

**STOPWATCH response to
“The Macpherson Report: Twenty Years On Inquiry”**

February 2019

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I. Executive Summary

1. This submission is in response to the Home Affairs Committee’s Inquiry examining the progress made over the last twenty years against the 70 recommendations made by Sir William Macpherson in 1999 within the report of the Stephen Lawrence Inquiry (hereinafter the Macpherson Report). This submission focuses on the enduring and emerging issues with stop and search and discusses the consistent racial disparity in the stop and search figures nationally, the changes that have taken place with recording of stops, technological developments and the impact that stop and search has on black and ethnic minority communities.
2. StopWatch is a coalition of academics, lawyers, civil society organisations, young people, and community stakeholders, which works to promote fair, effective and accountable policing. Since forming in 2010, StopWatch has led a wide-ranging campaign against the disproportionate use of stop and search, the use of exceptional stop and search powers, and the weakening of associated accountability mechanisms. Our work includes research, legal and policy analysis, media commentary, political advocacy, litigation, submissions to national and international organisations and community organizing.
3. Together, our central contention is that the police use of stop and search remains disproportionately targeted against ethnic and religious minorities as a matter of everyday policing strategy and practice and that the problem has magnified over the two decades since publication of the Macpherson Report. **Accordingly, we ask that the Inquiry to:**
 - **Underscore its concern that ethnic profiling in stop and search by the police continues unabated, and has worsened in some respects, notwithstanding the Committee’s observations from 2003;**
 - **Request a tightening of the all laws governing the operation of stop and search so as to eliminate racial and ethnic discrimination and disproportionate treatment of minorities;**
 - **Request that authorities reinstate a national requirement for police forces to fully record and monitor “stops” and “stop and search” under all powers; and**
 - **Recommend further steps to eliminate ethnic profiling (whether area, policy or individually-based) in the law and practice of stop and search, including through**

disciplinary, administrative, inspectoral and regulatory accountability and oversight of police practices.

II. Background: Macpherson Inquiry and stop and search

4. ‘Stop and search’ refers to the police practice of stopping and searching members of the public who they suspect may have committed or be about to commit an offence. The powers to stop and search are contained in a range of different pieces of legislation that is collectively regulated by the Police and Criminal Evidence Act (PACE) Code of Practice A. This legislation includes the PACE 1984 (s 1), Misuse of Drugs Act 1971 (s 23), the Firearms Act 1968 (s 47), the Terrorism Act 2000 (s 43) and section 60 of the Criminal Justice and Public Order Act 1994.
5. The Inquiry into the murder of Stephen Lawrence was a politically symbolic moment for black and ethnic minority communities across the UK. Sir William Macpherson’s identification of ‘institutional racism’ within the Metropolitan Police, other police forces and the British State was a ground-breaking moment. For decades, black and ethnic minority communities felt that the treatment they received from the police differentiated from that of their white British counterparts and was systemic in nature but that these experiences had been ignored. Macpherson corroborated their lived experience and this official recognition of the status quo as discriminatory was powerful. The Inquiry toured the country and held public hearings gathering information and listening to a range of people, organisations and agencies. These hearings brought to the fore the ongoing issues that ethnic communities were experiencing with the police. Although the issue of policing and race relations was not the primary focus of the inquiry, it became an important feature. Within the report, it was stated , “if there was one area of complaint which was universal it was the issue of ‘stop and search’”¹. This explicit acknowledgement recognized the importance of stop and search to black and minority ethnic communities and the damage it inflicted on police community relations.
6. The Macpherson Report concluded: (1999: para. 45.8 – 10):

Nobody in the minority ethnic communities believes that the complex arguments which are sometimes used to explain the figures as to [ethnic disproportionality in] stop and search are valid. In addition their experience goes beyond the formal stop and search figures recorded under the provisions of the Police and Criminal Evidence Act and is conditioned by their experiences of being stopped under traffic legislation, drugs legislation and so-called ‘voluntary’ stops.... While there are other factors in play we are clear that the perception and experience of the minority communities that discrimination is a major element in the stop and search problem is correct....

It is pointless for the police service to try and justify the disparity in these figures purely or mainly in terms of the other factors, which are identified... Attempts to justify the [ethnic] disparities through the identification of other factors, whilst not being seen vigorously to address the discrimination which is evident, simply exacerbates the mistrust.²

7. The Macpherson Report made four recommendations focused on the use of the powers of stop and search to ensure that they are applied in a fair and accountable manner. These were:

¹ Macpherson, W. (1999) *Inquiry into the Matters Arising from the Death of Stephen Lawrence: Final Report*. London: The Stationery Office.

² Ibid. para. 45.8 – 10.

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

Recommendation 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.

Recommendation 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.

Recommendation 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.

