

Jack Rice

Dissertation: 'Is the use of stop and search fundamentally racist?'

*“Is the Use of Stop and Search
Fundamentally Racist?”*

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Due to an increase in violent crime, in particularly the use of knives on London's streets has subsequently led to a substantial increase in the murder rate within the Capital. Official figures have reported that within greater London violent offences against the person in 2018 was at a staggering 250,287, a rise of 5.26% from the previous year.¹

This research will consider the particular use of the *Stop and Search* procedure within the Metropolitan Police (The Met). Similar data collected within the same year noted that 52,663 *Section 1 Police and Criminal Evidence Act 1984* (PACE) searches were conducted, 11.9% of these searches were in the densely populated borough of Lambeth, popular with young black individuals². There are currently two schools of thought that suggest that the use of *Stop and Search* is fundamentally racist, or on the contrary that it is a necessary tool in the prevention of crime and disorder. The Met are considered to be the forerunner in most Police procedures and have been very much under the microscope in recent years through various Government reviews and reports, most notably the Steven Lawrence Inquiry³ led by Sir William Macpherson in regard to the use of *Stop and Search* on young black males. This research will consider the value of *Stop and Search* as a deterrent to violent crime and whether the use of such a measure is justifiable and proportionate. In the limited scope of this research, this paper will consider if the use of *Stop and Search* is a deterrent or a racially motivated technique as prompted by many leading academics.

This research will further outline the importance of *Stop and Search*⁴ within a Police officer's armoury, and or when used effectively can be an important tool in the prevention of crime and disorder through intelligence led Policing. Furthermore, this research will conclude to be the value of the debate on this subject matter in that *Stop and Search* is an efficient means in the reduction of such crimes seen throughout the Capital in 2018. Although it is recognised as being a national problem, this research will concentrate on the use of *Stop*

¹ '2017 - 2018 Crime Statistics | The Met | The Met' (*Met.police.uk*, 2019)
<<https://www.met.police.uk/sd/stats-and-data/met/year-end-crime-statistics/>> accessed 18 January 2019

² 'Stop And Search Dashboard | The Met | The Met' (*Met.police.uk*, 2019)
<<https://www.met.police.uk/sd/stats-and-data/met/stop-and-search-dashboard/>> accessed 18 January 2019

³ (*Assets.publishing.service.gov.uk*, 2019)
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf> accessed 18 January 2019

⁴Section 1 Police and Criminal Evidence Act 1984

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and Search by the Metropolitan Police Service (The Met) only. Moreover, this research will also discuss and conclude as to what extent *Stop and Search* has had on communities since its implementation within PACE only.

The necessity for the use of *Stop and Search* and subsequent legislation by the Police remains to be seen as a racist weapon. This research will conclude that the use of *Stop and Search* is a proportionate response in achieving a legitimate aim, is justified in its use and therefore not a racist weapon, however, with the balanced approach necessary to complete a coherent and structured academic debate.

The intense value associated within this research area encompasses the surrounding societal and legal issues faced within the realms of *Stop and Search*. This research will draw effective conclusions as to the impact that such legislation has had within the black communities of London. A demonstration of this would be the inclusion of how the use of *Stop and Search* has not changed since its formation into statute 35 years ago within the PACE Act. This will be supported by considering the style of policing known as 'intelligence led policing'. Over the past three decades *Stop and Search* has evolved and effective measures have been taken to curb the disorder it seeks to quash, ultimately understanding whether there is need for a radical overhaul of what could be argued as draconian legislation. It must be outlined that prior to PACE being implemented as law, information in relation to *Stop and Search* in particular had not been recorded, therefore posing the question of accountability and continuity in England's largest Police force. It could therefore be argued, that the use of PACE merely drew unnecessary attention to the Metropolitan Police Service in their fight against crime and disorder. This allows for the suggestion that through The Met being more accountable, in respect to figures that have highlighted a procedure that was widely used but not always recorded.

It should be noted that the use of *Stop and Search* is only as effective as the Officer conducting the search. Such courses of action can only be used through an honest and reasonable belief when conducting the search.⁵ The use of *Stop and Search* has caused much controversy over recent years especially amongst ethnic minorities, who have argued that the use of such powers is abused by Police officers. Furthermore, it can be ascertained that having effective legislation that aims to prevent incidents of crime through intelligence led *Stop and Search*⁶ procedures is maintained as being essential.

⁵ Section 1(2)a PACE

⁶ *ibid*

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Prior to the introduction of the Police and Criminal Evidence Act (PACE) in 1984, many Police forces in England and Wales relied on unique sets of legislation that enabled Police Officers to permit '*suspected persons*' to a search under *Sections 4 and 6 of the Vagrancy Act 1824*⁷. These were commonly known as the 'Sus laws'⁸. Sus laws would permit a Police Officer to arrest an individual whom they deemed could commit an offence in the near future, with this in mind it became apparent that this would lead to obvious exploitation by many Police Officers. Additional search powers were permitted for Metropolitan Police Officers which is documented in *Section 66 Metropolitan Police Act (1839)*. This piece of legislation allowed officers within the vicinity of London to carry out a search, however, such notions were only recorded for the use of Met officers, therefore once more casting doubt on such accountability.

'*Sus laws*' were subsequently repealed in 1981 following the Bristol and Brixton riots of 1980 and 1981 as it was deemed searches were a trigger point for such civil unrest. In 1983, a Home Office study in London found that The Met were not recording *Stop and Searches*, as it was ascertained that an apparent large element of searches was as a consequence of Police racial stereotyping⁹. The Scarman Report of 1981 only increased the immense scrutiny The Met were subjected to after the riots in Brixton, however, many would conclude that this was necessary due to the malpractices being carried out by Britain's largest force. The brutalities by Police Officers were highlighted in the aforementioned report, however, 'institutional racism' that was later coined the phrase of the early 2000's was not seen to be prevalent.

