in order that comparisons can at least be made at the level of residence-based data on ethnic group.

FINDINGS FROM THE RECORDING EXERCISE

3.24   The findings of the recording exercise will be split broadly into two main parts. The first will review the evidence emerging from the stop data, while the second will review the search data.

Evidence from the "stop" data

3.25   A total of 6879 stops were recorded over the period of the research. It is worth reiterating at the outset that this could not be a wholly accurate figure. Leaving aside any under-recording (see above), the nature of a stop is likely to be perceived differently by different officers, even though guidance (agreed by the forces concerned) was provided, and this will certainly impact on the likelihood that it is recorded.

3.26   The table below sets out the distribution of stops by force area:

Table 2. Stops by Force

Force	Total
Lothian and Borders	996
Strathclyde	4226
Tayside	1657
Total	6879

3.27   Table 3 sets out the breakdown of these stops by gender:

Table 3. Stops by Gender

Force	Total
Male	6139
Female	740
Total	6879

3.28   Only around 11% of recorded stops involved females. This is, however, a slightly higher percentage of girls and women stopped than are subsequently searched.

3.29   The tables below set out the data on the patterns of stop by age. It should be borne in mind that the categories used were quite broad, and the data is not, therefore, as rich as that in relation to searches.

Table 4. Stops by Age (Male)

Force	Total	
Male under 16	1574	26%
Male 16-25	3177	52%
Male over 25	1388	23%
Total male	6139	

Table 5. Stops by Age (Female)

Force	Total	
Female under 16	200	27%
Female 16-25	309	42%
Female over 25	231	31%
Total female	740	

3.30   This data tends to suggest that the peak years for stops are 16 – 25. The overall percentage of those stopped who were under 16 (26%) is virtually identical to the overall percentage who were recorded as having been searched. The overall percentage of those aged over 25 who were stopped (23%) is higher than the percentage found to have been searched (20%), suggesting that, when stopped, older people have a slightly lower likelihood of being searched.

3.31   The next three tables set out the available data on ethnicity and gender. It must be borne in mind that this data relates to officers own perceptions, and, therefore, *visible skin colour*.

Table 6. Stops by Visible Ethnicity (Male)

Ethnicity	Number	Totals	%age
African-Caribbean	17		
Indian-Pakistani	140		
Chinese-Japanese	4		
Other	210		
Subtotal not white		371	6.0%
Subtotal white		5768	94.0%
Total		6139	

Table 7. Stops by Visible Ethnicity (Female)

Ethnicity	Number	Totals	%age
African-Caribbean	4		
Indian-Pakistani	11		
Chinese-Japanese	3		
Other	6		
Subtotal not white		24	3.2%
Subtotal white		716	96.8%
Total		740	

Table 8. Stops by Visible Ethnicity (Total)

Ethnicity	Number	Totals	%age
African-Caribbean	21		
Indian-Pakistani	151		
Chinese-Japanese	7		
Other	216		
Subtotal not white		395	5.7%
Subtotal white		6484	94.3%
Total		6879	

3.32   This data does raise some interesting issues in relation to comparisons with the search data set out later in this section. The actual breakdown by visible ethnicity is set out in the table below:

Table 9. Stops by Visible Ethnicity (by Force)

Gender	Force	White	Not white	Total	Percentage "not white"
Male	Lothian and Borders	799	31	830	3.7%
	Strathclyde	3589	300	3889	7.7%
	Tayside	1380	40	1420	2.8%
Female	Lothian and Borders	161	5	166	3.0%
	Strathclyde	326	11	337	3.3%
	Tayside	229	8	237	3.4%
Total	Lothian and Borders	960	36	996	3.6%
	Strathclyde	3915	311	4226	7.4%
	Tayside	1609	48	1657	2.9%
		6484	395	6879	

3.33   A total of 5.7% of those stopped were from a visible black and minority ethnic group. This is higher than the proportion of those searched who were from visible black and minority ethnic groups (see 3.52 below) and this does raise some interesting issues which will be discussed later.

3.34   Overall, the stop data is interesting but inconclusive. It is likely that, for a range of reasons, the total number of stops will be an underestimate. It is, from discussion with officers, most likely that it would be stops of those from white communities which would be under-recorded. The extent of stopping and searching people from black and minority ethnic communities was seen to be the focus of this research (although, as noted at the outset, the actual research aims were much broader), and therefore, more likely to be recalled and noted by officers.

Evidence from the "search" data

3.35   A total of 3932 search forms were completed by officers from the three divisions over the 8 weeks of the recording period[4]. The general standard of completion of the forms was high and there were no areas of significant concern. Issues of minor concern were identified in two areas, specifically the recording of home locations and the inclusion of a number of searches which should have been excluded on the basis that, for example, the search took place after an arrest had been made.

3.36   In terms of the recording of home locations, although it was indicated that the postcode was the preferred information to be recorded, in the event, only around one fifth of the forms contained partial or whole postcodes. This meant that around 3000 addresses had to be hand coded by the research team to allow an assessment of this data to be undertaken. In terms of a full implementation of monitoring of this type, it would be impractical to undertake this level of retrospective analysis. It is not clear why such a significant amount of data should have been missing, as research by the Post Office (and the experience of other research) suggests that a huge majority of young people, and still a large majority of older people, are well aware of their post codes.

3.37   A manual check of the records was undertaken to identify searches which would fall outside the definition adopted for this research, particularly searches of people already arrested carried out under Common Law or under s14 of the Criminal Procedure (Scotland) Act. A total of 277 records were discarded on this basis. This does not represent all of the records for which Common Law was cited (as will become clear later), as a case by case examination of the circumstances noted was undertaken, and, where a search was described as voluntary, or where it was clear from the description of the basis of suspicion noted that no arrest had taken place, the record was included. This means that a total of 3655 records were admitted and used in the subsequent analysis. The tables below set out the pattern of all searches undertaken, and the number of searches adjusted to take account of those records removed from the data set.

3.38   The forms were completed as follows:

Table 10. Searches by Force (all searches)

Force	Total
Lothian and Borders	294
Strathclyde	2987
Tayside	651
Total	3932

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[4] Each force collected data for 8 weeks, although the actual periods varied between 1st April and 29th June 2001.

Table 11. Searches by Force (adjusted records)

Force	Total
Lothian and Borders	281
Strathclyde	2846
Tayside	528
Total	3655

Patterns of searches

3.39   It is clear from the tables above that there are significant variations in the extent to which searches took place in each of the three divisions. Even allowing for the fact that G Division in Strathclyde is much larger than either the Coastal Division of Lothian and Borders or the Central Division of Tayside, the number of searches recorded is much larger. In discussion with the forces concerned, and with individual officers, there is no evidence of under-recording (as was found by the Home Office), suggesting that it is the underlying operational approach of the forces concerned which explains this variation. This issue was discussed in detail with each of the forces concerned.

3.40   Across the three divisions, the maximum number of searches carried out in a single day was 186 on 6th April 2001. This also represents the day with the highest number recorded by a single division, with 172 being carried out by G Division of Strathclyde on that day. The highest number recorded in a single day by Lothian and Borders was 18 on 11th May, with 32 being recorded by Tayside on 1st April.

3.41   The tables below summarise the number of searches recorded by day of the week and by force[5]

Table 12. Searches by day of the week and by force

Day of week	Lothian and Borders	Strathclyde	Tayside	Total	%age
Sunday	43	260	88	391	11%
Monday	29	303	46	378	10%
Tuesday	60	277	88	425	12%
Wednesday	26	348	67	441	12%
Thursday	25	356	63	444	12%
Friday	54	712	66	832	23%
Saturday	43	588	110	741	20%
Total	280	2844	528	3652	

3.42   This table, as might be expected, illustrates that searches are primarily concentrated at the weekend, with 43% conducted on Friday and Saturday. Although there is, overall, a high level of consistency between days of the week, at the level of individual forces, there is some variation, for example, with the perhaps surprising

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[5] It should be borne in mind that with all data in this section, not every piece of data was completed on every form, although all were substantially complete. In each case, totals and percentages in the tables have been calculated on the basis of *available* data.

observation that the peak day for searches in Lothian and Borders was actually Tuesday. In Tayside, more searches were recorded on a Tuesday (and, for that matter, a Sunday) than a Friday. (In discussion with Tayside Police, the likeliest explanations for this may be that other operations may take place on a Tuesday which impact on the number of searches, or that it may, on occasion, be related to changes in shift patterns.)

Table 13. Hour at which searches commence

hour	Total	%age of day		hour	Total	%age of day
0000	231	6%		1200	112	3%
0100	205	6%		1300	124	3%
0200	75	2%		1400	175	5%
0300	43	1%		1500	147	4%
0400	37	1%		1600	156	4%
0500	32	1%		1700	157	4%
0600	10	0%		1800	220	6%
0700	19	1%		1900	292	8%
0800	27	1%		2000	409	11%
0900	27	1%		2100	408	11%
1000	47	1%		2200	264	7%
1100	65	2%		2300	345	10%
Total	3627					

3.43   This table illustrates that most searches are concentrated in the evening and early hours of the morning. It is interesting to note that very few searches are carried out proportionately by any force in the morning. There is a high level of consistency between forces on this data, with all exhibiting the same patterns. The overwhelming majority of search encounters lasted for 10 minutes or less.

3.44   There was some variation in the breakdown of searches by different age groups over the course of the day (as might be expected by the times at which different age groups are, in effect, available to be stopped). Older groups were more prevalent during the day, while the peak time for the youngest children was immediately following school, and for teenagers, the early and mid periods of the evening. In the period between 11pm and 4am, around 50% of all those searched were between 16 and 19, compared to less than 30% between 9am and 5pm.

3.45   In terms of the nature of searches, the following was found:

Table 14. Type of searches

	Number	%age
Pedestrian searches	3314	91%
Car driver searches	182	5%
Car passenger searches	146	4%
	3642	

3.46   A total of 242 searches were made of cars over the period of the research. In terms of searches involving a car, driver or passenger, the following pattern was found:

Table 15. Type of searches where search of a car involved

	Number
Car only	0
Car and driver only	118
Car and passenger only	122
Car, driver and passenger	2

Characteristics of those searched

3.47   The next few tables set out the basic characteristics of those people who were found to have been searched during the recording period.

Table 16. Gender of those searched by force

	Lothian and Borders	Strathclyde	Tayside	Total
Female	7.5%	8.6%	8.7%	8.5%
Male	92.5%	91.4%	91.3%	91.5%
Total	100.0%	100.0%	100.0%	100.0%

3.48   From table 16, it is clear that there is a high level of consistency between forces in terms of the gender balance of those searched. Overall, more than 90% of all searches in all three forces were of males. The reasons for this were explored with officers with whom this data was discussed, and this was seen to relate to their overall perception of the much higher likelihood of young men carrying weapons or carrying out thefts.

3.49   An age or date of birth was recorded for each person searched. As might be expected, as the table and figure below show, the peak ages for searches are between about 15 and 19. The youngest male searched was 6, the oldest 79. The youngest female searched was 10, the oldest 72:

Table 17. Ages of those searched

Age group	Number	%age
11 and under	27	1%
12 - 15	858	23%
16 - 19	1451	40%
20 - 24	516	14%
25 - 44	692	19%
45 and over	72	2%
not known	39	1%
	3,655	

3.50   In total, 10 young boys aged under 10 years were found to have been searched. In all but one case, this was in relation to suspected shoplifting, The final case was a statutory search in relation to the Misuse of Drugs Act 1971. In each case, nothing was found. In total 885 searches were carried out on young people aged under 16.

3.51   The pattern of ages identified was as might have been expected. The pattern of searches shown above mirrors quite closely the pattern of offending behaviour typically found among people of different ages.

Table 18. Visible ethnicity of those searched

	Lothian and Borders		Strathclyde		Tayside		Total	
African/Caribbean	2	0.7%	4	0.1%	3	0.6%	9	0.2%
Chinese/Japanese	0	0.0%	0	0.0%	1	0.2%	1	0.0%
Indian/Pakistani	1	0.4%	77	2.7%	9	1.7%	87	2.4%
Other	1	0.4%	7	0.2%	2	0.4%	10	0.3%
White	273	98.6%	2732	96.9%	506	97.1%	3511	97.0%
Total	277	100.0%	2820	100.0%	521	100.0%	3618	100.0%

3.52   It should be borne in mind that this data represents the perceptions of the officers concerned. This table identifies that 3.0% of those searched over the period of the recording exercise were visibly not white. The proportions in Tayside and Strathclyde are very similar, while the proportion in Lothian and Borders is slightly lower at 1.4%. It is interesting to note that the overall percentage *searched* (3.0%) is lower than the overall proportion of those *stopped* and identified as being from a visible black and minority ethnic group (5.7%). The extent of the gap is lower in Tayside than in the other two forces, and in this area, the likelihood of being searched following a stop, on the basis of this snapshot, is virtually the same for both white and black and minority ethnic groups. In both Strathclyde and Lothian and Borders, although, respectively 7.4% and 3.6% of those stopped were recorded as being from a visible black and minority ethnic group, the number searched was found to be much lower (3.1% and 1.4%) respectively, suggesting that people from these groups are less likely to be searched having been stopped. It is important, however, to bear in mind that the data on stops is likely to be incomplete and may over-estimate the number of stops of people from black and minority ethnic communities.

3.53   The percentage of girls and women who were searched and who were not identified as white was 2.5% (with only 8 non-white girls or women searched, none of whom were under 16), while for boys and men, the percentage was 3.0% (with a total of 99 non-white boys and men searched, 8 of whom were under 16). The proportion of the white group searched who were aged under 16 was 24%, while for the non-white group, it was just over 8%.

3.54   For a range of reasons which have been identified, it is not possible to make an accurate assessment of disproportionality (largely due to the lack of any reliable population data).

3.56   The place of residence of those searched was identified using a 3 digit postcode (for example EH6). The main purpose of this was to attempt to assess the broad proportions of those searched who either lived in, or outwith, the division concerned. This was done using a broad mapping of the divisions concerned (using data supplied by all three forces) to postcode sectors. Inevitably, this will mean that there will be some measure of inaccuracy at the edges of a division area, but this is unlikely to make much

difference to the overall picture identified. A total of 6 non-Scottish residents were searched, four from London, one from Northern Ireland and one from Australia.

Table 19. Place of residence (in or out of area)

	Lothian and Borders	Strathclyde	Tayside	Total
In area	77.57%	92.30%	94.14%	91.41%
Out of area	22.43%	7.70%	5.86%	8.59%

3.57   From this, it is clear that the vast majority of searches overall are of people resident within these divisions. There are a range of issues, however, posed by this data. In G Division, even though the area represented is only a part of the city, the overwhelming majority of those searched live within the Division. This may be due to the fact that relatively few people travel *into* the division for example for entertainment. The situation in Edinburgh is more complex and may be to do with the fact that there are a range of night clubs and other attractions in the area which draw visitors into the area from elsewhere in the city and surrounding area. Overall, however, the vast majority of those searched in the Edinburgh division lived within the city boundary (although within other divisions). The situation in Dundee is slightly different, and the level of local resident searches is perhaps higher than might be expected given the experience of Leith, particularly given the significant numbers of people who travel into the city from Fife, Angus and Perthshire for entertainment.

The use of powers

3.58   A total of 87% of all searches conducted were described as "voluntary".[6] The pattern of voluntary searches by force is set out in the table below:

Table 20. Voluntary searches

	Number	%age
Lothian and Borders	244	86.8%
Strathclyde	2480	87.1%
Tayside	452	85.6%
Total	3176	86.9%

3.59   It is interesting to note that there is little variation between forces in the use of voluntary searches, although, as was set out earlier, officers in the forces concerned had a slightly different perception of the extent to which their force, in general, carried out statutory, as opposed to voluntary searches.

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[6] This excludes the 277 searches which were recorded but which were subsequently discarded as these had taken place after a suspect was arrested.

3.60   It is interesting, at this point, to consider some of the data relating to the characteristics of those stopped not on the basis of statutory powers. As the table below shows, the likelihood of being searched on a voluntary, as opposed to a statutory, basis is not consistent across age groups, with the likelihood of a voluntary search in general terms declining for individuals aged 20 and over:

Table 21. Likelihood of a voluntary search by age

Age	%age voluntary searches
11 and under	93%
12 - 15	91%
16 - 19	89%
20 - 24	83%
25 - 44	79%
45 and over	83%
Overall	87%

3.61   Similarly, there are some differences in terms of the likelihood of being stopped on a statutory basis by gender (with nearly 20% of searches being on a statutory basis for girls and women, compared to 13% for boys and men), and by ethnicity. A summary of the latter is set out in the table below:

Table 22. Likelihood of a voluntary search by ethnicity

	%age voluntary searches
White	87.3%
Not white	72.9%
Overall	86.8%

3.62   Where there were voluntary searches, officers were asked to provide a summary description of the basis of their suspicion using one of five categories chosen to reflect the main potential areas of criminal activity targeted by stop and search. It should be clearly understood that these categories relate to officer's suspicions, and **do not** imply any statutory basis to the search. In 528 cases, officers did not report any suspicion and subsequently carried out a voluntary search. The percentage of searches carried out on this basis was slightly higher in Strathclyde than elsewhere, but not markedly so (at 7%, compared to 5% and 4% in the other areas). The overall findings in relation to the 2560 searches where officers had some level of suspicion are set out in the table below.

Table 23. Basis of suspicion

	Lothian		Strathclyde		Tayside		Total	
offensive weapon	91	35%	1022	48%	70	20%	1,184	43%
drugs	75	29%	768	36%	91	26%	935	34%
theft	40	15%	151	7%	73	21%	264	10%
stolen property	38	15%	99	5%	99	29%	236	9%
firearms	17	7%	73	3%	13	4%	103	4%
	261		2,113		346		2,722	

3.63   Given the influence of the operational approach of Strathclyde Police in relation to weapons carrying, the findings in the table are as would be expected. There are some variations in the nature of the suspicions held by officers across forces, with, for example, officers in both Strathclyde and Lothian and Borders being more likely to suspect offensive weapons, while officers in Tayside are proportionately more likely to report suspecting theft or stolen property. To some extent, this may reflect the fact that the Tayside division contains a city centre shopping area.

3.64   Overall, those from the non-white group were slightly less likely to be searched without an officer reporting that they had some suspicion. In only 7 cases did officers report having suspicions covering more than one of the presented categories and, in each case, the person suspected was reported to be Indian or Pakistani. These findings are consistent with other findings in this section, for example, in relation to the likelihood of a search being carried out on a statutory basis. This is also consistent with the views presented by officers at interview and which were discussed earlier in this section.

3.65   There is some evidence that the nature of officers' suspicions varied slightly by ethnic group, but it needs to be borne in mind that the small numbers involved mean that caution should be exercised in relation to this data. An analysis was carried out of all of those searched on the basis of each of these types of suspicion to identify the proportions coming from the white and non-white group. This is illustrated in the table below:

Table 24. Percentage of all persons "suspected" represented by non-white group

	% of sample non-white
Offensive weapons	2.7%
Drugs	4.3%
Likely to be involved in theft	3.1%
Stolen property	3.0%
Firearms	2.0%
Baseline	**3.0%**

3.66   From this, the data suggests that those from the non-white group were represented among those searched on the basis of a suspicion of carrying drugs to a slightly higher level (4.3%) than might be expected from their overall share of the population of those searched (3.0%), but, again, it must be borne in mind that the numbers involved are quite small.

3.67   There are also variations by age, as would be expected, with older age groups more strongly represented among those "suspected" in relation to drugs and dishonesty (along with younger children in the case of theft), with those in the 16 – 24 range more strongly represented in relation to suspicion of carrying offensive weapons.

3.68   In terms of the statutory searches identified, these also raise a number of issues. A total of 85 searches were described as voluntary, but officers had also indicated that these had been undertaken on the basis of powers granted under Common Law. In each case, there was no indication that these were searches carried out of individuals who had been arrested prior to the search.

3.69   For the most part, however, the statutory powers which are reported to have been used appear to be appropriate (although it is worth noting that a number of officers noted "Safer Scotland", "Spotlight" and "Operation Combat" as powers, although this may have been due to a misreading of the directions on the form rather than a misunderstanding of the legal basis of these campaigns).