In an attempt to disrupt disorder and urban crime, The Met once more deployed 'Operation Swamp 81', which primarily focused on the use of *Stop and Search*. The 'Sus law' was used on more than 1000 individuals (many of whom black) in just six days, which inevitably heightened tensions further¹⁰. On the 11th April 1981, tensions reached its climax when following the arrest of a black man in the area, subsequently sparking mass riots not seen in Brixton before.

⁷ *ibid*

⁸ Section 4 of the Vagrancy Act 1824

⁹ C F. Willis, the use, effectiveness and impact of police stop and search powers, Home Office Research and Planning Unit Paper 15, 1983

¹⁰ 'BBC NEWS | UK | The Legacy Of The Brixton Riots' (*News.bbc.co.uk*, 2019)

<<http://news.bbc.co.uk/1/hi/uk/4854556.stm>> accessed 20 February 2019

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It can be determined that the electing of an authoritarian leader in Margaret Thatcher (Thatcher), fuelled many of these atrocities with the lack of employment opportunities for black men in communities such as Brixton in South London and the added factors of ongoing racist tensions prevalent in that era. Furthermore, Thatcher took a tough stance on law and order with a strong emphasis on defeating militant trade unionism with the introduction of legislation. Consequently, such notions only protracted much of the angst seen in 1981. It was in the Government report published by Lord Scarman (Scarman) in 1981 that eluded to many issues surrounding the deteriorating of Police-Black relations, such as the worsening of socio-economic problems of that time that subsequently highlighted many deep-rooted problems of that period, which can be seen to be repeated within the Tottenham Riots of 2011. In digression, within the Tottenham Riots of 2011, race tensions were seen to be at an all-time high and were only seen to be quelled by the promise of further co-operation between key figureheads, as was the case 30 years prior. Scarman concluded that whilst the use of *Stop and Search* was a necessary tool, the state of the law in this area was '*a mess*'¹¹. Within the same year, a similar report conducted by Sir Cyril Philips (Philips) elaborated further from Scarman and recommended that there needed to be a radical overhaul of Police powers¹². From these recommendations of both Scarman and Philips, the introduction of PACE came into fruition. More specifically, section 3¹³ of the Act presented the requirement that Police officers make a record of all searches whilst also giving the option to the individual of having the right to a search copy. This single recommendation made substantial gains for the safeguards of the many abuses of power at an Officers disposal. In a stark response to the recommendations and the subsequent implementation of PACE, Sir Kenneth Newman who was the Metropolitan Police Commissioner in defence of his officers claimed that the statistics were '*intelligence led*'.

Nevertheless, the use of the aforementioned powers by Police Officers were deemed to be fundamentally flawed in respect to an abuse of power and consequently, PACE paved the way for greater accountability and transparency for English Policing. Essentially, PACE allowed Police Officers the flexibility of '*reasonable suspicion*' whereby practically would provide sufficient certainty in meeting the many safeguarding issues highlighted within the two previous reports. It must be ascertained however, that within PACE, codes of conduct are strictly enforced and must be fully complied with to stay within the confines of the law. In

¹¹ Home Office, The Brixton Disorders 10-12 April 1981, Report of an Inquiry by the Rt Hon The Lord Scarman O.B.E., Cmnd 8427, November 1981, paragraph 8.58

¹² The Royal Commission on Criminal Procedure, chairman Sir Cyril Philips, Cmnd 8092, January 1981

¹³ Section 3 Police and Criminal Evidence act 1984

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particularly, within the *Police and Criminal Evidence Act 1984*, codes of practice are implemented in setting out to strike the correct balance between the powers of the Police and the rights and freedoms of the public whom they are there to serve.¹⁴ The maintaining of this balance is an essential element of PACE. These codes cover; *the ability for a warranted officer to stop and search, the power to arrest, detain, investigate, interview detainees and the right to require identification*¹⁵. These key elements of a Police officer's disposal are an integral part to their day-to-day roles and prevention of crime, these codes of practice look to aide a Police officer and must be used whilst maintaining the correct balance of rights of individuals.

The powers for a warranted Officer to *Stop and Search* is to enable Police officers to allay or confirm suspicions about individuals without exercising their power of arrest¹⁶. The most frequently used tool is *section 1*¹⁷, which allows the power of a Constable to *Stop and Search persons, vehicles etc.*¹⁸ However, the legislation states that there must be '*reasonable grounds to suspect*'.¹⁹ This in itself is a very broad category and could be open to abuse by Police officers, as not only is it subjective by its very nature but could exploit stereotypical connotations. Moreover, a Police officer must satisfy the legal test found within *Code A of PACE 2.2* before they can stop and search²⁰.

The test of Code A would be applied within its own particular circumstances based on whether; *The officer in question has a genuine suspicion in their own mind that they will find the object for which the search power was exercised, and the suspicion that the object will be found must be reasonable, there must be an objective viewpoint for that suspicion based*

¹⁴ 'Police And Criminal Evidence Act 1984 (PACE) Codes Of Practice' (GOV.UK, 2019) <<https://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice>> accessed 10 January 2019

¹⁵ *ibid*

¹⁶ Home

Office, *Code of Practice for the Exercise by Police Officers of Statutory Powers of Stop and Search, Code A* (London: Home Office, 2005). (Hereafter, 'Pace Code **A**') at [1.4].

¹⁷ S1 Police and Criminal Evidence Act 1984

¹⁸ 'Police And Criminal Evidence Act 1984' (*Legislation.gov.uk*, 2019)

<<https://www.legislation.gov.uk/ukpga/1984/60/part/I>> accessed 11 January 2019

¹⁹ *ibid*

²⁰ (*Assets.publishing.service.gov.uk*, 2019)

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/414195/2015_Code_A_web-19-03-15.pdf> accessed 11 January 2019

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*on intelligence or information that the object in question would be found*²¹. The intelligence and information must be accurate at all times. The key issue here lies with the term 'objectivity'; therefore, it must be highlighted that personal factors cannot support reasonable grounds for suspicion, however, that is not to say that in reality this can never be ruled out. A person's race, faith, appearance, background or whether it is known that the individual(s) in question has a previous conviction can never be used in conjunction for the purposes of the Act.

It has since been established that within the black community, the use of *Stop and Search* has not been a proportionate and legitimised tool, but an act of infringement and in some circumstances deemed racist. Laurence Lustgarten (Lustgarten), in the Criminal Law Review²², establishes that the vast majority of searches under PACE are in-fact unlawful as they do not satisfy the test of '*reasonable suspicion*'.

The only lawful remedy in such courses would be within *Article 6 of the Human Rights Act 1998*²³. Lustgarten further establishes that black people were five times more likely to be stopped and searched than their white and Asian counter-parts²⁴ which only further solidified the previous reports of Scarman and Smith.

Within a recently released report by The Met, 61,850 black males were *Stop and Searched* under Section 1 of PACE in the months from January 2018 until January 2019²⁵. This was an increase of 11,000 on their white counterparts. The London borough of Lambeth, which historically has had a large black community, gained the most amount of *Stop and Searches* accounting for 24,209²⁶. Within these figures lie specific offences, most commonly offensive weapons searches which saw a spike in Autumn 2018. As a stark contradiction, murder in the Capital rose 116% from the month of July to August as seven more murders were committed in London²⁷ raising the question and validity of such *Stop and Searches* being carried out.

²¹ *ibid*

²² L Lustgarten, 'The Future Of Stop And Search' [2002] Criminal Law Review page 1

²³ Article 6 of the Human Rights Act 1998

²⁴ L Lustgarten, 'The Future Of Stop And Search' [2002] Criminal Law Review page 3

²⁵ 'Stop And Search Dashboard | The Met | The Met' (*Met.police.uk*, 2019)
<<https://www.met.police.uk/sd/stats-and-data/met/stop-and-search-dashboard/>> accessed 6 March 2019

²⁶ *ibid*

²⁷ *ibid*

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The Police and Criminal Evidence Act was introduced by Parliament in 1984 for a variety of reasons, most notably to bring back public confidence in Her Majesty's Constabulary, as well as to further accountability of Police officers. Additionally, PACE introduced a responsibility for the Police service to adhere to procedures and protocol. As previously stated, the aforementioned damning report by Lord Scarman was essential in the implementation of PACE. It is essential in knowing that the Act's legislative purpose was to unify many sets of outdated laws into one unified code which would further outline the balance of Police powers with the rights of state citizens. On the other hand, 35 years since the implementation of PACE has still highlighted many fundamental flaws in Police accountability and transparency. Infamous cases from The Birmingham Six to the case of John Joseph Cumminsky, who was jailed in 1985 following an investigation into the since disbanded West Midlands Serious Crime Unit.²⁸ Such investigations by the West Midlands Serious Crime Unit have further suggested to the mass discrepancies within Policing even since the implementation of PACE in 1984, which arguably looked to bring back confidence in British Policing. Many such instances were deemed to be knee-jerk reactions and subsequently led to the quashing in many of the aforementioned cases.

Within section 1 of *Police and Criminal Evidence Act 1984*²⁹ lies the power for a warranted officer to carry out a search, furthermore according to the Home Office, *Stop and Search* powers allow the Police to 'combat street-crime and, anti-social behaviour and to prevent more serious crime occurring'³⁰. Within code A of PACE³¹, it is affirmed that a Police officer should use his powers in accordance with code A as to; *prevent crime occurring in the first place, detect crime when it has been committed, make communities safer, increase public confidence and trust in their local Police service and provide the Police with intelligence to help tackle problems*.³² With this in mind, the previous Home Secretary and current Prime Minister Theresa May (May) outwardly made it her objective to restrict a Police officer in their ability to use a section 1 PACE search through two reasons. May affirmed that the

²⁸ 'BBC NEWS | England | Coventry/Warwickshire | Robbery Conviction Quashed' (News.bbc.co.uk, 2019) <http://news.bbc.co.uk/1/hi/england/coventry_warwickshire/3245076.stm> accessed 18 March 2019

²⁹ Police and Criminal Evidence act 1984

³⁰ <<http://www.homeoffice.gov.uk/police/powers/stop-and-search/>>. Accessed March 11 2019

³¹ (Assets.publishing.service.gov.uk, 2019) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/414195/2015_Code_A_web-19-03-15.pdf> accessed 10 March 2019

³² *ibid*

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Government was concerned to what extent a Police officer used his powers by way of fairness to individuals and building community relations rather than undermining it. It must be added that when the initial Act of Parliament was ordained in 1984, community relations were not at the forefront when the United Kingdom's largest Police force were combatting a spiralling rate of knife crime, nor was there intention to act under the immense scrutiny of the fight against violent disorder and scathing public sector cuts. Further to this point in regard to accountability, in 1984 Police officers did not have the fortuitous assistance of a body-worn camera, something the previous Met Police Commissioner Sir Bernard-Hogan Howe was insistent on being rolled out prior to May's warnings.³³

The use of *Stop and Search* was further prompted to be in jeopardy as in January 2014, Prime Minister David Cameron delayed plans before Christmas for the use of *Stop and Search* to be curbed, much to the dismay of Theresa May as it was viewed by her as 'political suicide'³⁴ Additionally, PACE even amongst its critics is still seen as being a fundamental and necessary tool in the disruption of violence and disorder. It was never Parliament's intention for the use of a vast piece of legislation to be abused by a few bad apples, nor was it the intention of Parliament to see successive Governments submit scathing inquiries into its use during arguably some very troubling times. Parliament did anticipate the changing of society from its introduction in 1984, much as it anticipated the legislature to amend and fit the requirements in a modern Britain. Furthermore, with many codes of practice being morphed into PACE, most notably codes C, F and H in 2018.³⁵ The Met and wider Police Service can only use the tools that they are provided with and therefore it is important in understanding the use of a Police officer's discretion and the importance of such an instrument within their duty. The Police often discover crime when acting upon instinct, but such suspicion as they have is seldom in relation to any particular offence, therefore, rarely is it 'reasonable' in terms of the due process norms of section 1 PACE.