3.70   The main powers used in relation to the statutory searches were as follows:

Table 25. Statutory Powers Used

Powers used[7]	L&B	Strath	Tay	Total
Section 23 of the Misuse of Drugs Act 1971	39	271	34	344
Sections 47 – 50 of the Criminal Law (Consolidation) (Scotland) Act 1995	9	72	10	91
Section 60 of the Civic Government (Scotland) Act 1982	6	20	37	63
Crime and Punishment (Scotland) Act 1997	1	1	3	5
Section 47 of the Firearms Act 1968 (variously amended)	5			5
Section 21 of the Criminal Law (Consolidation) (Scotland) Act 1995		2	1	3
Section 18 of the Criminal Procedure (Scotland) Act 1995			2	2
Section 60 of the Criminal Justice and Public Order Act 1994 (variously amended)		1	1	2
Section 5A of the Civic Government Scotland Act 1995		1		1
Total	60	368	88	516

3.71   The fact that around 60% of all searches arose out of the Misuse of Drugs Act 1971 is not surprising. The broad pattern of legislation used is fairly similar across forces, with the exception of the number of searches carried out in Tayside under Section 60 of the Civic Government (Scotland) Act 1982 which relates to stolen property. This reflects to some extent the different nature of the area covered by the Tayside division, specifically, that it is a city centre area with a high level of coverage of CCTV cameras.

3.72   Officers were also given the opportunity to present a textual description of both the basis of the original stop and the subsequent search. These were analysed in some detail and were found to fall into a number of broad categories. These findings were subsequently discussed with a number of officers and refined slightly (although the broad

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[7] For details of these statutes, see Annex 2.

categories remain as originally analysed). The reasons given for initial stops are summarised here:

Table 26. Broad categories of suspicion leading to initial stop

Acting on reports received	Officers acting on reports received from members of the public, shopkeepers, other officers, CCTV operators. In some cases, this appeared to be in relation to offences suspected, but, in most cases, was in relation to disturbances, or potential disturbances.
Persons acting suspiciously (non specific)	Numerically the largest category, this encompassed a range of situations, for example, in relation to "furtive" or "nervous" behaviour, being in a location which does not accord with other indicators (e.g. behind shops, in school grounds, on a building site) or being in a location at specific times (mostly late at night). In some cases, officers simply noted that an individual had tried to avoid them. In one case, an individual was reported to have been sleeping in the doorway of an accident and emergency department.
Persons observed to do something suspicious (specific)	In these cases, individuals were indicated to have, for example, discarded an item on the approach of an officer, thrown an item, for example a cigarette or small package, into a hedge or similar place. Other examples of suspicious behaviour were given of someone looking through a letter box and a person searching a waste skip.
Persons observed to have, or be suspected to have, an illegal item	Examples of this included knives, golf clubs, drugs and drug paraphernalia, apparently stolen goods, a scooter, a large holdall, a crowbar, a black bin liner, a metal pole and a wheelbarrow apparently loaded with scrap metal. In some cases, the item observed was indirectly related to possible possession of an actual illegal item. The most obvious example of this was cigarette papers, as well as swabs, tin foil and other paraphernalia.
Observed by officers to be behaving in a disorderly manner	There were two main aspects to this, with the numerically larger group relating to, in most cases, groups of young people behaving in a disorderly way, in the street or other public places (for example, blocking a footpath). The other main group related to people being observed to be drinking alcohol, to be drunk in the street. There were a number of instances (in Strathclyde) of persons observed to be urinating in the street.
Known to the police	This category of stop related to persons who were either themselves known to the police (as, for example, drug dealers, drug users or housebreakers) or were observed to be with someone known to the police. In most cases, this in itself was noted as the basis of suspicion, with no indication that the person stopped had given particular cause.

In the vicinity of an incident or an area known for drug dealing	The basis of this type of stop was that a person (who may or may not have answered a previously received description) was observed to be in the vicinity of a location where an incident (for example a house breaking, or a fight) had taken place previously. Other examples were given of people stopped on the basis that they were seen to be in areas known for drug dealing.
A police operation	A large number of stops were recorded as being simply for operational reasons, such as a "Spotlight" day, or as part of a sweep for offensive weapons.

3.73   There can be seen to be three broad strands within these categories. The first is making a stop on the basis of a tangible or direct suspicion (e.g. observing a package being thrown), the second relates to making stops on the basis of intangible, or indirect suspicion (for example acting furtively, or being in the company of known criminals) while the third relates to making a stop where there is no suspicion, but doing so for operational reasons, such as part of operations such as Spotlight or Valiant (an operation targeting car crime). There is no evidence from this limited sample of any systematic variation between the white and non-white groups in terms of the broad types of reasons why individuals were stopped (with the possible exception that no-one from the non-white group was reported to have been stopped purely in relation to an on-going operation).

Outcome of the searches

3.74   In terms of the outcome of searches undertaken, an item was found in 330 cases. In 269 cases, the suspected article was found, and in 93 cases another item, not related to the initial suspicion was found. (In 32 cases, both the initially suspected article and another article were found). This means that, overall, an article was found in around 9% of searches.

3.75   There is actually a substantial variation in the rate of positive searches by force. This is summarised in the table below:

Table 27. Searches where an item was found (by force)

	Number	%age
Tayside	107	20.30%
Lothian and Borders	25	8.90%
Strathclyde	198	6.96%
Total	330	9.0%

3.76   This variation is again most likely explained by the nature of the areas patrolled by the forces concerned. As noted earlier, Central Division within Tayside covers a city centre area with an extensive CCTV network. Examination of the forms submitted by Tayside suggests that the force carries out fewer voluntary searches and more searches on the basis of information received either from the public or from CCTV operators.

3.77   Overall, as might be expected, there is a considerable difference between statutory and voluntary searches in terms of whether or not items are found. Statutory searches were found to be successful (in terms of finding suspected or other articles) in around 37% of cases, compared to 8% of voluntary searches, reflecting the higher level of tangible suspicion. Once again, there are variations between forces on this measure, with more than half of all statutory searches in Tayside being reported as being successful (54%) compared to 28% and 30% respectively in Lothian and Borders and Strathclyde.

3.78   A consequence of the fact that people from black and minority ethnic groups were more likely to be searched on a statutory basis than white people is that the "success rate" in terms of recovering a prohibited article is much higher. Around 21.5% of searches of people from black and minority ethnic groups were successful, compared to only 7% of searches of people from white groups. This lends further support to the theory that some officers will only stop people from black and minority ethnic communities when they have a higher level of suspicion that an offence may be, or may have been committed.

3.79   There is also a variation in the rate of success of searches based on differing kinds of suspicion.

Table 28. Searches where an suspected item was found (by nature of suspicion)

	%age
stolen property	17.8
drugs	13.8
theft	5.3
offensive weapons	4.0
firearms	3.9

3.80   To some extent, caution must be exercised with this table as a higher number of searches in relation to stolen property were carried out in Tayside than elsewhere, and with the benefit of CCTV, these are, in general terms, more likely to be successful.

3.81   It should be borne in mind that there are a range of reasons why an officer may choose to search an individual, and a range of outcomes which could be regarded as "successful" which go beyond simply finding a previously suspected article.

OVERVIEW

3.82   Although it should again be stressed that the data provided in this section present a "snapshot" and cannot be generalised to other areas, the section has, nonetheless raised a number of very interesting issues.

3.83   There is clear variation between forces in the number of stops and searches which they undertook (which is consistent with the findings in the previous section relating to the ways in which the tactic is used). There is, however, relatively high consistency in terms of the patterns of stop and search by age, gender and ethnicity as well as in terms of issues such as day of the week and times of the day.

3.84   Among the most interesting findings is the high reliance, in all three forces on "consent" or non statutory searches.

3.85   Although, as noted in Section 1 and reiterated earlier in this section, disproportionality cannot be measured, it can be inferred from the data presented in this section that the overall proportion of people from black and minority ethnic groups searched during this period and in these locations was lower than might have been expected (given the estimated overall share of the population represented by these groups).

3.86   Within this overall context, however, it is striking that people from black and minority ethnic groups were more likely to be searched on a statutory basis than those from white communities. Similarly, they appear to be less likely to be searched, having been stopped.

3.87   A number of additional conclusions can be drawn from this evidence, and these are set out in more detail in section 5.

3.88   The next section presents a range of evidence drawn from contacts with community members.

SECTION FOUR: EVIDENCE FROM THE COMMUNITY

4.1   The previous sections have focused on the approach of police and the practice and operation of stop and search in three areas during a defined period, and have suggested a number of issues relating to the use of stop and search in Scotland.

4.2   The focus of this research was on the experiences of young people in relation to the use of stop and search, but it was felt that it would be useful to gather some views from other community members on their perceptions of the impact of stop and search upon young people, and on wider community relationships generally, as well as those of young people. This strand of the research, therefore, relates to the exploration of community views.

4.3   The identification of these views was undertaken in two ways. Firstly, a medium scale street survey of 114 black and minority ethnic and white young men in Glasgow, Edinburgh and Dundee was carried out, in order to explore their personal experiences of stop and search and their perceptions of the methods used and impact upon them of this.

4.4   Secondly, twelve focus groups were held within the same police divisions which were the focus of the data collection exercise described in Section 3. Separate discussions were held with both young people and other (older) community members. Most of these discussions involved a mixture of people from white and black and minority ethnic groups (although there were also three groups undertaken solely with young people from black and minority ethnic communities). The content of all of these groups focused on both general issues and personal experiences relating to stop and search (as has been the case with other evidence), with a specific focus on the issues facing young people, and the impacts of stop and search on the young people themselves, and on the wider community. In each case, wider issues relating to perceptions of crime, community policing and the experiences of black and minority ethnic groups were also discussed.

4.5   This section will also reflect, in the general points raised in the discussion of groups' views, a number of additional contributions made to the research by a number of community and statutory organisations.

STREET INTERVIEWS

4.6   A total of 114 street interviews were carried out with young men (the main group likely to have personal experience of stop and search) in the police divisions in Glasgow, Edinburgh and Dundee, over 2 weeks in May and June 2001. Prospective interviewees were stopped at random in a range of locations (including shopping areas, main thoroughfares and public open spaces). In all areas, help was obtained from local community workers to identify areas where young people were known to congregate. All interviews took place between 4pm and 8pm on midweek nights. It is worth stating at the outset that there were no discernable area-specific differences in the experiences of the young men, and, therefore, the data has been presented here on the basis of the aggregate data.

The sample

4.7   All of the young men interviewed were aged under 30. Table 29 sets out the ages of those interviewed:

Table 29. Age of young men interviewed

Age	Number	%age
Under 16	67	60
16-19	34	30
20-24	9	8
25-34	3	3

4.8   The respondents were invited to self define their ethnicity (rather than, as with the police recording exercise, having this defined for them). The responses are set out in the table below:

Table 30. Self-defined ethnicity of those interviewed

Ethnicity	Number	Total	%age
Chinese	1		
Indian	8		
Mixed ethnicity	4		
Pakistani	36		
Subtotal minority ethnic		49	43%
Subtotal white		65	57%
Total		114	

4.9   From this table it is clear that there is, compared to the population as a whole, a considerable over-representation of young men from black and minority ethnic groups in the sample. The purpose of the sampling frame was not, however, to be representative, as this would have led to gathering little useful data about young men from black and minority ethnic groups. The only limitation of this approach is that no broader generalisations can be made from the data.

4.10   These respondents were asked to provide an assessment of the level of perceived crime in their area in order to set some of the other findings in context. There were a range of interesting differences between black and minority ethnic and white young men in terms of these perceptions. Young men from black and minority ethnic groups were more likely to see burglaries, street fights and both racist abuse and attacks as a major problem, while young white men were much more likely to view car thefts and street drunkenness as a problem. Both groups viewed drugs, street crime and weapons-carrying more or less equally (although as many as 22% of respondents overall did not see drugs as a problem at all). Interestingly, as many as 45% of white respondents did not perceive racist abuse to be a problem, while fully 60% did not perceive racist attacks as a problem.

4.11   Between age groups, in most cases, those under 16 perceived most issues to be a greater problem than those in older age groups, with the single exception of street

drunkenness. Taken together, from the range of problems offered, those ranked most often as a "major problem" by all respondents were carrying weapons, street drunkenness and car thefts.

Experiences of being stopped by the police

4.12   The first group of questions related to being stopped by the police. The table below sets out the experiences of the young men in terms of the number of times which they had been stopped in the last 12 months.

Table 31. Number of times stopped by ethnicity

Ethnicity	None		Just once		2 - 5 times		More than 5 times		Total
	No.	%age	No.	%age	No.	%age	No.	%age	No.
Chinese	1	100%	-		-		-		1
Indian	4	50%	-		2	25%	2	25%	8
Mixed ethnicity	-		1	25%	1	25%	2	50%	4
Pakistani	5	14%	4	11%	17	47%	10	28%	36
Subtotal minority ethnic	10	20%	5	10%	20	41%	14	29%	49
Subtotal white	3	5%	3	5%	23	35%	36	55%	65
Total	13	11%	8	7%	43	38%	50	44%	114

4.13   The data in this table suggests that young men from black and minority ethnic groups are less likely to be stopped than white young men. A total of 20% of the black and minority ethnic sample had not been stopped, compared to only 5% of the white sample. Overall, 55% of the white young men stopped had been stopped on more than 5 occasions, compared to 29% of the black and minority ethnic young men. Perhaps the most significant finding from this table, however, is the fact that 89% of the young men interviewed (at random and in a number of locations) had actually been stopped at some time in the last 12 months.

4.14   There were, as might be expected, given the data gathered by the police recording exercise, some differences by age in terms of the number of times which respondents were stopped, with those aged 16 – 19 (the peak years for searches in the main recording exercise) most likely to have been stopped more than 5 times over the past year.

Table 32. Number of times stopped by age (percentages only for clarity)

Age	None	Just once	2 - 5 times	more than 5 times
Under 16	9%	7%	43%	40%
16-19	18%	6%	24%	53%
20-24	0%	0%	56%	44%
25-34	33%	0%	33%	33%
Total	12%	6%	38%	44%

4.15   There were some variations in both the experiences of the young men, and the way in which different groups felt about these encounters.

4.16   The first table sets out the relative proportions of those who were stopped who believed that they were given an explanation for why, on the most recent occasion, they were stopped.

Table 33. Percentage of those stopped given an explanation

Group	Given explanation		No explanation		Total
BME	20	51%	19	49%	39
White	36	57%	27	43%	63

4.17   From this table, it is clear that there is a slight difference between the black and minority ethnic and white groups of young men in terms of the likelihood of receiving an explanation, but this difference is quite small and should be interpreted with caution.

4.18   There was no difference in the likelihood that black and minority ethnic and white young men would be satisfied with this explanation, with only around 35% of each group (of those given a reason) indicating that they were satisfied. This indicates that only around 20% of all of those stopped (in total) perceived that, on the most recent occasion, that they had both received an explanation for the stop and been satisfied with it.

4.19   Respondents were asked to indicate why, in their view, they had been stopped on the most recent occasion. The largest single group of the responses (although a minority overall) were related to simply being on the street, for example, "for hanging round the shops", or "standing in a group". Most responses were, however, more specific, and related to suspicions voiced by officers, for example "someone had a knife - they thought it was me and my cousin", or "it was Bonfire night – they thought I had fireworks". A small number of comments (3) made by black and minority ethnic young men related to the perception that the reason they had been stopped was due to "racism", "victimisation" or "because I'm black".

4.20   In terms of the perceptions of the young men in relation to the effects of being stopped, there were wide variations in the responses. Two most common responses were anger and embarrassment (for example "it was annoying and embarrassing, my family and friends could see what was happening", or "I was nervous and a bit angry because people think you're bad"), as might be expected, but nine young men described being scared or threatened by the encounter, with one indicating that:

> "I felt threatened – they were plain clothes police and didn't give time to see badges properly".

4.21   A small minority described being more or less resigned to being searched, as these examples illustrate ("I wondered why at first - then realised it was just routine", and "the police are doing their job, but if you're doing nothing, it's annoying", or "I wasn't that bothered until the 3rd time - it's the police's job").

4.22   These comments pick up clearly on strands illustrated earlier in terms of the group discussions, and illustrate that, although stopping and searching has become very much an "everyday" part of life in UK cities, the actual impact on individual young people of encounters, even well-managed (but particularly with badly managed encounters), can be more significant than may be assumed by police officers.

Experiences of being searched by the police

4.23   A total of 85 respondents (75%) had been searched by the police at least once in the last 12 months.

Table 34. Number of times searched by ethnicity

Ethnicity	None		Just once		2 - 5 times		More than 5 times		Total
	No.	%age	No.	%age	No.	%age	No.	%age	No.
Chinese	1	100%	-	0%	-	0%	-	0%	1
Indian	4	50%	-	0%	2	25%	2	25%	8
Mixed ethnicity	-	0%	2	50%	2	50%	-	0%	4
Pakistani	8	22%	7	19%	15	42%	6	17%	36
Subtotal minority ethnic	13	27%	9	18%	19	39%	8	16%	49
Subtotal white	16	25%	5	8%	23	35%	21	32%	65
Total	29	25%	14	12%	42	37%	29	25%	114

4.24   This table sets out the number of times which respondents had been searched by the police in the last year. Again, the most striking finding in the table is that as many as 75% of the young people had been searched, with virtually no difference between white and black and minority ethnic groups. It is also striking that as many as a quarter of the sample had been searched more than five times in the past year. Overall, white young people were more likely to have been searched more than once and twice as likely to have been searched more than 5 times.

4.25   There is, however, a slight variation by ethnicity in the likelihood that, having been stopped, an individual young man would be searched. For this sample, 35 out of 39 young black and minority ethnic men who were stopped were also searched, compared to 49 out of 61 young white men, suggesting, as with other data in sections 2 and 3 (in terms both of conversations with police officers and the recording exercise), that the police may apply a higher standard of "reasonable suspicion" before stopping a young man from a black and minority ethnic group.

Table 35. Number of times searched by age (percentages only for clarity)

Age	None	Just once	2 - 5 times	more than 5 times
Under 16	24%	16%	37%	24%
16-19	32%	9%	32%	26%
20-24	11%		56%	33%
25-34	33%		33%	33%
Total	25%	12%	37%	25%

4.26   This table illustrates that there are considerable similarities in the pattern of searches for the two main groups, those aged under 16 and those 16 – 19. In both cases, the numbers searched more than once are around 60%, with around 1 in 4 being searched more than 5 times. There is a small difference (not illustrated) between the experiences of the youngest groups of white and black and minority ethnic men in terms of the likelihood of being stopped on more than one occasion, with 50% of black and minority ethnic under 16s being searched more than once, compared to 69% of white under 16s. The variation at 16 – 19 is much smaller (5 percentage points, again with white young people more likely to be searched).

Table 36. Percentage of those searched given an explanation

Group	Given explanation		No explanation		Total
BME	20	56%	16	44%	36
White	25	50%	25	40%	50

4.27   One possible explanation for the finding in this table is that, as was found in the recording exercise, there may be a slight variation in the proportions of stops carried out on a statutory basis. Such stops have a higher likelihood that an individual would be given a clear explanation of the search. This is, however, speculation in the absence of parallel police data on the nature of the searches being described here.

4.28   Again, slightly contrary to the finding in relation to stops, there were differences in the extent to which white and black and minority ethnic young men were likely to be satisfied with the explanation given. In 50% of cases, young men from black and minority ethnic groups considered themselves satisfied, whereas the corresponding figure for white young men was 32%. Perhaps the most interesting finding, however, is that, overall, as many as six in ten young men searched and given a reason were dissatisfied with the reason given. The group represented by those searched, and who were given a satisfactory (to them) reason is only 21%, or little more than one in five, suggesting either some problems in communications between police officers and young men or issues with the policing approach adopted in the areas studied.

4.29   In terms of the reasons given for the searches, by far the largest number were for weapons, representing around 44 of the searches (or around 50% of all searches). In most cases, the weapons mentioned were knives, but other weapons mentioned included sticks and clubs, an axe, a brick and a laser pen. There was some difference in the ethnicity of those searched in relation to weapons (with 51% of young black and minority ethnic men and 41% of white men).

4.30   The next most common reason (as with the police recording exercise) was drugs, with 14 cases. There were, however, large differences in the likelihood that black and minority ethnic and white young men would be searched for drugs. Although the numbers are relatively small overall, 9 of those searched were from black and minority ethnic groups compared to only 5 from the white sample (this representing 23% of the former, but only 8% of the latter sample who were searched). It should be borne in mind that these are the self-reported views of those searched, rather than those of the police who carried out the searches, and there may be differences between the two groups in the extent to which the motivation of the police is inferred in the absence of specific information (supported by the fact that white young men were much more likely to give a general, or non specific, reason for the search).

4.31   Among the other reasons given were a number which related to being searched following reports of a disturbance (a fight or cars being attacked) and, in two cases, in the view of the young people concerned, because they were "in a group". Two young men suggested that they were searched "because I am black". One indicated that he was searched (or "pulled") because he would not agree to a voluntary search.

4.32   Respondents were also asked to describe both how they had felt about being searched and how they felt that the police had treated them (see below). The overall direction of the comments made is very similar to those made in relation to being stopped (set out earlier). A number of comments indicated that some young men had been embarrassed by the experience, as this quote shows:

> *"they have a job to do but it's the way they go about it - in the middle of the street when there's people passing who you know".*

4.33   A small number of comments indicated that those searched felt that the police had behaved inappropriately, as this comment shows:

> *"They grab your balls, it's embarrassing".*

The most common sentiment expressed was, as might be expected, anger.