³³ Home Office Consultation on police powers of stop and search September 2013 The Police Foundation accessed 12 March 2019

³⁴ Dominiczak P, 'Theresa May Clashes With David Cameron Over Stop-And-Search' (*Telegraph.co.uk*, 2019) <<https://www.telegraph.co.uk/news/uknews/law-and-order/10588866/Theresa-May-clashes-with-David-Cameron-over-stop-and-search.html>> accessed 13 March 2019

³⁵ 'Police And Criminal Evidence Act 1984 (PACE) Codes Of Practice' (*GOV.UK*, 2019) <<https://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice#pace-codes-of-practice>> accessed 13 March 2019

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As previously discussed, the codes of practice within the Police and Criminal Evidence Act merely look to aid the current legislation as well as conforming to other laws in accordance with Police powers. PACE as is currently known will no doubt mutate further to accustom to how society wishes it to be used in the future. Currently in 2019, section 1 PACE is under much scrutiny and has taken many plaudits in its combat against a current spate of knife crime. Ascertainably, section 1 PACE searches in all regard must be carried out with the Police officer having a reasonable suspicion, much to the contrary of a section 60 Criminal Justice and Public Order Act 1994³⁶ whereby the reasonable suspicion element is not a requirement. In stark contrast, Lord Bingham in the leading case of *Gillan and Quinton v United Kingdom*³⁷ affirmed that:

"The safeguards introduced in PACE, i.e. the requirement of reasonable suspicion and check via the requirement of record-keeping, did not end controversy, partly because of the problem of searches with "consent". The section 3 requirement to make records only applied if there was a search, not to a stop which did not lead to a search, and arguably the requirements did not apply if the search was voluntary rather than using the powers under PACE."

This further outlined that even with such safeguards in place, the original Act of Parliament was still liable to fundamental flaws and Lord Carlisle argues the disproportionality of such notions. From this, it raises the question as to whether *Stop and Search* is a long-term solution to an ongoing murder problem in London. It is simply not a sustainable act to simply flood the Capital's streets and boroughs with an already overstretched force. London Mayor Sadiq Khan sought to 'significantly increase' *Stop and Search* in the early part of 2018³⁸, however Murder in the Capital rose to 135, its highest since 2008³⁹.

³⁶ S60 Criminal Justice and Public Order Act 1994

³⁷ *Gillan and Quinton v United Kingdom* (Application no 4158/05)

³⁸ 'Stop And Search Will 'Significantly Increase' To Fight Violent Crime In London, Sadiq Khan Says' (*The Independent*, 2019) <<https://www.independent.co.uk/news/uk/crime/sadiq-khan-stop-search-london-crime-plan-violence-police-metropolitan-stabbings-acid-murder-moped-a8152371.html>> accessed 18 March 2019

³⁹ Torpey P, P GutiérrezC Levett, 'London Killings In 2018: How Homicides In The Capital Rose To A Decade High' (*the Guardian*, 2019) <<https://www.theguardian.com/cities/ng-interactive/2019/jan/14/london-killings-2018-homicides-capital-highest-decade-murders>> accessed 18 March 2019

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In the *British Journal of Criminology*, 'Does stop and search deter crime? Evidence from ten years of London-wide data'⁴⁰:

"Present research findings on the influence of Stop and Search on criminal activity in London and by using fixed-effect regression models and interrupted time-series analysis, it was concluded that the deterrent effect of Stop and Search is minor".

Consequently, further clarifying the knee-jerk responses by successive Governments in the midst of a spiralling murder rate in England's Capital, considering the question whether *Stop and Search* is the only available tool to try and stem the ongoing blood-shed.

Moreover, from the debate of whether *Stop and Search* is in fact a necessary tool in the combatting of violence and disorder or whether indeed like many critics argued, was a racist weapon came the long-awaited Stephen Lawrence Inquiry in 1999, most notably known as the 'Macpherson Report'⁴¹. Lord William Macpherson was appointed by the newly formed Labour Government to root out racism within Britain's largest Police Constabulary, The Met. Jack Straw, the former Home Secretary hailed the report as being, "The inquiry into the matters arising from the death of Stephen Lawrence on 22 April 1993 to date, in order particularly to identify the lessons to be learned for the investigation and prosecution of racially motivated crimes"⁴². However, many critics including the current Cabinet Minister Michael Gove labelled the report as being 'an outrage' and "The Conservatives could defend public servants from the unjust, unproven and demoralising charge of 'institutional racism'"⁴³. Quite a statement from an individual who did not think it was necessary to abolish Capital Punishment.

Macpherson, a retired High Court Judge was advised by Tim Cook, (a retired Deputy Chief Constable), Dr John Sentamu and Dr Richard Stone, all of whom had swathes of experience in community, legal and social relations. Within the 350-page report, Macpherson concluded that the death of Stephen Lawrence in 1993 had been "*marred by a combination of*

⁴⁰ Tiratelli M, P Quinton B Bradford, 'Does Stop And Search Deter Crime? Evidence From Ten Years Of London-Wide Data' (2018) 58 *The British Journal of Criminology*

⁴¹ ([Assets.publishing.service.gov.uk](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf), 2019)
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf> accessed 20 March 2019

⁴² *ibid*

⁴³ Aitkenhead D, 'Michael Gove: The Next Tory Leader?' (*the Guardian*, 2019)
<<https://www.theguardian.com/politics/2012/oct/05/michael-gove-next-tory-leader>> accessed 20 March 2019

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*professional incompetence, institutional racism and a failure of leadership*⁴⁴. As a consequence of this damning report, 70 recommendations were put forward that would demonstrate a zero-tolerance approach to racism in society. The report outlined the need for a transformation of Police attitudes that regarded race relations, as well as increased accountability. In addition, the National Health Service (NHS) Judiciary and Civil Service were all expected to follow suit and from this the debate about Policing and racism was transformed by the inquiry and must be carried forward. The aforementioned report, however, did cause much controversy especially as time moved on from 1999, most notably at labelling The Met as 'institutionally racist'. The current Metropolitan Police Commissioner Cressida Dick criticises the very notion that The Met as a collective are institutionally racist at all and goes as far to say such connotations are not helpful, nor are they accurate⁴⁵.