4.34   The comments made by interviewees in relation to their perceptions of their treatment by the police are illuminating, and were generally very negative. The fact that most comments were negative is not surprising given that, in an interview situation such as this, it is almost inevitable that interviewees will identify negative examples (even where they may feel generally positive towards the police). A total of 51 negative comments were made, some in general terms, while some related to specific aspects of the encounter. A common issue was in terms of the perceived rudeness of the officers. The comment reproduced below illustrates this:

> *"They swore at me, called me 'Wee man', and assumed that I was trying to be clever - you can't argue with them".*

4.35   Other young men (from both white and black and minority ethnic groups) described feeling that they were treated variously as "dirt", "scum", "a piece of shit" and "a criminal". Five young men indicated specifically that police officers swore at them. Two young men indicated that they did not have any objection in principle to being searched but, as one noted:

> *"I was angry about the way it was done. I am fine with idea of police doing their duty but they were aggressive".*

4.36   A small number of young men from black and minority ethnic groups indicated that, in their view, their treatment was racist as this comment illustrates:

> *"It was normal - racist. They were swearing as well".*

4.37   Overall, however, (with the exception of the small number of comments related to racism) it would be impossible to discern specific patterns which would distinguish white and black and minority ethnic young men on the basis of their perceptions of the way in which they were treated. Only around 10 young men (again from both groups) indicated that they felt that they had been treated "alright", or "with respect" and four indicated that there were likely to be differences in treatment depending on individual officers. One noted that:

> *"The community police are good. The CID are cheeky".*

4.38   It is worth noting that only 7 cases resulted in the police finding the item which they were looking for. Only two of the young men searched were actually arrested and charged with an offence. Most of those searched were allowed to go on their way, in some cases following a warrant check, in some cases with a warning. One young man indicated that he was told that if he was seen again he would be arrested, while another was told to get off the street.

4.39   A small number of examples were found from the youngest group whose parents were contacted by the police. Two young men indicated that they had been detained for up to three hours before their parents were allowed to collect them. One under-16 was told that he was to be taken to the police station, but, at the last moment, the police had taken him home instead.

4.40   Clearly, one aspect which is important to young men in relation to encounters with the police is the extent to which the police were polite. (One young man indicated that the police, after finding nothing in their search, simply told him to "fuck off".) The table below sets out the extent to which respondents felt that the police were polite in carrying out the search.

Table 37. Perceptions: Were the police polite?

Group	Polite		Not polite		Total
BME	8	22%	28	78%	36
White	7	14%	42	86%	49
Total	15	18%	70	82%	85

4.41   Even accounting for the fact that being searched is a stressful situation with a range of ways in which tension could arise, the fact that, overall, as many as 82% of young men interviewed (again, it must be stressed, at random and in a number of locations) felt that the police had not been polite is a significant finding. Proportionately more black and minority ethnic than white young men felt that the police had been polite.

Table 38. Perceptions: Were you treated fairly?

Group	Treated fairly		Not treated fairly		Total
BME	4	11%	32	89%	36
White	13	27%	36	73%	49
Total	17	20%	68	80%	85

4.42   The findings in relation to whether or not the young men felt that they had been treated fairly are similar. In this case, around 80% felt that they had not been treated fairly, with a large gap between the experience of black and minority ethnic and white young men. From the table, it can be seen that only 4 of the 36 black and minority ethnic young men searched felt that they had been treated fairly. This variation is similar (although larger) to that found in the results of the 2000 British Crime Survey (Home Office, 2001b). In that survey, 41% of white respondents and 20% of black and minority ethnic respondents felt that they had been very satisfied with the approach of the police but the samples are not strictly comparable as the Home Office study includes older respondents who, as set out in Section 1, are overall more likely to be satisfied with the performance of the police.

4.43   Determining the reasons for these feelings of fairness or unfairness is actually less straightforward than might be expected from the findings of the Home Office research (Home Office 2000a-f) which suggests that, where the police are polite, conversational and give clear and acceptable reasons for their actions, people searched are more likely to feel that they had been treated fairly. This is supported by the quite separate British Crime Survey data. In the Scottish situation, however, of the 17 "satisfied" young men (those who felt that they had been treated fairly), as many as 7 (41%) felt that the police had not been polite, and 9 (53%) were not satisfied with the explanation given for the search. Of those who felt that they had been treated unfairly, only 5 (7%) felt that the police were polite, and 14 (22%) were satisfied by the reasons given for the search.

4.44   There are, as can be seen from this assessment, some variations on these measures, but the differences are not clear cut. A further dimension in this context is that those treated fairly were more likely than those who did not feel this to suggest that, however they were treated,

the police were only doing their job[8]. Although the small numbers involved would suggest caution in interpreting this too widely, it is perhaps the notion of legitimacy, supported by the actual approach of the police officers concerned, which is the determining factor in the resultant feelings of the person searched.

4.45   It is interesting to note that only 34% overall of the young people interviewed felt that the police were "doing a good job", with a higher number of black and minority ethnic young people (39%) perceiving this, compared to white young people (31%). The corresponding findings for those who had been stopped at least once are very similar (36% and 31% with 33% overall), as are those for people who have been searched at least once (35% and 29%, with 32% overall). It is also interesting to note that those who perceived that they had been treated unfairly when searched were no more or less likely to perceive that the police were doing a good job than any other group, suggesting that this was not a factor (for the group as a whole, rather than at the level of individuals) in determining their view. Although these figures are lower than those identified by the Scottish Crime Survey in terms of overall satisfaction with the police in the community as a whole, as both the samples and questions are different, there is no reliable means of comparison.

4.46   Although not specifically asked for comments in response to this question, a large number of respondents did offer observations on why they felt that the police were not doing a good job. (As might be expected, those who felt that the police were doing a good job were unlikely to offer additional observations.) The most common observations made were that police were slow to arrive (6 observations), that their concentration was on young people rather than "real criminals" and that they were racist (9 observations with varying emphasis). One young man (a white male in the 16 – 19 age group) observed that:

> *"They don't treat people properly and that turns people against them - you want to feel that they will help you, not that you should be running away from them".*

4.47   There is a significant variation in the extent to which the two groups of young men feel that the police are generally fair. While 37% of black and minority ethnic young men felt that the police are generally fair, this dropped to only 23% for white young men. However, the most striking differences (and which, for the reasons set out earlier, to some extent explain this finding) lie between those who have and who have not come into contact with the police. Overall, only 22% of those who had been stopped or searched perceived the police to be generally fair, while 47% of those who had not been stopped or searched took this view. This provides some support for the British Crime Survey finding that contact with the police is a determining factor in the extent to which a respondent will have a positive or negative view of the police overall.

4.48   In terms of the use of search powers specifically, 64% of young men felt that the police used their powers "too much", while only 4% felt that they were not used enough. There were virtually no differences between ethnic groups or age groups on this measure.

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[8] It is worth mentioning in passing that the outcome of the search was entirely unrelated to how it was perceived.

4.49   Respondents were asked directly whether or not they felt that the police treated black and minority ethnic and white young people in the same way.

Table 39. Perceptions: Are black and minority ethnic and white young people treated the same?

Group	Treated the same		Not treated the same		Total
BME	13	27%	36	73%	49
White	25	38%	40	62%	65
Total	38	33%	76	67%	114

4.50   This table acknowledges only the *fact* of the difference (with as many as two thirds indicating that they perceived that there were differences) without giving any indication of whether the treatment is perceived to be better or worse for either group. There were, however, a range of comments offered which provide some insight into this.

4.51   As might be expected, the comments made by young black and minority ethnic men were mostly in relation to their being targeted unfairly, for example:

> *"They are always pulling up Asians on suspicion but I never see them doing anything about white boys who cause trouble".*

4.52   One indicated that, in their view:

> *"They trust what white people say more because they're their own colour".*

4.53   There were also comments by a small minority of white respondents which indicated their support for the view that black and minority ethnic young people are unfairly discriminated against, for example:

> *"they treat blacks harder. They always search black people when they often just take our names."*

4.54   However, the overwhelming majority of comments made by white young people were quite different in tone. One thread running through the comments was that the police were, in their view, "scared" of black and minority ethnic young men. One observed that:

> *"If they arrest Asian people they say they're racist, so they don't arrest them. They arrest people like us instead. The Asians carry knives and swords, and drive under age. There's not enough black police to arrest them."*

4.55   Another indicated that:

> *"They don't pick up on groups of Asian boys as they do whites – they are scared of being accused of racial harassment",*

while another suggested that:

> *"They pick on the whites. The police are scared of Asians."*

4.56   It is clear from this that both groups of young men feel that it is their group which is being unfairly treated. This is supported by some of the findings of the focus groups presented later in this section.

4.57   Finally, around half of all respondents felt that they did not know their rights in relation to being stopped and searched. It is also reasonable to surmise (on the evidence of the focus group discussions and some of the unprompted comments made to interviewers) that many among the other 49% may be mistaken in their views. Examples of comments made by young men who indicated that they felt that they knew their rights included:

> *"They must say why before starting",*

and

> *"they need a warrant and can only ask your name and address".*

One young man indicated that:

> *"I'm under 15 so they must ask my parents' permission",*

while another indicated that:

> *"if you don't feel happy with the search, you can tell them to stop."*

4.58   These comments tend to suggest that there is some lack of knowledge among young people about the basis of stopping and searching, as well as their rights within this.

4.59   A small number of suggestions were made by respondents about how stop and search could be improved. As might be expected, the main group of comments related to the way in which police officers interact with young people, and to issues such as showing respect, being friendly and polite. A small number of respondents indicated that clearer reasons, and particularly reasons given before, rather than after the fact, would be beneficial. A number of specific suggestions were made, such as being asked to turn out pockets first, rather than being simply searched, being asked to account for actions rather than being searched first, and, in the case of the young man who was detained for three hours before his parents were informed, that parents should be automatically notified immediately. A small number of comments were made in relation to the police not using unnecessary force ("thrown down", "pinned against a wall", "punched"). Finally, in relation to search procedure, a small number of respondents indicated that searches should not be carried out in a public place, and that police should either find a private place, or take the individual to the police station.

VIEWS FROM FOCUS GROUPS[9]

4.60   In addition to exploring the views of those in the group most likely to be directly affected by stop and search, it was also considered important to explore the views of relevant groups in the community, both young people and older community members in both white and black and minority ethnic groups. The group discussions which were held, and the input of views from relevant organisations, helped to provide additional qualitative data relating to community perceptions of stop and search which also add to the overall picture of the issues which is emerging. As far as can be ascertained, none of those interviewed as part of the street survey took part in group discussions.

4.61   A vast amount of qualitative data was gathered from these discussions. This was analysed on the basis of a number of themes which were seen to be emerging from the other strands of the research. The objective of this was to ensure that the broad spectrum of views and experiences which were identified within the groups could be reflected, as far as possible, in the findings. It would have been misleading to have attempted to apply some form of quantitative analysis to what is entirely qualitative information, but this can (when taken alongside the other material) provide an additional insight to the issues. Except where specifically relevant, the respective views of young people and older community members, have not been separately identified. Similarly, the views of white and black and minority ethnic group members have not been specifically identified except where there was a clear reason to do so.

4.62   Those participating in focus groups were asked to describe their areas of residence (and, therefore, the areas to which all of the rest of the data relate) in terms of a number of aspects, including economic and social issues, and perceptions of crime and public safety issues, before moving to consider more specific issues relating to stop and search.

Views about their communities

4.63   Although there were a range of issues specific to each area, the main common issue for all of the communities seemed to be that there was perceived to be little or nothing for young people to do other than "hang about with friends" and this was viewed as typically being done on the street corners, immediately bringing young people into conflict with both local residents and the police. Some participants also mentioned young people hanging around shopping centres, again, likely to bring them into conflict with both police and local residents (as well as shopkeepers). Other participants indicated that they [young people] were "stuck in the house most of the time" as there was perceived to be little alternative.

4.64   Boredom was, therefore, described by many participants as a real issue for both young people and those who are unemployed in the area. There was perceived to be a high level of unemployment in each of the three areas (most of which are "inner" city), affecting both younger and older residents.

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[9] Leith, West Pilton, Muirhouse and Craigroyston are in Edinburgh. Govan, Govanhill, Pollok and Hillpark are in Glasgow. Douglas is in Dundee.

4.65   Participants in groups in each of the three areas (although not all of the groups) also indicated that their communities were characterised by high levels of graffiti and visible dereliction. Participants in most groups indicated that there had been attempts to "regenerate" these areas (for example, in West Pilton in Edinburgh and in Pollok in Glasgow) but that these had not been, in the eyes of participants, particularly successful. Participants in a group in Leith indicated that, in their view, regeneration of the area had not brought many jobs to people from Leith, and had, therefore, done little for the community as a whole.

4.66   Community members also cited that one effect of regeneration plans proceeding was the loss of long-standing community centres. There was a further issue with a "lack of facilities" which were viewed as appropriate for young people, and that the facilities which do exist are often seen to be expensive. Young people in one group noted that this issue did not seem to affect those living in more affluent areas, where facilities are available and young people appear to be able to afford to use them. Young people in both Leith and Govanhill pointed to the recent closure of local swimming pools, and in the case of a group in Hillpark, a cinema. It was indicated that young people, and people who are unemployed, cannot often afford to attend the "mega-complexes" which are being developed on the periphery of large towns and cities. There was also a problem noted in relation to, for example, transport to and from youth clubs, swimming pools etc., in the evenings, which further excludes young people from accessing facilities which might otherwise be available.

4.67   There were also issues in terms of the availability of facilities which are seen to be appropriate for black and minority ethnic community members. Participants in a group held in Govanhill drew attention to the closure of the local swimming pool, which was the only one in the area sufficiently enclosed to be suitable for Moslem women to use. Participants in this and other groups drew attention to the fact that white and black and minority ethnic communities often required "different things" from community facilities. An example was given of the contrast between young white men who might gather in a pub or club, while young men from black and minority ethnic groups might gather in the street, again, potentially bringing them into conflict with residents or with the police.

4.68   The main issues which can be seen to emerge from this strand of the discussion appear to relate to both unemployment and a lack of community facilities, which, taken together, lead many young people into conflict with the police (and other local residents).

Racism

4.69   The range of perceptions on the extent and nature of racism is interesting. It was clear from discussions in all areas that there was a high level of segregation between communities in each. Participants in a largely white group in north Edinburgh indicated that black and minority ethnic communities within these areas mostly "keep themselves to themselves". Participants in Glasgow groups also pointed to a high level of effective segregation and relatively little integration, particularly amongst young people. Participants in Barrhead also indicated that the white and black and minority ethnic communities did not interact very much.

4.70   One Sikh participant in a group in Leith indicated that he had had virtually no experience of racism in 44 years of living in the area (and considered himself a "Leither"). This was the exception, however, and was not the experience of other participants.

4.71   The extent to which there is no shared understanding of the extent and nature of racism experienced by people from black and minority ethnic communities was illustrated by one young person from Dundee, who suggested that "race problems are associated with the older generation and that young people accept things more". White participants in one group indicated that, in their view, "people had nothing against them [people from black and minority ethnic groups]". Another commented that:

> *"Those [families from black and minority ethnic groups] who are well known from shops are all right, but others who are not well known are subject to racism, but then people from my area attack everyone, not just black people".*

4.72   Against this, however, young participants from black and minority ethnic groups more or less all had instances of being subject to racism. Examples of this were wide ranging and often involved a number of separate incidents being reported by individuals, as a widespread experience of racist behaviour.

4.73   One, for example, noted that he had received a hate letter threatening to kill him, indicating that:

> *"It's hard to think that there is someone out there who wants to kill you".*

4.74   Another indicated that he had been the subject of a hate-related graffiti campaign. Participants in one black and minority ethnic group in Glasgow indicated that they did not "feel safe in some areas", with a fear of being singled out and made a target for violence. Numerous other examples were provided, suggesting that this is part of the day to day experience of many black and minority ethnic young people.

4.75   White participants also drew attention to what they perceived as the threat of violence from young people from within black and minority ethnic communities.

4.76   Participants in all of the Glasgow groups drew attention to the existence of gangs comprised of both all white and all black and minority ethnic young men and, in some cases, young women, who were perceived to fight amongst themselves, as well as with each other (a point also made by police officers in the area).

4.77   Participants in a group in Barrhead indicated that they had been aware of activities by the National Front in relation to the small number of asylum seekers housed in East Renfrewshire, and participants in one group in Glasgow (comprised of young men and women from black and minority ethnic communities across the city) also indicated that they perceived that there had been an increase in this form of organised racism.

4.78   There are two main issues which appear to arise from this strand of the discussions. The first is the effective segregation, or at least lack of integration, between white and black and minority ethnic communities (with, it may be inferred, a range of consequences in terms of a lack of knowledge and shared understanding of each other's circumstances and experiences). The second is further acknowledgement of the fact that members of black and minority ethnic communities face racism routinely as part of their experience of living in Scotland. It is also worth drawing attention at this point to the fact that there appears to be an increasing level of gang related violence both between and within certain communities (supported by evidence provided by the police).

Crime in General

4.79   As noted earlier, the prevention of crime is seen to be an important justification for the use of stop and search, and there was a perception in each area that crime was a serious and escalating issue (to some extent supported by the findings of the street survey set out earlier in this section and evidence provided by the police). Examples were given of gangs of young people intimidating members of the public and fighting amongst themselves. Participants in one group noted that baseball bats were used from time to time by gangs. In the view of community participants, these "gangs" appeared to be comprised of young people who were "steaming" drunk or on drugs (with serious drinking from as young as age 12 perceived to be an issue).

4.80   Drugs were perceived to be a major problem in each area. A participant at a group in Pollok indicated that:

> "drugs are in your face, everywhere, every corner, at the shopping centre".

4.81   A participant at a group in Barrhead indicated that, at a local pharmacist:

> "there are rows of seats for people waiting for Methadone prescriptions. It's not right that children can see that".

4.82   There was also perceived to be a significant and growing issue with young people using alcohol. One participant in a group in Dundee indicated that they had had to ban some young people from their shop for under-age drinking and had been the subject of abuse subsequently. Participants in a group in Glasgow indicated that two young people known to them had died from alcohol related causes.

4.83   There were seen to be a high number of instances of vandalism in most areas, with stealing and setting fire to cars and breaking car windows also common. In most of the communities, young people were seen to be involved in serious underage drinking and drugs misuse. Young people in one area described the symbolic significance of a Christmas tree outside a local police station being first vandalised and then having its lights stolen.

4.84   There was also seen to be an issue with young people who 'migrate' from their own areas into others, for example, that "kids from Douglas go to Broughty Ferry to cause trouble" and in Pollok the young people were seen to be 'territorial' and to be "split by the river". In Craigroyston young people were viewed as willing to travel to other parts of the city and that "battling goes on all the time".

4.85   Where CCTV has been installed, there were differing views of its effect. In Barrhead, one participant commented that "it has made a great difference to crime in the area", whereas in Dundee it was stated that:

> *"CCTV cameras have been installed, but they don't change anyone's behaviour, if anything, people want to get caught on camera".*

4.86   Older participants, for the most part, indicated that fear was an issue. One participant in Muirhouse indicated that their letter box had been set on fire and that young people "hanging around" the shopping precinct meant that many older residents did not leave their homes. One indicated that groups of young people are "intimidating just by being there", thus illustrating one of the main reasons which brings these young people into conflict with residents (and the police). A point made by participants in more than one group was that they felt that the levels of service received from police and other agencies was inadequate, and less than would be found in more affluent, but less troubled areas locally.

4.87   The main issues emerging here relate to the impact of crime in general terms on the communities involved in this research. The impact of the misuse of alcohol by young people on the surrounding community, as well as the wider impact of drugs in all of the areas, clearly must also have a relevance both to the justification for stop and search and the ways in which individual encounters are managed.

Perceptions of the Police

4.88   Participants were also asked to discuss their perception of the police in their area, and these were, understandably, mixed. It is worth noting that most participants perceived that the police "do a good job". Some participants (including some young people) indicated that they virtually never had any contact with the police. There was also a recognition in most of the groups that the police have a difficult job to do and often face considerable levels of provocation in street situations. In a number of groups, a distinction was made between what participants felt was the positive approach of local officers and the constraining influence of a lack of resources. One respondent in Barrhead suggested that "the police are as effective as they can be given their lack of resources".

4.89   In some areas, the police were described as being "invisible", as this quote from a participant in a group in Leith indicates:

> *"I thought I saw one walking past my window. I got such a surprise I got up to look and see".*

4.90   The police were, however, perceived to be most visible on Friday and Saturday nights on the main streets of almost all of the communities.

4.91   It was suggested that there were not enough police, but some considered that "too many of them spend their time harassing young people who look different". They were said to "assume character from people's appearances" and to "never give you the benefit of the doubt".

4.92   Older participants were seen to have a number of issues in relation to the interaction (or more properly the lack of interaction) between the police and young people. Police response times were criticised, and the level of priority attached by the police to calls from members of the community in relation to the activities of young people was also criticised. The contrast between this and the views of young people (who, almost without exception, saw themselves as being harassed by the police routinely) is interesting. Participants in one group indicated that there were also issues with the parents of some young people, citing examples of cases where parents complained to the police when their child received a warning.

4.93   Relationships between police, young people and the community as a whole seem to vary between areas. One of the main issues which seemed to affect almost all of the areas was the perceived lack of effort by the police to make themselves more "visible" in the community and to "get out of their cars and get onto the streets, speak to everybody and get to know people" and that all [the community]:

> "...would like the police to have a much higher profile and to see them taking a much more active role in the community, and to get to know young people in the community, e.g. to shadow youth workers, to visit schools and places like the 'Y'".

Some of the participants in groups with young people were, however, very positive about the approach of community officers with whom they regularly came into contact at school or within youth clubs. Young people in a group in Pollok, who were otherwise quite negative about their interactions with the police, were positive about the approach of community officers who worked with them in their schools. Young people in Edinburgh were positive about an initiative undertaken by local police officers to arrange and participate in, for example, football matches, although there was some disappointment that these had not continued.

4.94   In both Dundee and Leith, communities, in the view of participants, seemed to have a good relationship with local police officers and of the vast majority, it was indicated that they "don't mind the police" and are "glad they are there" and also "trust them to do their job". Young people in Leith indicated that they saw "quite a lot of police around" and that they saw the same police officers regularly and even knew some of them by name. They also suggested that the police were "OK to talk to and have a laugh with if you hadn't done anything wrong". It was said that the young officers tended to be better because "they're more aware of what it's like to be young nowadays".

4.95   In terms of the groups in Pollok and Barrhead, the evidence suggests that both the young people and others in the community would like to see the police take a more active role in community affairs and to make more of an effort to get to know the young people. It was indicated that police in the past had had a "much closer relationship with the people in the community", and that "the community police officer was great, but was moved on so he didn't get too familiar" and in Pollok "they [the police] were involved in the past, e.g. playing snooker and football".

4.96   The perceptions of people from black and minority ethnic groups were also mixed. "Good links" and "fairly positive experiences" with the police in their area were described by some participants. One noted that they did not have much contact with the police, apart from the Liaison Officer who was very helpful, and another stated that some members of his community "do not speak English well" and because of this "tend not to complain to the police anyway". Participants in a young black and minority ethnic group in Glasgow indicated that their youth group had been visited regularly by a community officer with whom they had built up a relationship, and could ask for "information and advice" on matters relating to the police. They also indicated that two police representatives had "consulted" their group about the force's anti-racist policy. A significant number of black and minority ethnic participants, however, indicated that they had a poor relationship with the police, who they viewed as "racist" (see below).

4.97   It was suggested that Tayside Police had tried to recruit Special Constables from within black and minority ethnic communities, but that this had not been successful (in the view of one participant because young people mostly go to university, and the older community members tend to be involved in family businesses).

4.98   In Leith, it was indicated that the Sikh community routinely invited senior officers to events so that they could keep in touch with current initiatives. It was also suggested, however, that the police could be more pro-active in keeping them informed. Participants in a group in Barrhead indicated that a local police officer attends community council meetings to provide an update on both crime and crime prevention issues, and that this was welcomed, although it was noted that there was some criticism that the local community officer appeared to have been moved from his post too quickly, this being perceived by the participants as being to avoid his becoming too familiar in the area.

4.99   In all of the communities there was a perception summarised as a lack of "mutual respect" between the young people and police officers, and that attitudes needed to be changed in order to create better relationships. A significant number of participants (both from white and black and minority ethnic groups) indicated that, in their view, race was not the main factor in this, but that the problem is in relation to all young people. This view was not, however, shared by a number of black and minority ethnic participants across areas, who perceived there to be a more specific issue about race.

4.100   Clearly, given the issue under discussion, it was inevitable that there would be a wide variation in the views of community members of both the approach and the effectiveness of the police. Overall, it is evident that, in the view of participants, there is often a breakdown in the relationship between police officers and young people. There is a perception amongst white young people (supported by some young people from black

and minority ethnic communities) that this issue affects all young people (although the particular ways it is experienced may vary between groups).

Specific stop and search issues

4.101   Attitudes to, and perceptions of, stop and search were found to vary from one area to another, depending on personal experiences. Although a formal record was not kept at each group of the young people involved, around three quarters of young participants appeared to have been stopped at some time. There was no consistency in terms of area or ethnicity. Among one group drawn from various black and minority ethnic communities in Glasgow, few had been stopped or searched, while in another group, all bar one had been searched recently. In a largely white group from another part of the city, all participants, including the youth worker who had brought the group together, had been stopped and searched in the past month.

4.102   Personal perceptions of the reasons for being stopped or stopped and searched included:

- *a feeling of being picked on for no reason;*
- *suspicion of carrying a weapon;*
- *suspicion of carrying drugs;*
- *suspicion of carrying alcohol;*
- *stopped and breathalysed;*
- *stopped and searched because a friend was carrying a knife;*
- *van searched on suspicion of carrying stolen goods;*
- *stopped and asked why they [young people] were in a particular street.*

4.103   The way in which police officers approached those they stopped also had a bearing on people's attitudes to these officers. The feelings ranged from a perception that that the police "are just doing their job" to anger and resentment.

4.104   A range of participants in all areas had had positive experiences of either being stopped or searched. One black and minority ethnic participant in a group in Dundee, for example, indicated that his van had been searched several times for stolen goods, in his view, simply because the van was the same colour as a van the police were searching for. On another occasion, his van was searched because a similar van had been involved in an accident. On each occasion the police explained why they were doing this, and were polite in their manner. The man indicated that he saw nothing unusual in this and thought that they were doing their job. Two young women indicated that they had been stopped walking down a street in Glasgow but, as police had given them a clear indication of the reason for this, and were polite, they had had no objection either to being stopped or being asked to explain their movements.

4.105   In contrast, a young man was searched because he was standing with a friend who had a knife. He stated that he did not like the officers' attitudes. They were said to be threatening and one was "in his face swearing". He was put in the back of the van for a

period, despite nothing having been found, and having done, in his view, nothing illegal. He resented being treated in this way.

4.106   There was also found to be an evident "embarrassment" factor among young people (see also the findings of the street survey earlier in this section) and many young people (from both white and black and minority ethnic communities) indicated feeling bullied and particularly "targeted" for stop and search. In Pollok, it was suggested that police officers use what was described as a "Trojan Horse" method whereby they target one young person who they know will be likely to be carrying (a weapon or drugs). Police, having found an item will then go on to search others in the group. This corresponds very closely to the actual tactics described by police officers.

4.107   Some police officers were seen to use stop and search to disrupt and intimidate, often accompanied by threats. In one case, a young person was said to have been drunk, and was sitting on a wall. Having been asked to move on, he was about to do so when the police officer started swearing, even though the man had kept quiet. He indicated that he was threatened with violence and lost his temper, swore back at the officer and was arrested and taken to the police station. He alleged that he was constantly threatened with violence on the way to the police station, where he was then put in a cell.

4.108   Young participants had clear views on how the police should carry out a stop and search. For example, a participant in Dundee indicated that:

> "police should be able to stop and search as long as they have a good enough reason, e.g. 'someone has informed on you'".

4.109   In terms of practice, there appeared to be a general perception that the police will stop and search those people "who look unconventional" and "they might stop you if you look suspicious or strange". There were also suggestions that members of 'well known' families were stopped more often than others because a member of that family had been in trouble or in prison. One young woman stated that:

> "they should do random stop and search. They should always have a male and a female officer together. If it was random and everyone knew it was random, then no-one could object. People wouldn't feel discriminated against. If it was an everyday thing it wouldn't scare you anymore".

4.110   A number of young people had been, in their view, "continually" asked to move on (in all areas), and there was a feeling that the police generally had no justification for doing so other than a fear of young people gathering in order to make trouble. Many of the participants indicated that they felt that this assumption was unfair, seeing being moved on all the time as a commonplace and resented police activity. There appeared to be a belief that groups (whether girls, boys or young adults) were much more likely to be targeted rather than individuals. Similarly, those who were perceived by the police not to be "local" were viewed as more likely to be moved on.

4.111   A participant in a group in Leith (not a young person, however) indicated that, in their view, young people were, in effect "harassed" and targeted by officers in cars cruising round (although this is not supported by the evidence of the recording exercise set

out in Section 2). An older participant at a group in Barrhead indicated that they had observed the police in full view watch children having an "innocent" snowball fight, almost as if they were "expecting trouble". Young people in Dundee also indicated that, on in-service days, police officers appear to these young people (who would be legitimately not in school on these days):

> *"drive past really slowly and look really evil but they never stop. I always wonder why they don't just stop and ask – everyone else in the community does".*

4.112   The main issue which can be seen to emerge from this strand of the discussion relates to the feelings of anger and resentment which appear to be held by many young people (supported by the evidence from the street survey) towards the police.

Race issues in relation to stop and search

4.113   A participant in one group in Leith described the following incident:

> *"An Asian man got into his car to take his 2 children to school. Officers in a police car saw him get in and followed the car for some time before stopping it. They told the man that his description matched one they had been given and asked to see all his documents. It was only after they had studied the documents thoroughly that they actually said it was a white man they were looking for. According to Mr X there was no apology, despite the fact that the children had been frightened. He felt angry and resentful because he thought it must have been obvious that he was Asian. He was left feeling that perhaps they were deliberately harassing him".*

4.114   In Barrhead (where there are relatively few families from black and minority ethnic communities), almost all young people in the area had been stopped and searched at some point, and there was a feeling that among this group that stop and search was not a race issue but is a "young people's" issue. The same point was made by a group in Pollok. One participant from the Sikh community in Dundee indicated that he was aware that "some people from black and minority ethnic communities are stopped because they are black", and his view was that even the young people concerned are not raising this as an issue in Dundee.

4.115   Only one young person, from a group with both white and black and minority ethnic participants from the Hillpark area of Glasgow, said that people from black and minority ethnic communities in the area probably experience discrimination and verbal racist abuse, but no actual incidents were mentioned. Other groups' views were mixed. One group comprised entirely of young men and women from a range of black and minority ethnic communities across Glasgow were almost unanimously of the view that they were "no more or less likely to get stopped" than white young people. In another group, on this occasion comprised of all black and minority ethnic young men, the group was unanimous that people from black and minority ethnic communities are much more likely to be stopped than white young people.

4.116   Participants in this group illustrated this point with examples of incidents where, although there were seen to be groups of white young men in the area, it was they who were searched. One indicated that they had been searched for weapons going into a fairground, even though a group of white young men had gone through the same entrance immediately before them and had not been searched. However, young white participants in the group in Pollok indicated that some of their number had been searched as many as three or four times on a single journey. Some white participants took the view that police are "scared" of searching young Asian men for fear of being labelled "racist" and that, therefore, it is white, and not black and minority ethnic young people who are unfairly targeted.

4.117   There is clearly something of a divergence in views both between and within communities as to whether people from black and minority ethnic groups are more or less likely to be targeted by the police for stop and search activities. What is clear, however, is that among many young people from black and minority ethnic communities there is a perception that they are more likely to be targeted.

Knowledge of stop and search

4.118   It was clear from most of the discussions that participants had no clear idea about police powers of stop and search, but had a perception that it "wasn't very fair". Participants in one group in Leith (comprised of largely older people) were unaware of the nature of the powers, but felt that they were not effective and were used as a means of trying to intimidate, with the view that stop and search makes no difference to the crime figures. It was also suggested that police would stop and search only if looking for drugs or weapons, or if they thought someone had been involved in an incident.

4.119   At a group held at a school in Dundee, it was again clear that there was little specific knowledge of powers. Some participants had had nothing explained to them when they had been stopped and searched, while others had had an explanation, but suggested that this did not help them to understand the basis of what police officers were doing. Some older participants in a group in Dundee only knew what they had "seen on TV" and thought that stop and search might bring crime figures down, but indicated that they would not like a situation where everyone was "scared of the police".

4.120   A group of young people from a secondary school in Glasgow thought that stop and search could be used if the police suspected someone of carrying, for example, weapons but noted that "you are entitled to ask why you are being stopped and searched". In the Barrhead groups, some participants indicated that they were not aware of when police might be allowed to stop and search, other than "if you look suspicious or something". Others stated that the police could stop and search if they had "reasonable grounds to suspect someone is carrying a weapon or if they were looking for drugs". In Pollok most participants indicated that they were never given an explanation and one stated that:

> *"everyone has examples of 'reasonable suspicion'. This treatment tends to happen to everyone, but some officers are 'worse' than others and are 'dead cheeky'. They ask 'What's your name?' and 'What's the colour of your eyes?'"*

4.121 Some young people indicated that they had "learned by watching". One young participant indicated that, when he saw someone being searched he would:

> *"kid on I'm just walking past, to listen to them and learn what they're like".*

4.122 Some participants indicated that, in their view, there was a need for a "PACE Scotland" type of approach, specifically to have a legal basis to the search which would stand up to scrutiny, because "usual suspects or behaving suspiciously will not work". In the view of these participants, there may be a need to develop the idea of a "legal search". There was also a suggestion that there is a need for guidance to the police to tell people why they are being searched and guidance on how to search politely and without causing embarrassment.

4.123 It is also suggested that, as a consequence of excessive use of stop and search, some people may be coming into the criminal justice system quite unnecessarily on petty issues such as smoking cannabis, while the 'real criminals' are not being targeted.

4.124 It is very clear from this strand of the discussion that the level of knowledge of stop and search powers amongst members of the community is very poor indeed, and there are a range of misunderstandings which may contribute in some part to the problems which arise during encounters.

OVERVIEW

4.125 This data has provided some more qualitative details of the experiences and perceptions of stop and search of members of the community in the three research areas.

4.126 The data lends support to some of the emerging themes and raises additional issues in relation to the use of stop and search.

4.127 There are a number of key strands which can be taken from the data drawn from both street interviews and other community groups. What is immediately striking is the apparent gulf between the young people involved in this research and the police in their areas. There are also evident differences in the perceptions of white and black and minority ethnic young people about the use of stop and search and the way in which it is experienced by young people. It is also clear from this data that the impact of an encounter on some individuals can be distressing. Conversely, among older community members, there is a generally more positive view of the police, although with reservations about specific aspects of policing in some cases.

4.128   A number of other issues relating to the actual process and the role of the police have also been suggested. These, and a range of other conclusions, will be set out in the next section.

SECTION FIVE: DRAWING TOGETHER THE STRANDS

5.1   This section will bring together the five main strands of the research and draw some conclusions from the:

- literature review;
- discussion with police officers;
- recording exercise;
- street interviews;
- focus group discussions.

5.2   This section will integrate evidence from all five strands and address directly the aims of the research set out in Section 1. This is not a comprehensive re-statement of all of the findings but summarises firstly, the key overall findings, then the findings as they relate to each of the aims of the research. For ease of reading, a bullet point format has been used.

5.3   The last section then sets out a small number of suggestions which can be seen to be drawn from these conclusions.

THE KEY FINDINGS

5.4   The key findings relating to the research as a whole are as follows:

- This research needs to be seen within the overall context of racism in Scotland and the perception that many people from black and minority ethnic communities experience this directly on a daily basis;
- also as part of the wider context, it is clear that there is a more wide-ranging issue in terms of the nature of the relationship between young people and the police;
- the findings of this research provide some support to the overall findings of the British and Scottish Crime Surveys that most people are generally happy with policing overall, but that this level of satisfaction does decrease given direct contact with the police, and that, generally, levels of satisfaction are lower among young people;
- stop and search also needs to be placed in the wider context of high levels of drug-related and violent crime, with weapon carrying seen to be endemic in parts of Scotland;
- there is little evidence at present that the issue of stop and search is particularly high profile in Scotland, although there is, as was noted by The Stephen Lawrence Inquiry Action Plan for Scotland, no reason for complacency;

- stop and search is immensely controversial in England and Wales, and there is some evidence that it is regarded by many in Scotland as an "English" issue;
- this said, it is clear that there are, in some areas of Scotland, a large number of both statutory and voluntary searches being carried out;
- although data does not exist in all cases, it is self evident from the data gathered for this research (both in relation to searches and interviews with police officers) that there is a huge variation in the number of stops and searches taking place across different force areas;
- there are also, however, considerable variations in both the nature and extent of the types of offending behaviour (for example knife carrying) which might be impacted upon by the use of stop and search;
- whether or not some forces, or some officers, perceive stop and search to be an issue, it is clear that for many young people living in urban areas in Scotland, it is most certainly an issue, and has, for many, become a part of "everyday" life;
- the issue of disproportionality is problematic, and the fact that it cannot be measured in any meaningful way is frustrating, but it does serve to illustrate in one small way the impact of the lack of available data on the extent, nature and experiences of Scotland's black and minority ethnic communities, and this is an issue which needs to be addressed urgently;
- although disproportionality in a technical sense cannot be measured, there is <u>no evidence</u> from this research that people from black and minority ethnic groups are being specifically targeted for stop and search activities;
- overall, the number of stops, and particularly searches, recorded on people from black and minority ethnic communities was lower than might have been expected given their share of the resident populations of the areas studied;
- there is, however, anecdotal evidence that many young people, from *both* black and minority ethnic and white communities appear alienated from the police, do not trust them, and feel that they are harassed;
- some young people are clearly affected by their encounters with the police, with some describing being intimidated, and feelings of fear and anxiety;
- among those recorded as being stopped and searched were children as young as six years old;
- it is clear that there is little real understanding of stop and search powers among members of the public, and, in addition, in the view of police officers (supported by findings from discussions with community members) no real understanding of the operational issues facing officers, which may lead to misunderstanding and misperception;

- police officers face a complex and difficult job, being expected to interact with young people in a range of situations, many of which contain the threat of violence, and it is evident that the majority do so in a professional way, but this research also contains examples of poor practice by individual officers, reported by both white and black and minority ethnic young people;
- there is evidence of a worrying issue that some officers may be avoiding contact with people from black and minority ethnic communities for fear that they may be labelled "racist";
- contacts between police and community – based organisations are now at their highest ever level and appear, on the basis of evidence here, to be mutually beneficial.

FINDINGS RELATING TO THE AIMS OF THE RESEARCH

5.5   The remaining paragraphs of this section summarise the findings of the research in relation to each of its individual aims.

Aim 1

5.6   Aim 1 was to estimate the number of stops and stops and searches made upon minority ethnic and white young people during the pilot period. The key findings which relate to this aim are:

- A total of nearly 7,000 stops and 3,600 searches were recorded over the period of the recording exercise of which the highest numbers by far were recorded in Strathclyde;
- most of these stops involved people aged under 25, with most being searches of young men, with 15 – 19 being the peak years, while around 11% of stops involved girls and women;
- a total of 885 searches were carried out on young people below the age of 16 with the youngest person searched being aged six;
- around 6% of those stopped and 3% of those searches were from visible black and minority ethnic groups, with the overall proportion being similar for Glasgow and Dundee, but slightly lower in Edinburgh;
- as there is absolutely no way of measuring available street populations, it would be futile to try to make assumptions on disproportionality where no data exists;
- overall, less than 9% of those searched living outside an area approximating to the division concerned;
- the overwhelming majority of searches were described as "voluntary" (as many as 87% across the dataset) and it is interesting to note that there was little variation in this between the three forces;

- the likelihood of being stopped on a voluntary basis declines the greater the age of the person stopped, and people from black and minority ethnic communities were found to be much less likely to be searched on a voluntary basis than those from the white community;

- interestingly (although hardly scientific given the low numbers involved), all 7 cases (out of more than 2500 voluntary searches) where officers reported having had more than one type of suspicion leading to a search taking place were of men from black and minority ethnic groups;

- taken together, all of these findings would tend to support the view expressed by police interviewees that some officers are reluctant to initiate search encounters with people from black and minority ethnic communities, and that they would only do so when more certain of the basis of the search;

- the statutory bases for searches most commonly, as might be expected, related to drugs, stolen property and knives, and there was no real evidence of powers being reported as being used which were not relevant or which were inaccurate;

- there appear to be three broad categories of stops and searches recorded in this exercise, those relating to a tangible or direct suspicion, those related to an indirect or intangible suspicion, and those for "operational" reasons;

- overall, articles were recovered in about 9% of searches, although, reflecting the fact that people from black and minority ethnic communities were more likely to be searched on a statutory basis, the percentage of searches where articles were found for this group was higher than for the white community;

- as might be expected, statutory searches were many times more likely to be successful – with as many as 54% of statutory searches in Tayside successful, perhaps due in part to the CCTV camera network.