Data and reports collated from the Police Service of Northern Ireland (PSNI) in the journal, '*Assessing the Impact of The Stephen Lawrence Inquiry*⁴⁶ concluded that officers felt the Macpherson Report primarily put The Met, as an individual entity under the microscope when it came to *Stop and Search* and the dealing of black prisoners, rather than nation-wide Police constabularies. One Detective Sergeant in the PSNI asserted that, "*We haven't changed our practice at all. We deal with coloured people the same as we did one year ago, five years ago*"⁴⁷. This very statement represents the points Macpherson alluded to in his report and thus it could be argued the coining of the term 'institutionally racism' throughout British policing was indeed evident. For something to be 'institutionally racist' that specific body must not be overt in its actions, therefore not subverting itself to the status quo of outright racism. Additionally, it can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people⁴⁸. In simple terms, a collective failure.

⁴⁴ Quinn B, 'Macpherson Report: What Was It And What Impact Did It Have?' (*the Guardian*, 2019) <<https://www.theguardian.com/uk-news/2019/feb/22/macpherson-report-what-was-it-and-what-impact-did-it-have>> accessed 20 March 2019

⁴⁵ 'Are The Police Still Institutionally Racist?' (*BBC News*, 2019) <<https://www.bbc.co.uk/news/uk-47300343>> accessed 20 March 2019

⁴⁶ Buchanan J, 'Assessing The Impact Of The Stephen Lawrence Inquiry' (2006) 53 *Probation Journal*

⁴⁷ *Ibid*

⁴⁸ 'What Is Institutional Racism?' (*the Guardian*, 2019) <<https://www.theguardian.com/uk/1999/feb/24/lawrence.ukcrime7>> accessed 20 March 2019

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Beyond from this, 20-years on from Macpherson's report and the question still lies, is The Met along with many of the other Police forces in the United Kingdom still 'institutionally racist'? Well, on the face of it, no and there is good reason for that response. Since the report was published in 1999, it is worth noting that it is evident the use of *Stop and Search* has some worrying trends as highlighted in Kiron Reid's, 'Race issues and stop and search: looking behind the statistics' Journal. It is also worth outlining that immediately after the publication of the Stephen Lawrence Inquiry, *Stop and Searches* fell drastically⁴⁹ however, in 2001 the use of such powers substantially increased. This data could partly be evidenced by the 9/11 terrorist attacks and the misuse of newly introduced statutory powers that were designed specifically for the stop and search of individuals regarding terrorist offences⁵⁰.

In light of this data, many Police forces nation-wide put forward strong and coherent arguments to defend such actions, most notably Merseyside Police who maintained that the use of *Stop and Search* was not a clear appearance of discrimination, but that there was more crime in inner-city areas whereby the majority of ethnic minorities lived, there was also higher than average unemployment and the increased likelihood of *Stop and Searches* being conducted, thus further inflating the figures⁵¹. Merseyside Police contested the notion that the grossly inflated figures were a primary link to racial discrimination by its officers, but for reasons previously stated and the following up of recommendation 61⁵² set out in Macpherson's report which outlined the need to record all *Stops* as well as *Stop and Searches*.

Nevertheless, in respect of the many findings, many individuals in modern Britain still perceive the Police as being a racist institution as was highlighted in a recent BBC Radio 4 debate, '*Beyond Today – Are the Police Still Racist*'⁵³. It was stressed that Macpherson's report still resonates in society today as it did 20 years-ago and that great progress has

⁴⁹ Reid K, 'Race Issues And Stop And Search: Looking Behind The Statistics' (2009) 73 The Journal of Criminal Law

⁵⁰ Terrorism Act 2000

⁵¹ Reid K, 'Race Issues And Stop And Search: Looking Behind The Statistics' (2009) 73 The Journal of Criminal Law

⁵² (*Assets.publishing.service.gov.uk*, 2019)

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf> accessed 25 March 2019

⁵³ 'Beyond Today - Are The Police Still Racist? - [Object Object] - BBC Sounds' (*BBC*, 2019) <<https://www.bbc.co.uk/sounds/play/p0736tph>> accessed 20 March 2019

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been made since 1999. As a consequence, the term 'institutional racism' is still a prevalent factor in the daily lives today of many ethnic minority communities, especially within London.

In critique of Macpherson, Sir Ian Blair (Sir Ian) noted that The Met were not racist but, "*treated people in a very monochrome way*"⁵⁴. Blair did concede that the aforementioned report did highlight many fundamental flaws in Policing that needed to change and as a result did. Ten years after the report, Sir Ian's successor Sir Paul Stephenson marked the 10-year anniversary by declaring the Police had made substantial improvements but that there was still pockets of bigotry and stupidity⁵⁵.

In credit to Macpherson, he put his head above the parapet in much regard and outlined many serious issues within The Met and as a consequence to that, radical changes have since taken place. It must be added that the report has stood the test of time through many an unstable period. With great strides taken place, there still are large swathes of Black communities in London that are resentful of The Met because of tactics used, past and present. Macpherson further alluded that there must be radical change and that it would not happen over-night but for a process of steady changes in attitudes. In addition, Macpherson would not have foreseen the deterioration of race relations towards the end of the 2000's within London, nor would he have foreseen the changing of society in the twenty years since its publication however, he would have anticipated the need for change further on from his report and what the future holds for the use of *Stop and Search*.

With a rising murder rate on London's streets, even into early 2019 many leading politicians and high-ranking Police officers are pondering how *Stop and Search* could well alleviate such surrounding issues. This being acknowledged, the future use of *Stop and Search* has been put into much jeopardy due to the increased scrutiny surrounding in particularly, The Met. Arguably, it is of much debate whether *Stop and Search* does in fact curb violent crime or whether it merely alienates individuals and simply fails to act as a deterrent. It is evident that *Stop and Search* in its current format, is by far the most controversial and single source of animosity between The Met and ethnic minorities. This being said, it must be ascertained that the use of *Stop and Search* is not doomed as Lustgarten suggests in the Criminal Law Review, '*The Future of Stop and Search*' where he affirmed that 'more effective *Stop and*

⁵⁴ Mulholland H, 'Met Police 'Not Racist' During Stephen Lawrence Case, Says Ian Blair' (*the Guardian*, 2019) <<https://www.theguardian.com/politics/2009/apr/06/met-police-not-racist-stephen-lawrence>> accessed 20 March 2019

⁵⁵ *ibid*

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Searches could pass legal muster'.⁵⁶ In other words, Lustgarten asserts the fundamental use of *Stop and Search* within PACE has key flaws in its legality.

Lustgarten questions the legality of PACE *Stop and Searches* due to the data gathered, proving that such findings were not in the prevention of crime, but for other purposes such as 'social control'.⁵⁷ The question of reasonable suspicion has been a topic of much debate. Many of these debates oscillating around the very notion of reasonable suspicion and whether malpractice is an infringement on an individual's human rights. Contrastingly, from February 2017 until February 2019, 24,397 Section 1 PACE *Stop and Searches* in the borough of Lambeth accounted to 51,200 arrests, a primarily black area. Strikingly, the most significant number being for drug offences and possession of offensive weapons at a combined 67%. Individuals from black ethnic backgrounds account for 91,145 of the population in Lambeth, being searched 8248 times, whereas their white counterparts account for 173,025 were also searched 3487 times⁵⁸. This data shows that intelligence led *Stop and Searches* on individuals whether black or white, lead to significant arrests, yet it does not show any form of 'institutional racism'. The Met must not be complacent, as it must be reminded that there is no single solution to tackling serious crime, particularly instances with knives and extreme violence.

The current Home Secretary, Sajid Javid argued that there were no short cuts in tackling knife crime⁵⁹. The Met's Assistant Commissioner, Graham McNulty said that "*tackling violent crime remains The Met's top priority*"⁶⁰, adding further that over the course of three days in March 2019, 2500 *Stop and Searches* had been conducted. Current Merseyside Police Chief Constable, Andy Cook said it was simply about criminality, not race⁶¹.

The future of *Stop and Search* as is known today being used in accordance with PACE is a steady leaking ship and evidence of this only from the dramatic decline in its use.

⁵⁶ Lustgarten L, 'The Future Of Stop And Search' [2002] Criminal Law Review

⁵⁷ *ibid*

⁵⁸ 'Stop And Search Dashboard | The Met' (*Met.police.uk*, 2019) <<https://www.met.police.uk/sd/stats-and-data/met/stop-and-search-dashboard/>> accessed 28 March 2019

⁵⁹ 'No Shortcuts To Beating Knife Crime - Javid' (*BBC News*, 2019) <<https://www.bbc.co.uk/news/uk-47440487>> accessed 28 March 2019

⁶⁰ *ibid*

⁶¹ Geoghegan R Geoghegan, 'The Truth About Stop And Search | Coffee House' (*Coffee House*, 2019) <<https://blogs.spectator.co.uk/2018/09/the-truth-about-stop-and-search/>> accessed 28 March 2019

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Accordingly, as part of a Government initiative 'It Can Be Stopped'⁶² in 2008/09, PACE searches were at 600,000 annually in London alone, whereas nearly a decade later that figure is at around 125,000⁶³. The drastic increase in section 60, *Stop and Searches* in the wake of many stabbings in London has pondered the question of the accountability of The Met. Within March 2019 it was suggested by the Home Secretary, Sajid Javid that current thresholds of reasonable suspicion need not be satisfied in the combat of violence and serious disorder in England's cities. In the current political and social climate, PACE searches still have their place and will be heavily relied upon as an essential tool in a Police officer's armoury, however, only whilst the blood-shed keeps on occurring. It is evident to see that section 60 is the preferred tool for many such instances⁶⁴.

In light of the recent events in London, most notably the spiralling murder rate, the debate surrounding what is deemed to be reasonable suspicion, which is a prerequisite for any PACE search has come under much analysis. Lustgarten further argues that statistically, a very large number of searches under PACE do not satisfy the test of 'reasonable suspicion' and outlines the low strike rate of arrests made as a consequence.⁶⁵ It must be demonstrated that such statistics do not evidence a wider issue nor a sign of the times of modern policing as it can be further maintained that searches in general do little to contribute to the overall conviction of offenders. In contrast, what can be said is the notion of intelligence led policing that is demonstrated on a day-to-day basis is the only way of taking knives and other illicit items off the UK's streets. Moreover, the Home Secretary has loosened the leash for Police forces up and down the country to detain serious and violent offenders so long as the threshold is met, therefore squandering the many arguments of institutional racism. PACE searches are certainly here to stay in a forward-thinking Police Service.