Aim 2

5.7   Aim 2 was to examine the use and impact of the short form designed for the purpose of recording stops and stops/searches. The key findings which relate to this aim are:

- Overall, there appear to have been few problems with the forms used, with officers appearing to understand both the purpose and strands of the forms and there appears to have been no particular problem in terms of under-recording of searches, although there may have been some under-recording of stops;

- at a technical level, there were issues surrounding the use of postcode and home location which may need to be addressed before any wide-ranging recording exercise could be attempted;
- although for pragmatic reasons, officer-defined ethnicity was used here, good practice suggests that self-defined ethnicity is more appropriate, for example, by allowing individuals to choose from a number of categories;
- inevitably, towards the end of the data collection exercise the extent to which officers had to be reminded to complete the forms increased, suggesting that, if recording is to be rolled out more widely, quality control procedures need to be in place to ensure on-going compliance with collection procedures (although the evidence from Strathclyde Police in relation to Spotlight operations is that this can be done effectively).
- a number of issues arise from the research in relation to the lack of availability of data on black and minority ethnic communities in Scotland and its impact on the data collection exercise.

Aim 3

5.8   Aim 3 was to analyse the views, experiences and perceptions of young people and others in the community in relation to police stop and search powers. The key findings which relate to this aim are:

- Although stop and search is immensely controversial in England, this is clearly not the case on a widespread level in Scotland with evidence from the research suggesting that the vast majority of people in Scotland will have no contact with stop and search activities on a day to day basis;
- it is clear that, in some areas, very few people are stopped and searched on the basis described in this research. Even in Glasgow, where stop and search has a higher profile than elsewhere, most people, particularly those over the age of 25, are unlikely to be searched at any time;
- there is no doubt that, in some areas, however, stop and search has had an impact at the broader level in terms of the relationship between police officers and young people although it is difficult to separate this out from a range of other issues in relation to wider society and to policing decisions in other areas;
- as might be expected, there are a variety of views of the extent to which the tactic is deployed, with some community members perceiving that police should be more proactive, targeting drugs and violent crime (supported also by some young people who are themselves most likely to be stopped and searched) while others (including older community members) see it as having little effect other than, apparently, to harass young people;

- it is also clear from the research that there are a range of structural factors which bring young people into contact, and into conflict, with the police in many city areas; for example, the lack of community facilities, the cost of such facilities and the lack of public transport at off-peak times;
- although most encounters between police officers and members of the public are amicable and pass off without incident, there appears to be widespread dissatisfaction among some young people about their relationships with the police, and some part of this is clearly due to the impact of stop and search encounters;
- a very high number of young people who took part in this research had had contact with the police in the past year; many felt that they were being harassed by the police, being stopped with little justification (and often by the same officers, apparently asking the same questions on a number of occasions) and that there was an evident lack of consistency between officers;
- among the concerns expressed by young people were that many searches were perceived to happen in full view of friends, relatives and passers by; that some of these searches were, it was suggested, intimate; that some officers were heard to swear, and that racist language was used by some officers;
- it is easy to assume that all young people are confident in their dealings with the police and would not be affected by an encounter, but this is patently not true and some young people in this research admitted to being, for example, frightened, embarrassed and anxious in encounters with the police, and a number described being intimidated;
- it is worth remembering that children as young as six were recorded as being searched in this research, and this raises particular issues in terms of the potential impact on someone as young as this – it is easy to assume that all young people who come into contact with the police in stop and search situations are "street wise" but, as this research, and research done by the Home Office suggests, this is not necessarily the case;
- it is clear that *both* white and black and minority ethnic communities believe that it is they who are unfairly targeted by the police, with the observation made by each that they "never see" members of the "other" community being searched;
- the current perceptions, or perhaps more properly mis-perceptions, about stop and search may be contributing to this in some way and it is clear that the levels of knowledge of stop and search powers and practice (as well as police practice as a whole) are very low indeed with some young people, although apparently confident that they "know their rights", clearly being mistaken in this view.

Aim 4

5.9   Aim 4 was to analyse the views and perceptions of the police in relation to stop and stop and search. The key findings which relate to this aim are:

- It is clear from the research that there are a variety of approaches being taken by forces in Scotland with Strathclyde and, increasingly, Central Scotland Police, being characterised by a proactive search policy, with Tayside also adopting this approach from time to time, while other forces, for a range of reasons, have adopted a more passive approach;
- among the reasons given for the differing levels of priority given to pro-active searching, the most prevalent was the identified crime patterns of the areas concerned;
- where knife carrying was seen to be a major issue, it can be assumed that the level of proactive searches will be higher but in, for example, forces characterised by small towns and rural hinterlands, other priorities may be identified although all forces acknowledged that they come under pressure from members of the public to be seen to do "something" about young people, and about youth crime;
- some officers interviewed as part of this research indicated that they might go for a week or more without searching anyone and in some cases, searches were viewed as being almost entirely made up of those undertaken under common law following an arrest;
- there was a good deal of criticism expressed by community members who took part in this research about the perceived lack of impact which police forces were appearing to have in addressing the issue of stop and search;
- Strathclyde Police were positive about the use of stop and search as a tactic in combating a range of crimes, particularly crimes of violence, but acknowledged that no one approach was right for all areas and there was some evident measure of ambivalence (at least) in other forces to the use of consent searches as happens in Strathclyde;
- in a small number of forces, it is clear that consent searches do not play a part in the overall approach of the forces concerned;
- forces where consent searches are used did not report a significant level of complaints, and, on the contrary, pointed to a great deal of public support for random searches (citing the parallel approach taken on pro-active breath testing of motorists);
- there is a high level of emphasis in all forces (including Strathclyde) on intelligence-led policing;
- some forces were perceived to be moving towards what was described by some as a "performance driven" culture, with the use of key performance indicators, although there was some

caution about this in relation to stop and search as this was seen to potentially undermine the concept of reasonable suspicion and to place undue pressure on constables;

- it is clear that there is a significant amount of training and guidance given to officers, both at the initial stage in their careers, and subsequently, in relation both to effective interaction with members of the public, and in safe and legal search procedures;
- at present, there is no consistent pattern to the recording of searches, and little or no recording of stops, but anecdotal information on the extent of searches indicates a huge variation between forces with only three forces routinely collecting search information although this is not collated in a way which could identify, for example, the number of black and minority ethnic community members searched;
- it is clear, and accepted by officers at all levels, that there is both good and bad practice, with some officers remaining in the "because I told you so" mode of policing, supported by evidence from community members alleging that some officers use intimidatory tactics, abusive language and, overall, lack respect;
- there is also evidence of problematic communications between young people and some police officers, with a substantial majority of young people spoken to reporting dissatisfaction with their encounters with the police in stop and search situations;
- many officers now appear to perceive there to be a change in the culture of the police service which is moving towards the identification and marginalisation of officers whose practice is poor and whose interaction with members of the public is seen to be problematic, although it remains to be seen how widespread and effective this is currently;
- there is some lack of consistency evident in the approaches taken by individual officers (as might be expected);
- officers perceived that their role is not well understood by members of the public, leading to misunderstanding, and misperceptions as to how and why individual situations come about and similarly, there was a view (supported by evidence from community members) that individuals do not have a clear understanding of their rights in relation to stop and search;
- there is a feeling among some officers (and which may be not without foundation) that these misunderstandings are at the heart of the many of the difficulties facing officers in dealing with young people;
- the breakdown of encounters was clearly viewed by all the officers who mentioned this as being a failure on their part, and there was a clear view that charges arising out of a broken down encounter would be a last resort;

- it was also clear, however, that officers (and members of the community) were aware of other officers who may be more willing to consider making arrests (or using other tactics such as taking the individual into their police car, taking them home, or to the station) in these circumstances;

- overall, there appears to be a high level of commitment from all forces to working in partnership with community groups representing black and minority ethnic communities, and with local authorities on joint projects designed to impact on black and minority ethnic communities;

- there is evident frustration among some police officers with the ways in which this joint working actually operates in practice, and there is a perception, which may be justified, that police forces, because they are able to commit resources to projects and their officers tend to be able to be more focused than colleagues in local authorities or voluntary organisations, find themselves leading on projects which should probably be led by others;

- in each force area, there are a range of channels in place to allow for communication between black and minority ethnic communities and the police, and it was clear from discussions with senior officers in all forces that a significant number of personal contacts have now been developed;

- although police forces have a clear and well defined approach to interacting with black and minority ethnic communities, the actual practice and approach of individual officers suggests that there are a range of issues which remain to be addressed;

- given the number of officers at different levels and in different locations who identified that some officers avoid contact with people from black and minority ethnic groups for the apparent reason that they were afraid of being labelled racist, it is reasonable to conclude that this does happen and is an issue;

- this is a worrying issue for a number of reasons, not least that it is highly inefficient in policing terms to avoid interactions with a small, but significant part of the population;

- there are also deeper issues raised by this in relation to the level of understanding and internalisation of diversity, discrimination and race equality, and the assumptions which underpin this behaviour are in themselves a cause for concern as they may be seen to indicate a clear gap in awareness of the nature of conscious and unconscious discrimination;

- this also raises the larger question of how effective these officers will be in encounters with members of black and minority ethnic communities when faced with no choice but to interact with them;

- there is evidence from elsewhere in this report of members of the community identifying poor officer practice in relation to dealings with members of black and minority ethnic communities (and of police officers accepting that this occurs), and it may be reasonable to link these two observations.

Aim 5

5.10 Aim 5 was to assess the impact that regular monitoring of stops and stops and searches might have on the police and the public. The key findings which relate to this aim are:

- Most people in Scotland are unlikely ever to be stopped and searched by the police although in some areas, and particularly for some groups, the likelihood is far higher;
- it is reasonable to conclude that a significant proportion of young people in some force areas (although the exact proportion is, of course impossible to assess) will, at some time between the ages roughly of 10 and 25 be more likely than not to be stopped and searched;
- the vast majority of these searches will take place on a non-statutory, or consent basis, but even where a search is done using reasonable suspicion and statutory powers, there remain some issues;
- a substantial number of searches undertaken in some forces are done on the basis of freely given consent which has been found to be is problematic in England and Wales, to the extent that some forces are said to only permit officers to search on the basis of reasonable suspicion existing under a statutory power;
- all of the forces with which this issue was discussed indicated that there was an acceptance that recording of searches, although not stops, was inevitable, with some making the connection to the Race Relations (Amendment) Act 2000 and the perceived need to demonstrate that police services are being delivered in an even handed, non-discriminatory way;
- before such a system could be implemented, there are a range of issues which will require to be addressed in relation to the use of stop and search;
- there is at the very least some disquiet among some officers about the concept of a "consent" or "voluntary" search, and a strong belief in some quarters that this has no place in Scottish policing, nor any basis in Scots law, and it would seem prudent for ACPOS to give some consideration to the whole area of consent searches, both from a civil liberties and a legal standpoint;

- it would be reasonable to conclude that there will be some ambivalence towards the introduction of both search recording and, more widely, ethnic monitoring;

- some officers' reservations are likely to be practical with, for example, some pointing to the consequent increase in bureaucracy, while other officers' reservations may be more fundamental, with, for example, caution being expressed on the way in which statistics could be interpreted and the potential distorting effect of single incidents or small numbers of people from black and minority ethnic communities who were seen to be "legitimate" targets for intelligence-led activities;

- it would also be reasonable to conclude on the basis of evidence set out earlier that some officers may see such a move as, to quote one officer, "positive action gone too far" and this does suggest strongly that considerable care will be required in terms of the way in which any approach of this kind is rolled out;

- police officers throughout this research have indicated strongly that they have "nothing to hide" and would welcome the opportunity to address some of the criticisms of them (which they see as unfounded) through the publication of meaningful data;

- the main criticism of stop and search powers in England and Wales relates to disproportionality, but there are data shortcomings which make it unlikely that any attempt could be made to measure disproportionality (even in its most basic population based form) before 2003 at the earliest when Census data becomes available;

- in the view of officers with whom this issue was discussed there would be merit in beginning the process of data collection far in advance of this, and at a Scotland wide level, in order that patterns and trends in relation to all aspects of stop and search could be developed for use by forces in strategic and operational planning;

- there may also be some merit in forces addressing the issue of stop and search directly in terms of their activities to gauge public satisfaction with their performance;

- summarising the views of both police and community members, the main impact of the monitoring of stop and search activity would be in terms of openness and transparency, and perhaps in terms of some increase in overall confidence;

- stop and search is not perceived to be an issue in Scotland at present, but it would be reasonable to conclude that this research has identified at least three things which suggest that there are no grounds for complacency:

- there are a significant number of stops and searches taking place, and probably more than many police officers or members of the public might previously have suspected;

- many of these searches are taking place in an effectively unregulated environment on the basis of "informed consent" – a concept which has given some concern in England and Wales;
- many young people appear to be dissatisfied with the quality and nature of their encounters with the police and they, and the wider community, do not necessarily perceive there to be a strong link between searching and crime prevention or detection;
- the final conclusion to be drawn here would be that monitoring in itself would be unlikely to, in itself, make a significant difference without some evidence that poor officer practice is also being addressed.

5.11   The next section will set out a small number of suggestions for further work which can be seen to arise from these wide ranging findings.

SECTION SIX: POINTS TO NOTE

6.1   A small number of suggested points to note arise from the findings of this report. These are set out below.

GENERAL ISSUES

6.2   The level of information about the extent, nature and experiences of Scotland's black and minority ethnic communities remains unacceptable and should be addressed as a matter of urgency across a wide spectrum. A recent Scottish Executive publication on sources of data on equality issues did little more than serve to graphically illustrate this point, as large areas of public service do not routinely collect information by ethnicity. It is recognised that the 2001 census, and the impetus provided by the implementation of the Race Relations (Amendment) Act 2000 will lead to some improvements, but there is a need for a comprehensive assessment of the current status of data collection, and the development of an action plan which engages, for example, the CRE and RECs, local authorities, health, housing, economic development and criminal justice agencies. It is suggested that, as information from the 1991 Census in relation to ethnicity has become progressively degraded, the Scottish Executive gives consideration to the publication of annual update estimates of Scotland's black and minority ethnic populations by local authority area. This will become more pressing as Scotland's ethnic mix changes in the light of both inward migration and current resettlement policies.

6.3   It is suggested, therefore, that the Scottish Executive should consider a comprehensive assessment of the information currently collected in relation to ethnicity with a view to the development of an action plan to improve this across all areas of public service. Prior to implementing any proposals of this kind, picking up on issues raised by police forces in this research, it is suggested that some form of impact assessment be conducted.

6.4   There is a need to gather information in relation to the interface between black and minority ethnic communities and the criminal justice system. This issue goes far wider than stop and search (although encompassing it), relating to those arrested, those referred to the Procurator Fiscal, those whose cases are disposed of by the Fiscal, those referred for trial, those convicted and those imprisoned. Such data exists for England and Wales, and there seems no reason why such information could not, or should not, be collected for Scotland. The fact that virtually no information on race and the criminal justice system is available for Scotland ensures that pertinent and legitimate questions about the way in which the criminal justice system functions cannot be readily addressed, and it is, therefore, in the interests of all concerned to ensure that this data is collected, assessed and published. In the interim, the Scottish Executive could consider a summary publication drawing together current information which would serve to update the 1997 publication (Scottish Office, 1997) and provide some Scottish information in a similar format to the current Home Office publications.

6.5   The examples given in Annex 3 of the progressive implementation of data gathering on racist crime dating from the late 1980s illustrate that this process will need to be driven at a Scottish level with consistency built in at the outset. This will require that a

standard classification system be agreed by all concerned, and proper training be provided in its use and interpretation. Although the 2001 Census categories were controversial and were not supported by all of those representing black and minority ethnic groups, the Census remains the most comprehensive dataset which is available, and it would, therefore, make sense to ensure that whatever classification system is adopted, it is consistent with, or can be mapped to, census categories. A standard system of ethnic classification is a pre-requisite of any data gathering and this would have to be agreed and implemented, with training for all those engaged in its use.

6.6   The current ACPOS Diversity Strategy and associated guidance is widely acknowledged to have represented a good start in terms of setting out the way in which police forces, and individual officers, interact with people from black and minority ethnic communities. The strategy, however, at present covers in effect only two of the three main strands of this interaction, namely people from black and minority ethnic groups as witnesses and victims of crime, and internal police processes in relation to training and recruitment. As the English experience shows, and as the issues raised by this report illustrate, people from black and minority ethnic communities may also be suspected of, or be involved in, crime as perpetrators. There is a need for comprehensive guidance to officers on the avoidance of, for example, racist stereotyping in decision making (perhaps building on PACE Code A which, again, is not perfect, but is at least a good start) and ensuring that interactions are handled as appropriately as the guidance sets out in relation to victims and witnesses. It is suggested that ACPOS, in revising its diversity strategy and associated guidance, address the lack of focus on people from black and minority ethnic communities as suspects or perpetrators of crime.

6.7   Most of the officers with whom contact was made over the course of this research (and all forces at a strategic level) were strongly committed to race equality and showed a good understanding of the concepts of discrimination and stereotyping, as well as a good grasp of the use of non-discriminatory language. This was not, however, universal, both in terms of direct interactions as part of the research and in terms of the reported experiences of particularly, but not exclusively, young people from black and minority ethnic communities. There is, therefore, a need to ensure that, at all levels, racism is addressed by direct interventions from supervisors, and through training. There were a number of examples provided to this research of comprehensive awareness (and to some extent anti-racism) training being provided to officers, and it would be beneficial if these good practice experiences are developed more widely to supplement, but not replace, the more general and wide ranging NEOTS training which is currently being rolled out. It is suggested, therefore, that ACPOS (perhaps in conjunction with the CRE) could draw together existing good practice on race awareness and anti-racism training and develop guidance to forces on the implementation of this, in order to supplement the guidance in the current strategy and the training being delivered.

POINTS TO NOTE IN RELATION TO STOP AND SEARCH

6.8   At present, little information is collected in relation to the use of stop and search in Scotland. Three forces collect information routinely, and even this is assessed (in terms of race) only sporadically. It is clear that the Race Relations (Amendment) Act places a duty on public agencies to be able to demonstrate that they are delivering their service in an

even-handed and non-discriminatory fashion (whether at an individual or structural level). For this reason at least, data on stop and search should be addressed. At this stage, there seems little support in Scotland or England for The Stephen Lawrence Inquiry recommendation (61) relating to the recording of stops, and there are many definitional and practical issues associated with this which make it unlikely that a workable system could be developed. The danger is that a recording system for stops detracts from, or undermines the more important and pressing need for a system to record searches. The search data gathered in this pilot raised a number of issues of data quality, not least in the difficulties apparently faced by officers in the recording of home location data. There are also issues in relation to self-definition or officer-definition of ethnic category which will need to be addressed, but there is now a good deal of experience within the Home Office and English forces upon which to draw. It seems essential that all consent as well as statutory searches are recorded if the system is to generate meaningful data. Consideration needs also to be given to the practical issues raised by the need (which exists under PACE) to provide a copy of the search record. The issue of the implementation of ethnic monitoring will have to be handled carefully if it is not to become resented, and potentially subverted, by some individual officers who, as in the English experience set out clearly by FitzGerald and Sibbett, see such an action as in itself confrontational and (to quote that report) "a stick to beat them with". For this reason, the positive aspects of monitoring need to be stressed.

6.9   It is suggested that ACPOS, the Scottish Executive Justice Department and the CRE convene a working group to consider a partial implementation of recommendation 61 of The Stephen Lawrence Inquiry Report, specifically, the best means of implementing a system of recording search information. The implementation of such a system will need to be handled very carefully to ensure that the underlying reasons are understood and supported by all officers.

6.10   There is little point in collecting information if it does not then form part both of internal management systems and external public scrutiny. The issues raised by officers consulted as part of this research in relation to the potentially distorting effects of single incidents or of small numbers generally are acknowledged. There seems to be no reason, however, why explanations (caveats) cannot be provided. It is suggested that, where RECs exist, or where forces have, for example, lay advisory panels, then a joint approach to publication of statistics could be considered (perhaps within the overall context of a local "race equality annual report" which might include information on joint working, racist crime and other issues). In any event, it is suggested that such statistics should be published in the annual Chief Constable's Report. It is recommended that the Justice Department of the Scottish Executive commission research on an on-going basis to examine the statistics emerging and to assess whether or not there may be issues which require to be addressed (whether or not in relation to race equality aspects). It would be unfortunate if monitoring were simply to become an administrative procedure, part of the on-going data collection process which underpins all police work. For this reason, it is suggested that ACPOS develop guidance to forces (drawing from English experiences) on how best to use the data gathered to identify underlying issues in terms of force and officer practice (which will go beyond interactions with different ethnic groups) which may need to be addressed.