Within the much-debated arena of *Stop and Search*, it can be argued that the label '*institutional racism*' is certainly one for The Met of old. *Stop and Search* within London

⁶² (*Centreforsocialjustice.org.uk*, 2019) <<https://www.centreforsocialjustice.org.uk/core/wp-content/uploads/2018/09/CSJJ6499-Gangs-Report-180911-FINAL-WEB.pdf>> accessed 28 March 2019

⁶³ *ibid*

⁶⁴ 'More Police Allowed To Use Stop And Search Powers To Combat Knife Crime' (*Sky News*, 2019) <<https://news.sky.com/story/more-police-allowed-to-use-stop-and-search-powers-to-combat-knife-crime-11679311>> accessed 2 April 2019

⁶⁵ Lustgarten L, 'The Future Of Stop And Search' [2002] *Criminal Law Review*

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specifically over the last ten years has demonstrated that it is an essential tool in the fight against serious crime and disorder. Additionally, what must be eluded to is how attitudes towards Britain's largest force has also played a key role in the fight against such crime as the evidence shows, gradually *Stop and Search* has slowly dwindled in the last ten years through reasons previously stated.

Sir William MacPherson in the Stephen Lawrence report outlined many fundamental changes that needed to occur for The Met to evolve into a force fit for the 21st century. It can be safely said that those changes have since been met with ease and without much resistance. MacPherson could, however, not anticipate the drastic impact terrorism and other major sources of crime would have on the city of London in the twenty years after his publication nor could he anticipate the unforeseen blood shed knife crime has brought to London's streets in 2018. Arguably, attitudes within The Met have since changed through successive Governments and the way in which data is collated and transferred has never been so prevalent and transparent for all to access. With this in mind, the extraordinary amount of accountability The Met are expected to adhere to will only increase as time moves forward, but only for the good as it is shown that greater scrutiny follows greater procedures and wider public benefit.

Crime within London has changed dramatically since the implementation of Lord Scarman's report in 1981. Scarman's report outlined many necessary changes that were implemented, however, with crime in London evolving and race tensions still at its peak, it would take many years for The Met to fully understand the wider scope of this horrid situation.

With the development of heightened serious violent crime and disorder heading into the late 2000's, the need for the loosening of police powers is a necessary tool in the combat of such instances, furthermore, the latest revelations by the current Home Secretary have demonstrated an easement of such atrocities seen in 2018. It must be reminded that The Met not be complacent, and the legislation is only half of the battle when combatting such atrocities as it has been proven as time gone by, that community relations and strong foundations within core pillars of society will ultimately prove successful in crime prevention.

It should be conceded that the current trend of violent crime within London is predominantly being committed by young black males. Young black males are also the victims of such murders, therefore, the fundamental element of proportionality that establishes a key pillar in English Law is satisfied when the aforementioned demographic is expectedly searched. On the other hand, it must be reminded that evidence suggests The Met do not target young

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black males for *Stop and Searches* but use live intelligence to counter the threat and as a result, the use of *Stop and Search* is not fundamentally racist.

Bibliography

1. ¹ '2017 - 2018 Crime Statistics | The Met | The Met' (*Met.police.uk*, 2019)
<<https://www.met.police.uk/sd/stats-and-data/met/year-end-crime-statistics/>> accessed 18 January 2019
2. ¹ 'Are The Police Still Institutionally Racist?' (*BBC News*, 2019)
<<https://www.bbc.co.uk/news/uk-47300343>> accessed 20 March 2019
3. ¹ 'BBC NEWS | England | Coventry/Warwickshire | Robbery Conviction Quashed' (*News.bbc.co.uk*, 2019)
<http://news.bbc.co.uk/1/hi/england/coventry_warwickshire/3245076.stm> accessed 18 March 2019
4. ¹ 'BBC NEWS | UK | The Legacy Of The Brixton Riots' (*News.bbc.co.uk*, 2019)
<<http://news.bbc.co.uk/1/hi/uk/4854556.stm>> accessed 20 February 2019
5. ¹ 'Beyond Today - Are The Police Still Racist? - [Object Object] - BBC Sounds' (*BBC*, 2019) <<https://www.bbc.co.uk/sounds/play/p0736tph>> accessed 20 March 2019
6. ¹ 'More Police Allowed To Use Stop And Search Powers To Combat Knife Crime' (*Sky News*, 2019) <<https://news.sky.com/story/more-police-allowed-to-use-stop-and-search-powers-to-combat-knife-crime-11679311>> accessed 2 April 2019

Jack Rice

Dissertation: 'Is the use of stop and search fundamentally racist?'

7. ¹ 'No Shortcuts To Beating Knife Crime - Javid' (*BBC News*, 2019)
<<https://www.bbc.co.uk/news/uk-47440487>> accessed 28 March 2019
8. ¹ 'Police And Criminal Evidence Act 1984 (PACE) Codes Of Practice' (*GOV.UK*, 2019)
<<https://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice>> accessed 10 January 2019
9. ¹ 'Police And Criminal Evidence Act 1984 (PACE) Codes Of Practice' (*GOV.UK*, 2019)
<<https://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice#pace-codes-of-practice>> accessed 13 March 2019
10. ¹ 'Police And Criminal Evidence Act 1984' (*Legislation.gov.uk*, 2019)
<<https://www.legislation.gov.uk/ukpga/1984/60/part/I>> accessed 11 January 2019
11. ¹ 'Stop And Search Dashboard | The Met | The Met' (*Met.police.uk*, 2019)
<<https://www.met.police.uk/sd/stats-and-data/met/stop-and-search-dashboard/>>
accessed 18 January 2019
12. ¹ 'Stop And Search Dashboard | The Met | The Met' (*Met.police.uk*, 2019)
<<https://www.met.police.uk/sd/stats-and-data/met/stop-and-search-dashboard/>>
accessed 6 March 2019
13. ¹ 'Stop And Search Will 'Significantly Increase' To Fight Violent Crime In London, Sadiq Khan Says' (*The Independent*, 2019)
<<https://www.independent.co.uk/news/uk/crime/sadiq-khan-stop-search-london-crime-plan-violence-police-metropolitan-stabbings-acid-murder-moped-a8152371.html>>
accessed 18 March 2019
14. ¹ 'What Is Institutional Racism?' (*the Guardian*, 2019)
<<https://www.theguardian.com/uk/1999/feb/24/lawrence.ukcrime7>> accessed 20 March 2019
15. ¹ (*Assets.publishing.service.gov.uk*, 2019)
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf> accessed 18 January 2019
16. ¹ (*Assets.publishing.service.gov.uk*, 2019)
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/414195/2015_Code_A_web-19-03-15.pdf> accessed 11 January 2019
17. ¹ (*Assets.publishing.service.gov.uk*, 2019)
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/414195/2015_Code_A_web-19-03-15.pdf> accessed 10 March 2019
18. ¹ (*Assets.publishing.service.gov.uk*, 2019)
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf> accessed 20 March 2019

Jack Rice

Dissertation: 'Is the use of stop and search fundamentally racist?'

19. ¹ (*Assets.publishing.service.gov.uk*, 2019)
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf> accessed 25 March 2019
20. ¹ (*Centreforsocialjustice.org.uk*, 2019)
<<https://www.centreforsocialjustice.org.uk/core/wp-content/uploads/2018/09/CSJJ6499-Gangs-Report-180911-FINAL-WEB.pdf>> accessed 28 March 2019
21. ¹ <<http://www.homeoffice.gov.uk/police/powers/stop-and-search/>>. Accessed March 11 2019
22. ¹ Aitkenhead D, 'Michael Gove: The Next Tory Leader?' (*the Guardian*, 2019)
<<https://www.theguardian.com/politics/2012/oct/05/michael-gove-next-tory-leader>>
accessed 20 March 2019
23. ¹ Article 6 of the Human Rights Act 1998
24. ¹ Buchanan J, 'Assessing The Impact Of The Stephen Lawrence Inquiry' (2006) 53
Probation Journal
25. ¹ Dominiczak P, 'Theresa May Clashes With David Cameron Over Stop-And-Search'
(*Telegraph.co.uk*, 2019) <<https://www.telegraph.co.uk/news/uknews/law-and-order/10588866/Theresa-May-clashes-with-David-Cameron-over-stop-and-search.html>>
accessed 13 March 2019
26. ¹ Geoghegan R Geoghegan, 'The Truth About Stop And Search | Coffee House' (*Coffee House*, 2019) <<https://blogs.spectator.co.uk/2018/09/the-truth-about-stop-and-search/>>
accessed 28 March 2019
27. ¹ *Gillan and Quinton v United Kingdom* (Application no 4158/05)
28. ¹ Home Office Consultation on police powers of stop and search September 2013The
Police Foundation accessed 12 March 2019
29. ¹ Home Office, The Brixton Disorders 10-12 April 1981, Report of an Inquiry by the Rt
Hon The Lord Scarman O.B.E., Cmnd 8427, November 1981, paragraph 8.58
30. ¹ Home
Office, *Code of Practice for the Exercise by Police Officers of Statutory Powers of Stop and Search*,
Code A (London: Home Office, 2005). (Hereafter, 'Pace Code **A**') at [1.4].
31. ¹ L Lustgarten, 'The Future Of Stop And Search' [2002] Criminal Law Review page 1
32. ¹ L Lustgarten, 'The Future Of Stop And Search' [2002] Criminal Law Review page 3
33. ¹ Lustgarten L, 'The Future Of Stop And Search' [2002] Criminal Law Review page 8
34. ¹ Lustgarten L, 'The Future Of Stop And Search' [2002] Criminal Law Review page 9
35. ¹ Mulholland H, 'Met Police 'Not Racist' During Stephen Lawrence Case, Says Ian Blair'
(*the Guardian*, 2019) <<https://www.theguardian.com/politics/2009/apr/06/met-police-not-racist-stephen-lawrence>> accessed 20 March 2019
36. ¹ Police and Criminal Evidence act 1984

Jack Rice

Dissertation: 'Is the use of stop and search fundamentally racist?'

37. ¹ Quinn B, 'Macpherson Report: What Was It And What Impact Did It Have?' (*the Guardian*, 2019) <<https://www.theguardian.com/uk-news/2019/feb/22/macpherson-report-what-was-it-and-what-impact-did-it-have>> accessed 20 March 2019
38. ¹ Reid K, 'Race Issues And Stop And Search: Looking Behind The Statistics' (2009) 73 *The Journal of Criminal Law*
39. ¹ Reid K, 'Race Issues And Stop And Search: Looking Behind The Statistics' (2009) 73 *The Journal of Criminal Law*
40. ¹ S1 Police and Criminal Evidence Act 1984
41. ¹ S60 Criminal Justice and Public Order Act 1994
42. ¹ Section 1(2)a PACE
43. ¹ Section 3 Police and Criminal Evidence act 1984
44. ¹ Section 4 of the Vagrancy Act 1824
45. ¹ Terrorism Act 2000
46. ¹ The Royal Commission on Criminal Procedure, chairman Sir Cyril Philips, Cmnd 8092, January 1981
47. ¹ Tiratelli M, P Quinton B Bradford, 'Does Stop And Search Deter Crime? Evidence From Ten Years Of London-Wide Data' (2018) 58 *The British Journal of Criminology*
48. ¹ Torpey P, P Gutiérrez C Levett, 'London Killings In 2018: How Homicides In The Capital Rose To A Decade High' (*the Guardian*, 2019) <<https://www.theguardian.com/cities/ng-interactive/2019/jan/14/london-killings-2018-homicides-capital-highest-decade-murders>> accessed 18 March 2019
49. ¹ 'Stop And Search Dashboard | The Met' (*Met.police.uk*, 2019) <<https://www.met.police.uk/sd/stats-and-data/met/stop-and-search-dashboard/>> accessed 28 March 2019
50. ¹ C F. Willis, the use, effectiveness and impact of police stop and search powers, Home Office Research and Planning Unit Paper 15, 1983
51. ¹ Section 1 Police and Criminal Evidence Act 1984