6.10   It is suggested that ACPOS, the Scottish Executive Justice Department and the CRE convene a working group to consider the implementation of recommendation 62 of The Stephen Lawrence Inquiry, specifically, the best means of implementing a system of publishing search information, perhaps within the wider context of an "annual report". It is also suggested that the Justice Department commission independent research on an on-going basis to examine the statistics and assess whether or not there are issues which require to be addressed.

6.11   It is clear that, despite the views of a number of officers to the contrary, there are a very large number of consent or voluntary non-statutory searches being carried out by officers in Scotland. There are a number of legal and operational issues raised by the use of non-statutory searches in terms, for example, of protecting the rights of the person who may subsequently become an accused person, and from the criminal justice perspective, in terms of ensuring the admissibility of evidence gained in this way. There is, as yet, no evidence of a significant volume of legal challenges to consent searches, but there may be merit in addressing the issue before, rather than after, the fact. Strathclyde Police currently produces both comprehensive and user-friendly guidance for officers in relation to the powers of stop and search which could form the basis of wider consideration. It is suggested, therefore, that ACPOS develop guidance for officers on the legal, civil liberties and practical issues raised by the use of consent, or non-statutory searches.

6.12   There is no reason to suspect that most officer practice in relation to the carrying out of searches is not appropriate and professional, however, there is some anecdotal evidence in this report of inappropriate and unprofessional practice, including the use of searches in full view of family members, the use of abusive language and a failure to communicate properly with those involved. There were also examples of people who felt threatened and intimidated, as well as embarrassed and anxious. A very large number of people indicated that they were, overall, dissatisfied with their encounters. There is a recognition of the complex and difficult job which officers face, and of the fact that many young people are themselves difficult, and may be violent and abusive. Nonetheless, there is a need to address the procedures involved in searches, and more generally, in interacting with members of the public. It is suggested that forces should make clear to officers the critical importance of communicating both their intentions and their reasons in relation to searches and of interacting in a way which is professional. Similarly, they should make clear that there is no justification for officers to use abusive language in any circumstances. ACPOS, in conjunction with the Scottish Police College and individual forces, should perhaps consider the ways in which search procedures are being taught to officers and, if necessary, make any amendments to address the issues identified by this report. The issue of both having and using good personal communication skills is probably the most pressing of the issues raised.

6.13   It is clear that some very young children are being subject to searches. It is not clear how "serious" these searches are (they may be at the "turn out your pockets" level), but at least one young boy under 10 was subject to a statutory search, which is very serious indeed. Many people (both members of the public and officers) will assume that young people today are street wise and would be little bothered by an encounter with the police (and it is acknowledged that some young people are street wise and engaged in criminal activities at this age), however, given the potential impact of an encounter of this kind on children so young, it is suggested that ACPOS give consideration to existing

guidance in relation to searches and other interactions in a street setting with very young children. It is acknowledged that the police service has child protection policies and procedures in place.

6.14   The issues raised by performance management in relation to searches need to be considered carefully. It is likely that, as the KPI (key performance indicator) approach spreads, indicators in relation to stop and search may be developed. Simple volume measures in relation to searches are likely to lead to a reduction in efficiency, as the number of consent searches will most likely have to rise further if targets are to be met. It is suggested, therefore, that forces consider carefully the way in which any performance targets in relation to searches are framed.

6.15   One of the findings of the report is that the lack of knowledge among members of the public of both police procedures and specifically of stop and search is likely to be one cause of tension between officers and members of the public. The overall issue of police procedure is being addressed through the programme of community officer visits to schools and youth clubs, and by other interactions with the community. There may be merit, however, in undertaking some more direct work to raise awareness of both powers and rights in relation to stop and search, as well as setting out clearly why it is needed (in the context of violent crime and drugs) in order that there is a good level of public knowledge before the issue becomes as contentious as it has become in England. Some forces in England use cards which are given to people searched, while others have used community officers to work in school and youth club settings. It is acknowledged that this will not be welcomed by some officers, whose task, particularly in relation to consent searches, may become more difficult, but this approach many prove to be beneficial in the longer term. This would be, in effect, a partial implementation of recommendation 63 of The Stephen Lawrence Inquiry.

6.16   The final suggestion relates to the problematic issue of some officers avoiding encounters with members of black and minority ethnic communities for fear of being labelled "racist". Clearly, the evidence in this report is circumstantial and relies on hearsay, but the range of officers and the range of settings in which this was raised suggests that there is some substance to this view. Leaving aside the disquieting assumptions which underpin this (and which are at odds with the ACPOS diversity strategy), this is inefficient policing. The fact that some officers are not routinely interacting with a substantial population group is worrying. This issue needs to be addressed for a number of reasons, including equity and efficiency, but it does also beg the question as to how effectively officers with such views can interact with members of black and minority ethnic communities when such contact is unavoidable.

Summary of suggested points to note

The suggestions made in this section are summarised below for ease of reference:

- The Scottish Executive should consider undertaking a comprehensive assessment of the information currently collected in relation to ethnicity with the development of an action plan to improve this across all areas of public service.
- It is suggested that data on ethnicity should be gathered at all points in the criminal justice system. A standard system of ethnic classification is a pre-requisite of any data gathering and this should be agreed and implemented, with training for all those engaged in its use.
- The Scottish Executive should consider commissioning and publishing the results from a survey of race and the criminal justice system.
- ACPOS, in revising its diversity strategy and associated guidance, may perhaps address the lack of focus on people from black and minority ethnic communities as suspects or perpetrators of crime.
- It is suggested that ACPOS draw together existing good practice on race awareness and anti-racism training and develop guidance to forces on the implementation of this, in order to supplement the guidance in the current strategy and the training being delivered by NEOTS.
- It is suggested that ACPOS, the Scottish Executive Justice Department and the CRE convene a working group to consider a partial implementation of recommendation 61 of The Stephen Lawrence Inquiry, specifically, the best means of implementing a system of recording search information.
- It is suggested that ACPOS, the Scottish Executive Justice Department and the CRE convene a working group to consider the implementation of recommendation 62 of The Stephen Lawrence Inquiry, specifically, the best means of implementing a system of publishing search information, perhaps within the wider context of an "annual report".
- It is suggested that ACPOS develop guidance to forces on the best means of analysing the information gathered to ensure that it forms part of management information systems and decision making.
- It is suggested that the Justice Department commission independent research on an on-going basis to examine the statistics produced by this process and assess whether or not there are issues which require to be addressed.
- It is suggested that ACPOS develop guidance for officers on the legal, civil liberties and practical issues raised by the use of consent, or non-statutory searches.
- It is suggested that ACPOS, in conjunction with the Scottish Police College and individual forces, consider the ways in which search procedures are being taught to officers and, if necessary, make any amendments to address the issues identified by this report.
- It is suggested that ACPOS consider existing guidance in relation to search procedures involving very young children.
- It is suggested that forces consider carefully the way in which performance targets in relation to searches are framed.

- It is suggested that ACPOS considers the experience of English forces in mounting public education campaigns about the need for searching, and both powers and rights in relation to searches, and take this forward, perhaps initially through a pilot scheme. This would be, in effect, a partial implementation of recommendation 63 of The Stephen Lawrence Inquiry.
- It is suggested that, as a matter or urgency, all forces take steps to address the issues set out in this report in relation to the perceived failure of some officers to interact routinely with members of black and minority ethnic communities.

ANNEX 1: METHODOLOGY

This section will set out in summary form the methodology used for this research.

AIMS AND OBJECTIVES

The overall aims of the research were set out by the Scottish Executive as being:

- To record the number of stops and stops and searches made upon minority ethnic and white young people during the pilot period;
- To examine the use and impact of the short form designed for the purpose of recording stops and stops/searches;
- To analyse the views, experiences and perceptions of young people and others in the community in relation to police stop and search powers;
- To analyse the views and perceptions of the police in relation to stop and stop and search;
- To assess the impact that regular monitoring of stops and stops and searches might have on the police and the public.

The related objectives, as specified at the outset, were to assess:

- What powers do the police have to stop and stop and search in Scotland?
- How do the police use their powers (e.g. statutory/common law powers; as part of a specific focused strategy)?
- How do the police define stops and stop and search in Scotland?
- What is the proportionate use of these powers in relation to minority ethnic and white young people?
- How do police officers themselves perceive and use their duties and responsibilities in relation to their powers of stop and stop and search?
- What would be the likely impact on police functioning and public perceptions of the introduction of regular monitoring of the use of stop and search powers?
- How do young people, both white and minority ethnic, experience and perceive police use of stop and search powers?
- What level of knowledge does the public possess about police powers to stop and stop and search?
- How do other members of minority ethnic and white communities perceive police use of stop and search powers?
- What impact do police stops and searches have on police-community relations?

The means by which these aims and objectives were achieved will be set out in the following paragraphs. It may be worthwhile, firstly, setting out the management arrangements for the research.

MANAGEMENT ARRANGEMENTS

A research Advisory Group was established to oversee the work, comprising representatives of the following organisations:

- The Scottish Executive Justice Department;
- The Scottish Executive Central Research Unit;
- Her Majesty's Inspector of Constabulary;
- Tayside Police (representing the three forces participating in the project);
- The Commission for Racial Equality.

A second group also brought together representatives of the Scottish Executive and each of the three police forces taking part in the research, together with a representative from ACPOS. The main function of this group was to co-ordinate the participation of the police in the research and to facilitate links to other forces as necessary.

STRANDS OF THE RESEARCH

The research involved a number of strands (described in more detail below), namely:

- a literature review and assessment of current information;
- a recording exercise in three divisions;
- consultation with the police;
- consultation with young people, community groups and representative organisations.

Although the research has a Scotland-wide focus, the primary fieldwork for the research was undertaken in three main areas, broadly defined as north Edinburgh, the south side of Glasgow and the city of Dundee.

Review of existing literature and information on stop and search

There was found to be relatively little information on the use of stop and search in Scotland, although there is a great deal relating to England and Wales, and particularly to the Metropolitan Police Service. Three main areas were studied for this research:

- issues relating to the definition of stop, and stop and search, and the operation of discretion in relation to these definitions in practice;
- the legislative basis for stop and search in Scotland, and where this differs materially from England and Wales;
- the impact of the use of stop and search and other powers on black and minority ethnic communities.

The help provided by the Legal Section of Strathclyde Police is acknowledged in making available to the researchers a summary of the range of powers which police in Scotland have available.

There was found at the outset to be a lack of published information in relation to stop and search in Scotland. With the co-operation of ACPOS, all of Scotland's police forces provided a summary of any information which they hold on stops, and stops and searches. The objective in gathering this information was to develop a view of the "custom and practice", rather than simply the legal framework, relating to the use of stop and search in Scotland. This was supplemented by information gathered in the more detailed interviews with police officers (see below).

Consultations with Police Forces

All Scottish police forces, both those involved in the research and others, were given a range of opportunities to contribute to the research. A senior representative (generally at Superintendent rank or above) was interviewed in each of the five non-participating forces on a range of issues in relation to force policy and practice in relation both to stop and search and to contacts with black and minority ethnic communities.

In terms of the participating forces, a range of officers at varying levels were interviewed, including senior officers charged with formulating overall policy in relation both to stop and search and contacts with black and minority ethnic communities. Officers were also interviewed whose functions included:

- patrol officer;
- community officer;
- staff sergeant;
- shift controller;
- ethnic minorities' liaison;
- community safety;
- quality assurance and statistics;
- Safer Scotland co-ordinator;
- CID inspector;
- an officer in charge of preparations for major sports events;
- assistant/deputy divisional commander;
- divisional commander;
- various headquarters functions including corporate services and community safety.

In addition to gathering information specific to officers' individual areas of expertise, a further purpose of these interviews was to address general perceptions of stop and search, the operational issues posed by stop and search, and to develop a police perspective on issues such as the guidance given to officers, and relationships with both young people and with black and minority ethnic communities generally.

The recording exercise in three divisions

Three Divisions, Central Division of Tayside Police, 'G' Division of Strathclyde Police and D Division of Lothian and Borders participated in an 8 week exercise during which most stops and searches were recorded. Details in relation to the methodology adopted for this strand of the work are set out in Section 2 (with the form used set out in Annex 6) and will not be repeated here.

The implementation of the recording exercise was delayed for operational reasons, and commenced in the last two weeks of March in all force areas. It was completed by the end of May in Tayside and Lothian and Borders, and in late June in Strathclyde. A substantial body of information was collected (nearly 4000 individual search records). The data was entered into a Microsoft Access database specifically designed for the purpose. The data was analysed using both Access and Microsoft Excel.

A debriefing was held with a number of officers involved in the exercise in order to feed back the initial findings of the recording exercise and to gather their views of these findings.

Consultations with young people, community and representative groups

The views of young people and community members were gathered for this research in a number of ways. A total of 12 focus groups were held in Glasgow, Barrhead, Edinburgh and Dundee, three of which were exclusively comprised of young people from black and minority ethnic communities. With one exception, all other groups included both white and black and minority ethnic participants.

The focus of these groups was on three main issues:

- the nature of interaction with, and views of, the police;
- their experiences of the use of stop and search;
- the impact of the use of stop and search on them.

A total of 114 random street interviews were carried out with young people throughout the three divisions during May. The findings of this strand of the research are set out in Section 4. The main areas examined were:

- their experience of being stopped by the police;
- their experience of being searched by the police;
- their views in terms of their satisfaction with these encounters;
- broader views in relation to their communities, crime and policing issues;
- their knowledge of stop and search specifically.

Finally, an opportunity was offered to a range of representative organisations to contribute to this study. Contributions (in various ways) were made by the CRE, three Racial Equality

Councils, local authorities in Glasgow, Dundee and Edinburgh, around 10 youth workers and project leaders and the Glasgow Anti Racist Alliance.

ANNEX 2: THE LEGAL BASIS OF STOP AND SEARCH

There are a wide range of circumstances in which police officers can ask a member of the public to account for their actions or can carry out a search of their person or car. Some of these circumstances are very clear in a legal sense, for example where a search is carried out in the execution of a warrant. Beyond this, however, there are areas of discretion and, as in England, there is a particularly grey area in terms of voluntary or consent searches.

It is useful, at this stage, to summarise the main ways in which stops and searches can come about. Where these differ from the situation in England and Wales, and where highlighting these differences is helpful to understanding, this is undertaken.

Freely given consent

As in England and Wales, there is some measure of discretion available to police officers to carry out searches which do not have a strict legal basis through obtaining consent from the person to be searched. There is little evidence that this "power" has caused any of the wider controversy which has, for example, in England, led to its use being discontinued by some forces. There is evidence (for example, arising out of Safer Scotland campaigns) that, as people have begun to internalise the rationale behind the use of searches, officers are actually faced with members of the public offering to be searched. While this is, perhaps, an extreme example, it nonetheless illustrates that the limited evidence collected to date has suggested that searches are not necessarily inherently resented nor opposed by members of the public on a widespread basis.

Although there is no specific law governing consent, or voluntary, searches there are a number of legal issues raised by their use. The first is the right of persons approached to refuse to be searched, and allied to this, their perceived right to be informed that they have a right to refuse to be searched. In a recent case[10], Lord Sutherland made it clear that, in his view, there was a need to grant legal protection to anyone whose search was brought about as a consequence of being suspected of a crime. In effect, as a suspect has a right to be cautioned on their right to silence, so, in Lord Sutherland's view, should they have a right to refuse to be searched. Where no crime is suspected, Lord Sutherland indicated that the police should not necessarily have to inform the member of the public of their right. This is clearly a grey area, and one upon which a legal challenge could be mounted by a person subsequently accused of a crime arising out of a search where no caution was given. In this case, the police officer(s) concerned would have to show very clearly how the basis of their suspicion developed over time. The second issue is that police have no specific right to search a person (or, in effect, perform random searches) to discover grounds which could lead to an arrest. In common law, officers have a right to search anyone once they have been arrested. This is a particularly difficult area in the use of stop and search powers.

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[10] Brown vs Glen (High Court) 1998 SLT115 – information supplied by Strathclyde Police

Common Law

In Common Law, police have the right to search any individual they have arrested. This means in practice that police often find articles (often drugs) during searches of arrested individuals which are, in effect, routine (for example, to ensure the officers' safety), and may not be related to any substantive suspicion. There are, however, no specific issues relating to the admissibility of evidence arising from this, as may be the case with consent or voluntary searches. Police have similar powers under s14 of the Criminal Procedure (Scotland) Act 1995 to search individuals who have been detained on suspicion that they may have committed an offence punishable by imprisonment, even through, at that stage, they have not been arrested.

Specific statutes

There are a wide range of statues available to police officers under which statutory searches can be carried out. At the outset it is worth stating that the Police and Criminal Evidence Act 1984 (PACE) does not apply in Scotland, being restricted to England and Wales. Issues in relation to the use of PACE are discussed in more detail later.

There are a small number of main pieces of legislation currently employed in the large majority of statutory searches.

Section 23 of the Misuse of Drugs Act 1971

Section 23 gives police the power to stop and search any person or vehicle suspected of carrying a controlled drug. It is important to note that, as with many other powers of this kind, an officer has to be able to demonstrate reasonable suspicion before such a search can be considered legal (whatever its outcome).

Section 60 of the Civic Government (Scotland) Act 1982

Section 60 gives police powers to stop and search both pedestrians and vehicles suspected of carrying stolen property, or items which can demonstrably be used in the commission of theft. This power is increasingly being used in conjunction with CCTV in relation to apprehending shoplifters.

Sections 47–50 of the Criminal Law (Consolidation) (Scotland) Act 1995

Sections 48 and 50 give police a variety of powers to carry out searches of persons suspected of contravening respectively Sections 47 and 49 which prohibit the possession of offensive weapons. Again, police have to have reasonable suspicion before such a search can be carried out, and Section 48 specifically prohibits random searches.

Section 60 of the Criminal Justice and Public Order Act 1994 (variously amended)

Section 60 is interesting, in that it grants the police virtually unlimited powers to stop and search anyone in an area designated by a senior officer as being one in which there is a likelihood of violence. Section 60(4) allows an officer in uniform to stop and search any pedestrian or vehicle in order to identify offensive weapons. The main difference between

this and the Criminal Law Consolidation Act (see below) is that this power is limited in both geographical area and the time span over which it can be used. It must be renewed by an officer of Superintendent rank (or above) every 24 hours.

Section 21 of the Criminal Law (Consolidation) (Scotland) Act 1995

This power relates specifically to designated sporting events, and allows police to search people in a variety of circumstances. It is used, on a numerical basis, arguably more often than any other single piece of legislation (although no record of these searches is specifically kept). Police have powers to stop and search anyone who is drunk, is suspected of carrying alcohol, a prohibited container, or any form of weapon (including containers or fireworks) both in and around football grounds, or in any form of transport taking supporters to matches. In reality, many of the searches undertaken by police in these circumstances would fail the test of reasonable suspicion (for example it would be untenable to suggest that possession of a handbag is in itself reasonable grounds for suspicion that an offence may be committed), but many sporting and other promoters make consenting to such searches on a voluntary basis a condition of entry.

Crime and Punishment (Scotland) Act 1997

This legislation gives police the power to stop and search anyone suspected of being under 18 and carrying alcohol in a public place, or someone over 18 suspected of supplying, or intending to supply, alcohol to under 18s.

Section 47 of the Firearms Act 1968 (variously amended)

This statute and various updating amendments give officers the right to stop and search persons or vehicles suspected of carrying firearms or ammunition.

Other statutory searches

There are a range of other statutory searches which police officers can use and which need not be described in more detail here. Examples of this include searches under the Prevention of Terrorism Act, the Crossbows Act 1987, the Poaching Prevention Act 1862, the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951, the Deer Scotland Act 1996 and the Wildlife and Countryside Act 1981.

The Police and Criminal Evidence Act 1984

The Police and Criminal Evidence Act 1984 (PACE) was the first legislation to properly consolidate what had been, to that time, a disparate range of powers in relation to the use of searches by police officers in England and Wales. PACE came about as a direct response to a Royal Commission on Criminal Procedure, which had recommended this, partly as a way of addressing both public and officer concern about the way in which searches were being carried out. The Scarman Inquiry, which addressed the riots which took place in English cities in the early 1980s endorsed these recommendations, recognising that the previous powers had contributed to the level of tension evident between police and minority ethnic communities.

The PACE powers allowed for searches to be carried out on the basis of "reasonable suspicion", for these to be recorded and monitored, and for members of the public to be told why they were being searched and to be able, if required, to receive a written record of the reasons (Home Office, 1999c). Police officers, however, also retained the right to carry out voluntary, or non-statutory searches. As Bland, Miller and Quinton (Home Office, 2000b) note, however:

> "In practice this [PACE] was an extension of powers. The Royal Commission on Criminal Procedure recognised the need to balance this extension with safeguards to protect the public from random, arbitrary and discriminatory searches. But the RCCP was unable to develop precise standards to judge reasonable suspicion."

The issues of "reasonable suspicion" and of voluntary searches have been at the heart of the controversy over PACE.

Guidance given to officers

The current English code of practice for police officers (PACE Code A) issued by the Home Office in 1999 (Home Office, 1999c) set out some guidance (which is worth quoting at some length) on the basis of reasonable suspicion, stating that:

> "Whether a reasonable ground for suspicion exists will depend on the circumstances in each case, but there must be some objective basis for it. An officer will need to consider the nature of the article suspected of being carried in the context of other factors such as the time and the place, and the behaviour of the person concerned or those with him. Reasonable suspicion may exist, for example, where information has been received such as a description of an article being carried or of a suspected offender; a person is seen acting covertly or warily or attempting to hide something; or a person is carrying a certain type of article at an unusual time or in a place where a number of burglaries or thefts are known to have taken place recently. But the decision to stop and search must be based on all the facts which bear on the likelihood that an article of a certain kind will be found."

The guidance goes on to suggest specifically that:

> "… reasonable suspicion can never be supported on the basis of personal factors alone without supporting intelligence or information. For example, a person's colour, age, hairstyle or manner of dress, or the fact that he is known to have a previous conviction for possession of an unlawful article, cannot be used alone or in combination with each other as the sole basis on which to search that person. Nor may it be founded on the basis of stereotyped images of certain persons or groups as more likely to be committing offences."

Home Office research (Brown, 1997) suggests that one of the main difficulties with stop and search has been the extent to which the views of officers are, despite the guidance, influenced by inappropriate factors. He also questions the extent to which suspicions are articulated in a way which allows suspects to give what he describes as "informed consent". According to a recent Home Office report (Quinton and Bland, 1999 op cit), one police force in England has abandoned "consent" (or voluntary) searches altogether, and has authorised officers only to search where they have a clear statutory power to do so. As Bland, Miller and Quinton (Home Office, 2000b op cit) note:

> *"Research has pointed to the difficulty, in practice, of making a clear distinction between PACE searches and those involving consent. An early evaluation of the impact of PACE in one force (Bottomley, et al., 1991) highlighted confusion about the distinction at both policy and operational level. There was evidence that some officers used consent to avoid the requirements of PACE for reasonable suspicion and that public consent was often given when ignorant of the right to refuse."*

The Home Office research series (Home Office 2000a-f) provides a large number of examples of situations where individuals perceived that the basis of the suspicion which led to them being stopped and searched was either flawed, or non-existent. At a Home Office seminar held to launch the research series, for example, a black senior officer from an English force described how he had been stopped three times in one shift by officers of his own force while driving a BMW in plain clothes. A black doctor (in a workshop setting) described being stopped daily while driving his Jaguar to and from work.

The effect of this has been to undermine the confidence of black and minority ethnic communities in the police, and in their approach to stop and search specifically. Although there is no widespread evidence of similar discontent in Scotland, there has been a growing recognition of the need to explore the issue and there are significant concerns.

ANNEX 3: RACISM AND RACIST ATTACKS IN SCOTLAND

In Scotland, race has been, for many years (and until very recently) much less of an overt political issue. That is not to say, however, that racism is not an issue for Scotland's black and minority ethnic communities. There is an evident mythology in Scotland that there is little or no racism, despite considerable evidence from statistical and research sources (see later in this Annex), and it would be reasonable to conclude that there is a significant measure of complacency among most Scots about the issue. As Kelly (2000) notes:

> *"in Scotland, a widespread assumption is that race haters are few and far between. Therefore, according to Scottish reasoning, there must be little racism. The likelihood that Jews are still subjected to offensive or abusive behaviour, and may indeed be harassed or attacked, is not taken seriously in spite of graffiti and literature displaying swastikas".*

This echoes comments made in relation to an investigation of racism in Fife undertaken by Chalmers in 1991 (Fife Regional Council, 1991) which concluded that:

> *"at the start of the research project, a common perception was that racism was not a problem in Fife. In his Annual Report for 1989, the Chief Constable stated that 'the presence of ethnic minority groups in Fife has not presented any real problems'. Amongst the minority ethnic communities, however, the fact of racist abuse was never in dispute. At the public meeting, it was generally accepted that it took place, and was almost so commonplace as to be not worth reporting."*

More recently, in a report by Her Majesty's Inspectorate of Constabulary (HMIC, 2001) it was noted that:

> *"HMIC were advised of a reluctance amongst some members of black and minority ethnic communities to report racist incidents. Statements such as* **"what is the point in reporting it. The police will do nothing,"**[11] *were frequent. HMIC appreciates that only sustained positive outcomes will alter this perception but also notes the difficulty forces have if victims are unwilling to come forward."*

Hampton (Glasgow City Council, 1997) undertook a series of focus groups with young people from a number of black and minority ethnic groups in Glasgow. Her conclusions echoed those set out above, and made a number of additional observations in relation to the specific experiences of the young people concerned. Among the points noted in the report were that the ways in which young people experience racism can vary from those experienced by older people, specifically, that young people are more likely to be subject to all forms of overt abuse, including name calling as well as actual physical assaults. In the view of the young people consulted, name calling was the most prevalent form of racism in Glasgow, but one which did not attract any attention from the teachers or the police, and appeared to be tacitly, or overtly, tolerated. The report notes that:

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[11] Original emphasis

> *"a common thread throughout was the perception that central figures of authority, for example teachers and the police were indifferent, disinterested and indeed, racist themselves".*

A common feature of both the Chalmers and Hampton work is that members of black and minority ethnic communities can end up effectively isolated and disempowered where there is a loss of confidence in public authorities' response both to individual issues and wider issues of racism.

Chalmers (Fife Regional Council, op cit) notes that:

> *"apart from the obvious effects that regular racist abuse has on individual relationships within communities, the cumulative effect of these attacks has much wider and serious implications. In particular, where confidence in statutory agencies is eroded by the perception of lack of interest and support, the climate is set for increasing problems and distrust."*

At an individual level, there are also significant impacts. As Hampton concludes:

> *"racism had a devastating effect on both individuals and communities. The grim reality of the impact of racism on individuals, mainly black and minority ethnic, was highlighted by frequent references of those who wore either killed or took their own lives as a result of discriminatory acts. In addition, a range of less fatal effects were listed, including for example, 'isolation', 'a sense of marginalisation', 'lack of confidence' and low self-esteem."*

This is supported by Chalmers (op cit) who indicates that:

> *"the psychological effects of racial attacks may be as serious as actual physical damage because the perception of the victim is that he/she is being subjected to racism rather than to an isolated crime. As whole communities are aware of the problems of individuals, everyone from particular ethnic groups sees him/herself as a potential victim."*

The recent HMIC inspection makes a useful point in identifying that, although when viewed in isolation, most racist incidents would not in themselves be assessed as "serious crimes" in police terms, it is important not to misjudge the impact of racism on members of the black and minority ethnic community. It notes that:

> *"for many members of black and minority ethnic communities, seemingly minor crimes and incidents are a frequent feature of living in Scotland. What might be traditionally viewed as minor verbal abuse, damage or graffiti can, over time, have an enormous impact on quality of life. It is important to recognise that it is not the instrument of the racism which defines the seriousness of the incident or the level of impact on the victim; it is the perception of racism motivating the name calling or vandalism that is the defining feature."*

Hidden racism and problems with data recording

A recent CRE report on racism in rural areas (de Lima, 2001) restates the case that much racism throughout Scotland is, in fact, hidden. Agencies do not routinely collect data on ethnicity in terms of issues such as service use, employment or racist incidents. A second aspect of this is that agencies are perceived not to be open to complaints from black and minority ethnic groups. (An attendant problem noted by the report is that there is a lack of infrastructure in some areas to assist people to pursue complaints of discrimination or harassment.) The effect of this is that there is:

> *"a predominant assumption that minority ethnic groups do not have any needs because they are small in number, 'invisible' and 'silent'".*

There is a lack of data about the experiences of black and minority ethnic groups in all areas of Scottish public policy. There is little information collected in terms of data from the criminal justice system, there is little available in terms of local authority or health service use and it is only in the last 2 years that much data on racist attacks and victimisation has become available.

There is common consent in Scotland that the level of recorded racist crimes is rising, and will no doubt continue to rise significantly over the next few years, in part reflecting the demographic changes which will, inevitably, mean that more people from black and ethnic minority groups will become victims of crime.

There has also been an issue (until relatively recently) of there being no mechanism in many police forces to actually record that an incident may have been racially motivated. The practical effect of this is that crimes have been recorded and published simply by the nature of the charge rather than with any acknowledgement of underpinning motive. This has meant that many crimes such as breach of the peace may have, in fact, been a racist incident, but this has gone unrecorded, leading to both an underestimate of racism and a loss of intelligence to forces (HMIC, 2001; Kelly, 2000).

Since 1988, all Scottish forces have made progress on the recording of racist incidents. Kelly (op cit) notes, however, that recording has been patchy and inconsistent, and subject to local variation in relation to, for example, public pressure (citing the example of an apparent increase in recorded incidents following a high profile murder in Edinburgh in 1990, which led to changes in police procedures) and local initiatives. This observation is supported by the recent HMIC report (see below). The practical effect of this is that, prior to 1999, published statistics were actually of very little value. As an example, following an initiative in Strathclyde in 1996/7 to improve recording, apparent racist incidents doubled in a year. In other areas, similar examples can be given (for example, in Tayside and Edinburgh for 1990 cited in Kelly, 2000). A recent Scotsman article (Scotsman, 10/6/2000) noted that, on the basis of official figures, Central Scotland has the highest level of racist incidents in the UK, and notes that this is apparently 15 times the comparable rate in London.

This situation is not particular to Scotland. A recent report by NAPO/ABPO (NAPO/ABPO, 1996) identified that there had been considerable inconsistencies in recording in England and Wales which, taken together, made cross country comparisons meaningless:

> *"there has been an increase of at least 100% in the number of reported racial incidents to the police since 1989 according the most recent figures. However, the range of change between different police forces is quite extraordinary. Just 2 of the 43 forces record a decrease in incidents, 9% down in Cleveland and 20% down in West Yorkshire. Of the rest, the range of increase varies from 18% in Merseyside to 1,545% in Greater Manchester. Other reported increases include 325% in South Wales, 411% in Essex, 566% in West Mercia and 878% in Nottinghamshire.*
>
> *The range of reported increases does suggest that recording methods may be wholly inconsistent. It is difficult to believe that incidents fell by 20% in Leeds and Bradford but rose by 1,545% in Manchester and Salford. There is an urgent need to prioritise the prevention and detection of these serious crimes as well as the establishment of a nationally consistent method of recording statistics."*

The recording (and under-recording) of racist incidents

The Stephen Lawrence Inquiry report (Macpherson, 1999), made three recommendations in relation to the recording of racist incidents, namely:

> *"12. That the definition* [of a racist incident] *should be:*
>
> *"A racist incident is any incident which is perceived to be racist by the victim or any other person".*
>
> *13. That the term "racist incident" must be understood to include crimes and non-crimes in policing terms. Both must be reported, recorded and investigated with equal commitment.*
>
> *14. That this definition should be universally adopted by the Police, local Government and other relevant agencies."*

These recommendations have been accepted by Scottish police forces, as well as forces throughout the UK. Kelly (2000) notes that:

> *"this definition was to have increasing effect because it overrode the discretion of police officers to decide whether an incident is, or is not, a racial incident. This intrusion into professional discretion was accepted by the Associations of Chief Police Officers because they had to acknowledge that there was a considerable problem."*

There is absolutely no doubt that racist crime is a significant issue in Scotland. In all Scottish police force areas, there has been considerable progress in addressing recommendation 15 of The Stephen Lawrence Inquiry in terms of setting up mechanisms to address racist incident monitoring, involving joint working between the police and community groups, and also involving, in some cases, wider initiatives to address victims' needs. The immediate effect of the adoption of the definition in Scotland has been that the level of *recorded* racist crimes has risen steeply, as the figure below (abstracted from the recent HMIC report) shows.

Figure 1 Racist Incidents Recorded in Scotland 1996-2000
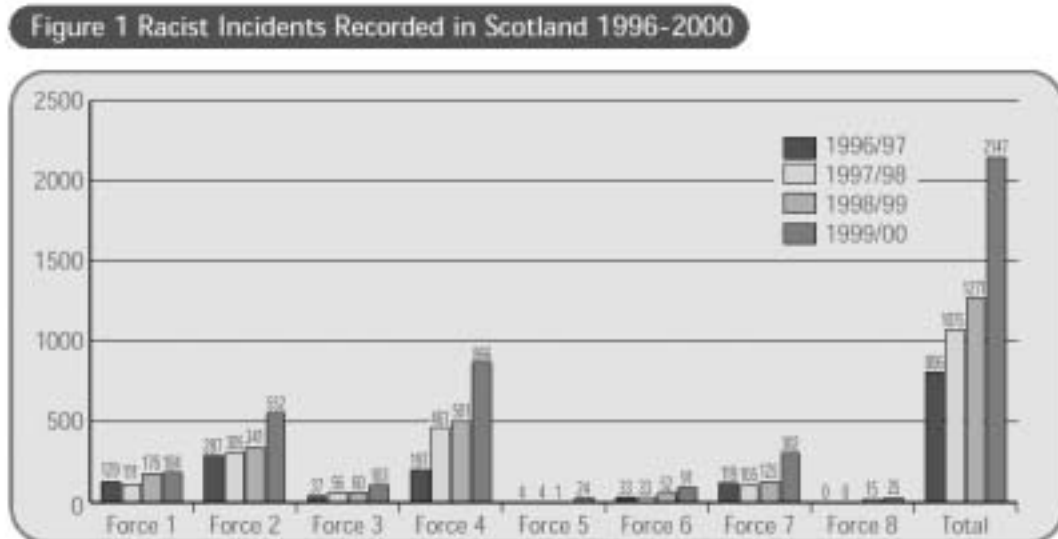
However, the report goes on to highlight a range of ways in which existing data on racist incidents continues to be undermined by "a number of causes, including poor record keeping and ineffective case management." (HMIC, 2001 p30)

As noted earlier, under reporting, and under recording of racist incidents has been endemic in the UK. Kelly (2000) notes that:

> *"Police officers, usually white, consistently play down the 'racial' element in incidents. Police disbelief causes communities to lose confidence in the authorities and to stop reporting crime."*

A number of examples are cited in her report of high profile cases where a specific suggested racist motive has been discounted, or not apparently acknowledged by criminal justice agencies, leading, most importantly in the context of this research, to a perceived loss of confidence among black and minority ethnic communities.

It is difficult for these and other reasons to accurately assess the level of racist crime in Scotland, particularly those crimes which are not crimes of physical violence. An example provided by a youth worker to the recent HMIC inspection is illustrative of this:

> *"people don't know that racism is a crime. When they see a 12 year old break into a car they immediately phone the police. When they see that same 12 year old abusing their neighbours or local shopkeeper they think*

it is not their business and would not dream of phoning to report it as a crime."

Kelly (2000) concurs that many incidents are unreported, in part due to the perception by the victim that these will not be taken seriously:

> *"The incidents reported by people of the minorities may not be 'serious' for police and courts attuned to dealing with thousands of breaches of the peace, and hundreds of assaults resulting from conflict between neighbours, shop theft, pub brawls and street fights between youths. But they are deadly serious for the fearful victims of crime who lose confidence and withdraw into themselves if their experience is denied. For people facing racism every day of their lives, the racist context to their peace being breached must be acknowledged."*

Issues in relation to reporting and attempts to improve this are not new. Chalmers (Fife Regional Council, op cit) cites the failure of an early attempt to use racial incident monitoring forms in these terms:

> *"The Racist Incident Report Forms were not therefore widely used, but there was ample evidence, from the forms, from group interviews, and from the individual interviews that regular attacks of varying degrees of severity were taking place throughout Fife.*
>
> *Those individuals from minority groups who did report incidents for recording on the forms generally did so because they were dissatisfied with the response of an agency. The form was seen as a way of registering a protest rather than simply as a means of recording incidents of racist abuse."*

HMIC concedes that "police statistics are not always the most reliable source" of data on racist incidents and that such data as is available is not currently used in a constructive way to develop potential solutions to the problem of racism. The first recommendation of HMIC is, therefore, that:

> *"HMIC recommend that chief constables liaise with the management of SCRO* [Scottish Criminal Records Office]*, to implement effective measures, to ensure that information on racial offending and offenders is provided in a way which maximises the capture of information thus enabling effective analysis and profiling to take place."*

At present, a number of pilot projects are underway to investigate the extent to which a system of remote reporting of racist incidents could be workable. A pilot project in the Lothian and Borders force area allows incidents to be reported to, for example, Edinburgh and Lothian Racial Equality Council. Remote reporting is currently considered a potential best practice model for the development of a more effective means of both assessing and addressing the under-recording of racist incidents (ACPOS, 2000b). The Scottish

Executive is currently considering the feasibility of a 24-hour telephone service which will allow remote reporting of incidents (Scottish Executive, 2001).

There are a range of issues implicit in remote reporting which raise longer term questions as to its effectiveness. While acknowledging that remote reporting is an essential short term measure to develop confidence in police practice and procedure, the basis of this cautious view is that police forces may be constrained in the extent to which they can *pursue* cases reported remotely (particularly where this reporting has been done by a third party) without the subsequent full participation of the victim. In essence, the underpinning concern of these officers is that the confidence built by remote reporting may not be sustained if criminal justice agencies cannot, for legal reasons and, most importantly, are not seen to be able to, secure convictions arising from this method of reporting.

The total number of "racist incidents" in Scotland, taking account of whichever definition then in force has risen from a little over 800 in 1996/7 to more than 2200 in 1999/2000, and there is no doubt that this will rise further for the most recent year, 2000/2001 (HMIC, 2001). This is, in part, due to definitional issues, but also due in some part to a perception of increased levels of confidence in the police among members of the black and ethnic minority community to report incidents. Most significantly, the number of alleged racist attacks has risen nearly 4-fold since the mid 1990s. It is not clear, due to variations in recording practice, to what extent this a real increase rather than an artefact, but, nonetheless, with nearly 1000 racist attacks in the most recent year for which statistics are available (cited by HMIC, 2001), this illustrates the scale of the problem experienced by members of the black and ethnic minority community.

There is compelling evidence from a range of sources, including the Home Office series of reports (Home Office, 2000a-f) and ACPOS to suggest that, even given these improvements in police – community relations, and the perception that more crimes are being reported, racist crime is still very much under-recorded, with many non-violent crimes being unreported, or only being reported when a victim may have suffered a large number of incidents, and can, in effect, take it no longer. CRE in Scotland estimates that only around 1 in 20 incidents are actually reported (CRE, 2000).

A further development, designed to try to improve data is that, from 2000, the methodology for the Scottish Crime Survey has been amended to allow for specific questioning in relation to victims' perceptions of a racist motivation for crimes against them. Ordinarily, the sampling frame used for the SCS would encompass only a tiny percentage of non-white respondents, but to address this, a booster sample was commissioned. As the 2001 Report of the Justice Minister's Steering Group on The Stephen Lawrence Inquiry notes (Scottish Executive, 2001):

> *"The analysis of this sample will provide a useful complement to the*
> *official police statistics on racist crime, although the sample sizes are not*
> *sufficient to allow overall victimisation rates of racist crime in Scotland to*
> *be calculated with accuracy and confidence. As the Executive has not*
> *carried out much research in this area before, current researches are*
> *exploring the most effective methods of obtaining information on and views*
> *of people from minority ethnic groups."*

In future, therefore, this may provide additional insight to the issue. As has become clear, however, there remain a number of problems.

Practical issues in relation to coding

HMIC (HMIC, op cit) also identified a range of basic coding issues which make it difficult to obtain a clear picture of both victims of racism, and of offenders from black and minority ethnic communities within Scotland's eight police forces. The table below is reproduced from the recent HMIC report "Without Prejudice?" and sets out the coding frames currently in use.

Table 40. Coding Frames in Use in Scottish Forces (from HMIC, 2000)

Force A	No specific categories offered as a 'menu' to staff. Staff use judgement and discretion.
Force B	Ethnicity – Black Caribbean, Black African, Black Other, Indian, Pakistani, Bangladeshi, Chinese, White, Other.
Force C	Ethnic Appearance – African, Asian, Chinese, West Indian, White, Other.
Force D	Ethnic Origin – Arab, African, Caribbean, Bangladeshi, Chinese, Indian, Pakistani, Traveller, Mixed Race, Other.
Force E	Apparent Ethnic Origin – India, Pakistan, Bangladesh, Africa, China, West Indies, Other.
Force F	Ethnic Origin – Arab, African, Caribbean, Chinese, Indian, Pakistani, Traveller, Mixed Race, Other.
Force G	Ethnic Origin – White, Black Caribbean, Black African, Black Other, Indian, Pakistani, Bangladeshi, Chinese, Asian, Other.
Force H	Ethnic Appearance – African, Arabian, Asian, Caribbean, Dark European, Oriental, White European.

From this, it is clear that there is no consistency in the use of coding, which ensures that, even with improvements to reporting and recording, statistics below aggregate levels could not be compiled for Scotland. Ironically, although the situation in England might be expected to be better, given the passage of time since the introduction of the Police and Criminal Evidence Act 1984 (discussed in more detail in Annex 2), recent Home Office research (Home Office, 2000a-f) did highlight a range of issues with recording systems (in this case for stop and search but these tend to be consistent within, although not across, forces). HMIC makes a recommendation in this context that:

> *"Chief Constables liaise with the Scottish Executive, consulting others as appropriate, to establish and publish the identification categories under which the ethnicity of victims, offenders and others will be classified for statistical purposes."*

It is understood that such a common definition has recently been agreed by ACPOS for use by Scottish police forces.

A further issue, which is relevant to stop and search, is seen to be in terms of a lack of information about black and minority ethnic offenders. As noted earlier, very little information on ethnicity is currently collected by criminal justice agencies in Scotland. For example, there are no aggregate figures published by the Scottish Executive on offences committed by different ethnic groups, and much of this information is either not available, or simply not gathered in a form which can make such an analysis possible. This is in somewhat stark contrast to the situation in England and Wales where, although there are shortcomings in terms of recording (both in terms of under-recording and coding issues), each year the Home Office publishes a comprehensive review of available data, including information on stops and searches, charges, court appearances, disposals and receptions to prison, as well as a range of data on employment issues both within the police service and the wider civil service. Although Scottish Ministers have the power to gather and publish such information, with the exception of one publication in the mid 1990s (Scottish Office, 1995) they have not chosen to do so.

From this summary, it will be clear that there are a range of issues in terms of available statistics on race and the criminal justice system in Scotland which make it difficult to obtain a clear picture of both racist incidents **against** and forms of offending **by** members of black and minority ethnic communities.

ANNEX 4: THE USE OF STOP AND SEARCH AT SPORTS EVENTS

This Annex will provide additional information on a range of additional ways in which stop and search is used by police forces in Scotland. The main area covered by this Annex is sporting events, but mention is also made of campaigns mounted under the broad banner of Safer Scotland to target licensed premises.

OVERVIEW OF POLICING AT SPORTING EVENTS

The police have always been involved in sporting events in terms of public order issues, but, since the Taylor Inquiry (into safety at football grounds) and the banning of alcohol within designated areas, this role has expanded considerably.

The potential extent of police involvement in sporting events is considerable, but, in Scotland, in practice, it is primarily major football matches which are the focus of activity. Police would be expected to be in attendance at all professional football matches at all levels (including the Highland League), and will, in most cases, be in attendance at junior matches where a significant crowd is expected.

The range of functions

The range of functions carried out by police at major sports events is considerable. The main areas within which these functions fall are:

- public safety;
- the movement of people;
- public order;
- the exclusion of alcohol from the ground.

As part of the research, with the co-operation of Tayside Police, a Scottish Premier League match between Dundee United and Heart of Midlothian was observed, and this example will be used to illustrate both the role of the police and their objectives in relation to the use of stop and search powers in the context of a sports event. Discussions were also held with officers involved in policing games at Easter Road (in Edinburgh) and both Ibrox and Hampden (in Glasgow).

Case study

There is a considerable gulf between matches involving either Celtic and Rangers, and other matches, even in the Premier League. Celtic or Rangers games at their home stadia typically attract sell out crowds of 50,000 to 60,000, and when playing away from home, will also, typically, attract sell out crowds to the maximum capacity of other grounds which, in Scotland, typically range from 10,000 (for example at St Johnstone) to over 20,000 (for example at Aberdeen). A typical Premier League match not involving either Celtic or Rangers (or being a local derby, for example in Edinburgh or Dundee) attracts less than 10,000 spectators, in comparison to England, where more than 20,000 is typical.

The match observed was a fairly typical Scottish professional football match not involving either Celtic or Rangers and attracted fewer than 7,000 spectators.

Tayside Police place matches involving either of the two city teams as A or B on a number of factors, including the anticipated size of the crowd, any history of violence between the local and visiting team, any intelligence in relation to expected violence, or any other particular factors which can influence the likelihood of public order issues. Matches involving Celtic or Rangers, or a competitive derby match between the two city teams, are typically Category A, while most other matches are Category B. One factor which can influence the decision to attach an A Category to a game is the time at which it is played. Some Sunday evening games are allocated a Category A due to the potential issues caused by the fact of all day drinking and the lateness of the kick-off (usually 6.05pm), although for the 2001-2002 season, such matches are now commencing at 5.35pm on a Saturday. The match observed was Category B.

The main difference in terms of category A and B is the extent of the police resources deployed – the main tasks and the extent of the planning and preparation are in effect the same. Tayside Police typically deploy more than 70 officers to a Category A game, and around 40 to a Category B game. In addition to this, there may be other resources deployed selectively (for example, traffic patrols to manage the routing of buses into and out of the city).

A Category A match will be controlled by a Superintendent (or above), while a Category B match will be controlled by a Chief Inspector. In both cases, the officer in charge will be supported by an Inspector, and a variable number of Sergeants.

In all cases, football clubs also employ stewards to undertake a range of functions in relation to the management of the crowd.

A typical chronology for a Saturday Category B match is set out below:

Friday	The officer in charge of the game will meet with the Board and safety advisor at the club to discuss any issues which may arise in relation to the game (for example, areas of the ground which may be closed, safety issues for example in relation to damage, potential public order issues in relation to the routing of rival fans, and any intelligence which the club or police may have in relation to violence). Issues in relation to the game observed included the need to route female away supporters to a toilet within the home support area, and potential problems in relation to previous matches controlled by the referee. A further issue in relation to the refusal of home fans to sit in their seats was also discussed.
Saturday 10am	The officer in charge visits the ground to conduct a safety assessment.

Saturday 11.15am	The officer in charge will brief the Sergeants on the strategy to be adopted for the match, for example in relation to addressing issues identified with the club, and in relation to sharing intelligence on known troublemakers.
Saturday 1pm	A range of briefings are held at the ground. A briefing is given by the officer in charge to all officers, covering the range of issues described above. Individual Sergeants in charge of an area of the ground will also provide a briefing to their teams. The club will also brief its stewards as a group and as teams.
Saturday 1.30pm	All communications are tested and the officer in charge will meet with the referee to discuss any contingency arrangements in the event of a public order issue arising, or the procedures to follow in the event of the abandonment of the match.
Saturday 1.45pm	The police officers and stewards will be deployed around the ground to supervise the entry of supporters following the opening of the gates at 2pm.
Saturday 2pm – 2.45pm	Officers and stewards supervise the crowds arriving. Most supporters now arrive between 2.45pm and 3pm, which can be problematic if not enough turnstiles are available to cope, but this issue is managed actively by the club and police, and supporters are directed to turnstiles with available capacity. At around 2.45pm, some officers move to supervise the crowd inside the ground. Issues in relation to the use of stop and search powers at this time are discussed below.
Saturday 2.45pm – 4.50pm	The officers supervise the crowd under the overall direction of the officer in charge based in a police control room in the ground.
Saturday 4.50pm – 5.15pm	Officers supervise both the exit from the ground of supporters and their passage back to their buses or cars. For larger games, the police may also mount a traffic operation to escort the coaches out of the city.
Saturday 5.15pm	The officers are debriefed.

The use of stop and search powers at matches

For most matches the use of stop and search powers are very low key. The main areas in which these powers are used are threefold.

Firstly, police have the power to stop and search both buses and supporters heading to the ground. Under current legislation, no alcohol is permitted on designated coaches (nor on designated trains, although few supporters travel to Dundee by train for a match). The police use this power from "time to time", both as a deterrent and reminder to coach companies, and where they have been provided with intelligence. No coaches were

searched at the game observed, although all away supporters coaches had been searched at a game a few weeks before, with nothing being found.

The second issue in relation to stop and search is in terms of entry to the ground. Designated sports events (which include professional football) carry an absolute prohibition on the possession of alcohol, and of specific forms of container which can be used as a missile. In addition, the police have the power to refuse admission to, or eject anyone from the ground who they believe is intoxicated. The management of this area of activity is low key. The police strategy in this area is to work closely with the club stewards to address the issue of alcohol. Both stewards and police officers can search supporters, and both were observed doing so, in all cases with the consent of the supporters concerned. Where supporters refuse to be searched by stewards, this will be done by police officers. In the event that a supporter refuses to be searched, they will be refused entry to the ground, and, at the discretion of the officer concerned, they may wish to use other powers (for example in relation to the carrying of weapons or drugs – see Annex 2) to carry out a statutory search.

Clearly, it would be physically impossible to search all supporters without a significant increase in the police resources deployed. For this reason, some element of selective targeting is necessary. Police were briefed to target both supporters behaving suspiciously, and known troublemakers, but the main targets for searches at the game observed were, in fact, bags. Over a 30 minute period, all supporters carrying bags, including women's handbags, were searched. The bags searched ranged from rucksacks and handbags, to shopping bags. Only one item – a soft drink bottle – was observed to have been confiscated and placed in a bin. No other action was taken by the officer concerned. A small number of supporters were observed to place containers in the bins without being searched. In the observation period (covering 3 pairs of turnstiles for away supporters), there were no observed searches other than of bags.

No supporters were refused admission to the ground on the grounds of their intoxication, although police did intervene when supporters chanted using obscene language. This was done in a very low key way, and both the police and supporters were apparently very good natured in their interaction.

The third area for the use of search powers is in relation to public order inside the ground. Police generally take a two tier approach to ejecting supporters. In most cases, supporters causing public order problems (or who are intoxicated) will be ejected from the ground with no further sanction. In a small number of more serious cases, supporters can be arrested, and will be transferred to a prison van which is in attendance before being processed at Divisional Headquarters. The observed volume of arrests at Category B matches in Dundee is very small indeed, and many games pass with no arrests at all. The observed game was very low key, and no supporters were observed being ejected, and there were no arrests.

Public order and professional football

The main focus of public attention in terms of police activity at professional football is public order. In the view of experienced officers interviewed as part of this research, the extent of public order problems at sports events is now relatively small, and significantly less than might have been typical 10 or 15 years ago. A range of issues were identified in terms of how this has been brought about:

- the prohibition of alcohol has made a significant difference to the incidence of violence in and around grounds, and has removed one of the main potential weapons;
- the prohibition of alcohol on buses makes it less likely (although not unusual) that visiting supporters will arrive intoxicated;
- the fact that all major grounds are all-seated has made a considerable difference in a range of ways, including the fact that it is generally more difficult to cause problems sitting down, movement within the crowd is much more difficult, and police can observe and deal with trouble makers much more readily. All areas are now less densely packed than before;
- grounds are now segregated. Twenty years ago it was possible for supporters to move from section to section (or even to another end of the ground) passing though groups of rival supporters, and fights were, as a result, far more common;
- the introduction of computer-controlled turnstiles has supported segregation policies, and meant that overcrowding cannot now occur. Areas of the ground can be more sparsely populated (by design) than if supporters were allowed to choose where to sit. At Dundee United, the selective use of areas of the ground (supported by the management of the turnstiles) can allow buffer zones between home and away supporters to be created;
- crowds generally are smaller (with the exception of matches involving Celtic and Rangers);
- crowds seem, in the view of officers, to have "got the message" in relation to both drink and weapons and policing, for the most part, is on the basis of consent;
- the introduction of CCTV and two-way radio communications has meant that the police response to emerging problems can be swifter and more effective;
- the pattern of movement of supporters has changed, with few arriving before 2.45pm for a typical 3pm kick-off, and most leaving immediately after the game to return to their home towns. This issue is somewhat different for Rangers and Celtic, who draw fans from all over Scotland, and who use a greater range of modes of transport;
- finally, the design of grounds has improved (in addition to the introduction of seating), with better areas of segregation and better access for police and stewards, although, in the view of

officers interviewed, some grounds are better than others in this regard. In some cases, the design of new seating arrangements has allowed for what are, in effect, buffer zones to be created.

ISSUES IN RELATION TO STOP AND SEARCH

In terms of the game observed, there were no incidents and supporters were generally well behaved. In terms of the research, the following can be drawn:

- football is a good example of policing by consent, with supporters recognising the role of the police and stewards;
- the police were clearly briefed in relation to the way in which they should interact with the supporters, and reminded of the wider potential consequences of their actions. In the event, all of the interactions observed were good natured and low key;
- football in Scotland is an area where selective use of legislation, better police and club management of safety and public order issues, the use of technology and the overall approach of policing by consent has led to a situation where, despite the more general rise in violence in society, the level of incidents is now quite small (even in relation to Celtic and Rangers) and is, arguably, likely to decline further;
- finally, this is an example of the *threat* of being searched arguably having an impact on the behaviour of the supporters, particularly in terms of the likelihood that any would, for example, carry a bottle or other prohibited article.

ANNEX 5: LOTHIAN AND BORDERS AIDE MEMOIR

Page 1

Scottish Executive Stop and Search Project

Purpose of the research	To identify any issues in relation to the use of stop and search powers by Police Forces.
Involvement of the police	Monitoring of stop and search activity for 2 x 4 week periods in D Division, and one division in both Tayside and Strathclyde.
What is being gathered?	Overall data on the pattern of **stops** in the form of a simple record (a five bar gate). Detailed (anonymous) information on persons **stopped and searched**. Information includes basic details about the time and location of the search, basic details about all individuals searched (e.g. their place of residence, gender and race) and information about the outcome of the search.
What will the information be used for?	The research is designed to identify whether or not there are any issues in terms of the pattern of stops and searches, particularly, but not exclusively, in relation to black and minority ethnic groups. The information will be gathered anonymously to prevent confusion between the research and evidence for possible prosecution. **The information will not be used to monitor the performance of individual officers or divisions.**
What will happen to the research?	The research was requested by the Stephen Lawrence Steering Group for Scotland (which includes Government, Police and community representatives) and when completed, it will be presented to them.

SSRP1	
Purpose of form and definition of "search" to be recorded	This form is designed to record data on **all** persons searched – except searches executed under a warrant, searches of prisoners already held in a station, searches of persons entering sports grounds, and sweep searches carried out in licensed premises as part of, for example, Safer Scotland exercises.
SSRP2	
Purpose of form and definition of a "stop" to be recorded	This form is designed to record the overall pattern of stops. A stop is, for the purposes of this research, an encounter instigated by an officer with the purpose of asking a member of the public to account for their movements or to gather information.
Method of use	Use a five bar gate method to simply count the number of persons in each of a number of categories stopped on each shift. The categories relate to age and ethnic group.
Completing the forms	
Procedures	Form SSRP1 should be completed as soon after the encounter as possible, or at the end of a shift if this is not practical. Form SSRP2 should be completed at the end of every shift. Please pass the all completed forms to the officer named in the Operation Order.
Which category to use?	At all times, the choice of which age and ethnic group to use on the form should be made by **you.**

ANNEX 6: SEARCH FORM AND GUIDANCE GIVEN TO OFFICERS

The guidance given to officers in relation to the form used in the research is reproduced here (with a copy of the form used for reference).

STOP and Search Record Form (SSRP1)

Complete this section for every person searched

Pedestrian search □ Car Driver search □ Car Passenger search □

Postcode/home location of person searched: _____

Date of birth/approximate age: _____

Gender: Male □ Female □

Ethnic Code: White □ African/Caribbean □ Chinese/Japanese □ Indian/Pakistani □ Other □

Date of search: _____ Start time: _____ Finish time: _____

Location of search: _____

Reason for initial stop (car or pedestrian): _____

_____

Basis of suspicion leading to search: _____

_____

Stolen property □ Drugs □ Firearms □ Offensive weapon □ Likely to be involved in theft □ Other □

Voluntary search? Yes □ No □   Power[s] used?: _____

Was suspected item found? Yes □ No □

Was anything other than suspected item found? Yes □ No □

Outcome of search of person (only): _____

_____

Complete this section for car driver or passenger search only

Vehicle make: _____ Type: _____ Year: ____   No of passengers: ____

Was car searched ? Yes □ No □

Outcome of search of car (only): _____

_____

OFFICER DETAILS

Officer(s) Issuing (Name/No): _____

Supervisor: _____

The guidance given in relation to the use of this form is set out on the next two pages.

Guidance Notes

Q: Pedestrian search □ Car Driver search □ Car Passenger search □

Notes: Officers should record the role of the individual searched. It is important that one form is completed for each individual searched (e.g. drivers **and** passengers)

Q: Postcode/home location of person searched:

Notes: In order to identify whether there are geographical factors in the pattern of searches, it is essential that information in relation to the home address of the person searched is gathered. Where a person does not know their postcode, a street or identifiable small area should be recorded. Persons with no fixed abode should be recorded as such.

Q: Date of birth/approximate age:

Notes: Again, in order to identify any patterns in the use of searches it is important that accurate information on the age of persons stopped is gathered. The full date of birth is preferable, but a year, or approximate age, can be recorded if, for some reason, this is not available.

Q: Gender: Male □ Female □

Notes: Again, in order to identify any patterns in the use of searches it is important that this is recorded in all cases.

Q: Ethnic Code: White □ African/Caribbean □ Chinese/Japanese □ Indian/Pakistani □ Other □

Notes: This information will be used (as with other basic information) to identify any patterns in the use of searches. The codes used represent the **perception of the officer.** The category "other" should not be used unless absolutely necessary.

Q: Date of search; Start time; Finish time

Q: Location of search:

Notes: These questions are designed to help identify patterns in the use of searches and should be completed as accurately as possible using a street name or other identifiable landmark.

Q: Reason for initial stop *(car or pedestrian)*:

Notes: Officers should record as accurately as possible the reason why a person was initially stopped (for example as a result of information received from a member of the public/CCTV controller, known criminal, person "out of place"). The reason for the stop may be entirely unrelated to the ultimate reason for the search – see next question. Where the person searched initiated the stop, please indicate this.

Q: Basis of suspicion leading to search:

Notes: As noted, the basis of the suspicion leading to the decision to search may be unrelated to the basis for the initial stop (e.g. where suspicion emerges over the course of an encounter, through, for example, answers given to questions asked not appearing to be credible, or where closer contact with the person suggests

that there may be concealed items). Where this is the case, please indicate this here.

Q: Stolen property □ Drugs □ Firearms □ Offensive weapon □ Likely to be involved in theft □ Other □

Notes: This tick box question provides a summary of the main grounds for suspicion which may lead to a search. Please tick all that apply.

Q: Voluntary search? Yes □ No □

Q: Power[s] used?:

Notes: Please indicate whether a search was voluntary, or, if not, which statutory powers were used to carry out the search (e.g. s23 of the Misuse of Drugs Act).

Q: Was suspected item found? Yes □ No □

Q: Was anything other than suspected item found? Yes □ No □

Q: Outcome of search of person (only):

Notes: Please complete this section even where no suspected (or other items) were found. Examples of the outcome of the search may include no further action, suspect arrested following discovery of items, suspect detained for further enquiries (with no items found), or items confiscated.

The second section of the form should be completed only where a driver or passenger of a motor vehicle is searched.

Q: Vehicle make; Type; Year; No of passengers.

Notes: Where a driver and passengers, or more than one passenger is searched, this section need only be completed once, but all forms relating to this vehicle should be clipped together.

Q: Was car searched? Yes □ No □

Q: Outcome of search of car (only):

Notes: Please complete this section only where the **car** was searched in addition to the passengers. In cases where **only** the car was searched, no form should be completed. The outcomes for the search of car could include suspected items found, no items found, suspects arrested, suspects detained for further enquiries. This may be independent from any outcome in relation to the driver or passengers.

In all cases, the officer completing the form should indicate their name and rank in order to allow the researchers to follow up any queries, for example in relation to difficult to read writing. All forms should be seen and countersigned by a supervisory officer.

## ANNEX 7: THE STOP FORM

SUMMARY OF STOPS (SSRP2)

Officer(s) completing (Name/No):_____

Date: _____ Shift commenced: _____ Shift ended: _____

Areas patrolled: _____

Male														
Under 16					16 - 25					25 or over				
W	A/C	I/P	C/J	Oth	W	A/C	I/P	C/J	Oth	W	A/C	I/P	C/J	Oth

Female														
Under 16					16 - 25					25 or over				
W	A/C	I/P	C/J	Oth	W	A/C	I/P	C/J	Oth	W	A/C	I/P	C/J	Oth

Place a mark (in a "5–bar gate" pattern such as this ⊬⊬⊤) in the box for each person stopped.

Codes:
  W =   White
  A/C =   African/Caribbean
  I/P =   Indian, Pakistani, Bangladeshi, Sri Lankan and other south Asian
  C/J =   Chinese, Japanese and other Oriental
  O =   Other

Supervisor:_____

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