8. The publication of the Macpherson Report led to a period of intense scrutiny on the use of stop and search. The Home Office's Policing and Reducing Crime Unit conducted a programme of research on stop and search. This programme resulted in six reports each focusing on a different aspect of stop and search (Police Research Series Papers 2000, 127 – 132).³ The research traced the patterns in the use of stop and search, reaching a broad consensus that minority groups remained over-represented in stop and search figures. It highlighted the large variations in practice between different police forces and found general public support for recording/accountability and equitable use of the powers. The research also found no evidence that the power made any significant contribution to crime reduction and community safety.
9. Recommendation 61, calling for all stops to be recorded was first piloted in a number of forces⁴ and rolled out across all police forces in 2003/4. In July 2004, the Stop and Search Action Team (SSAT) and the accompanying Stop and Search Community Panel (chaired by Doreen Lawrence) was set up by the Home Office to ensure that the police use their stop and search powers fairly and effectively and to put measures in place to reduce disproportionality and increase ethnic minorities' confidence in police use of their powers.⁵ These bodies were disbanded in the late 2000s without any consultation or information about what activities were undertaken and what they achieved. This was followed by the National Policing Improvement Agency's 'Next Steps' Project. This project used a diagnostic audit-based tool to encourage more efficient and effective use of stop and search powers. However, the tool did not seek to address disproportionality or involve communities in the evaluation of police activity. No results of the audits or changes as a result of the project were ever published.
10. In the decade following the publication of the Macpherson Report, searches grew exponentially, alongside a steadily declining arrest rate and a stubbornly disproportionate focus on black and minority ethnic groups. When rioting broke out in many towns and cities across England during the summer of 2011 there was a palpable sense of déjà vu as stop and search was, once again,

³ Miller, J, Quinton, P. and Bland, N. (2000) *Police stops and searches: lessons from a programme of research*, London: Home Office.

⁴ Quinton, P. and J. Olagundoye (2004) *An evaluation of the phased implementation of the recording of police stops: in response to recommendation 62 of the Stephen Lawrence Inquiry*. London, Home Office.

⁵ The Home Office Stop and Search Action Team and accompany Stop and Search Community Panel were formed in with a remit to produce a plan for change and reducing disproportionality within six months to be sent to every police force in the country, setting out procedures on how to deploy stop and search, including what might constitute reasonable grounds for suspicion.

widely implicated.⁶ The Home Secretary commissioned Her Majesty's Inspectorate of Constabulary (HMIC) to carry out its first ever thematic inspection of stop and search following the 2011 riots. Visits to all 43 territorial police forces in England and Wales revealed non-compliance with PACE's statutory requirements. HMICFRS reported that slightly more than a quarter of the stop-and-search records it examined 'did not include sufficient grounds to justify the lawful use of the power'.⁷ It suggested that members of the force had low levels of understanding of what constitutes 'reasonable grounds', that their use of stop and search was poorly supervised, and that there was an absence of oversight by senior officers. HMICFRS further found that fewer than half of forces complied with the PACE requirement to make arrangements for the public to scrutinise the use of stop and search powers; almost half 'did nothing to understand the impact of stop and search encounters upon communities'; and only 4 out of 43 had made any attempt to consult those who had been stopped and searched

11. In a statement to Parliament, the Home Secretary described the results of the inspection as 'deeply concerning'. When stop and search is misapplied, she noted: 'nobody wins.... It is a waste of police time. It is unfair, especially to young, black men. It is bad for public confidence in the police'.⁸ The Home Secretary announced a comprehensive package of reforms that 'should contribute to a significant reduction in the overall use of stop and search, better and more intelligence-led stop and search and improved stop-to-arrest ratios'. As part of this package, the College of Policing would lead a new training programme on stop and search for all police officers, the Home Office would launch a new 'Best Use of Stop and Search' (BUSS) scheme, and that HMICFRS would include stop and search in annual police effectiveness, efficiency and legitimacy (PEEL) Inspections. The BUSS scheme has become the principal mechanism through which the government is delivering reform. All 43 territorial police forces signed up to this voluntary scheme when it was launched in August 2014.⁹ The scheme focuses on extending the amount of information that police forces record and publish; providing members of the public with opportunities to observe police practice, including the potential use of stop and search; creating a 'community trigger' which requires police to explain how the powers are being used if there is a large volume of complaints; restraining the use of 'exceptional' powers that do not require 'reasonable suspicion', and ensuring that forces monitor the impact of the scheme, particularly as it relates to black and minority ethnic groups or young people.

III. Stop and Search today: Worsening Disproportionality

12. Twenty years on and despite the rhetoric and various policing initiatives to professionalize the service, the issues that the Macpherson Report identified with stops and searches remain. The fraught relationship between the police and young people from black and ethnic minority communities also remains, leaving the state of police and community relations arguably not any better than they were in the 1990s.

⁶ Riots, Communities and Victims Panel (2011) *5 days in August: An Interim Report on the 2011 English Riots*, London: Riots Communities and Victims Panel, at [5:<http://webarchive.nationalarchives.gov.uk/20121003200019/http://riotspanel.independent.gov.uk/wp-content/uploads/2012/04/Interim-report-5-Days-in-August.pdf>](http://webarchive.nationalarchives.gov.uk/20121003200019/http://riotspanel.independent.gov.uk/wp-content/uploads/2012/04/Interim-report-5-Days-in-August.pdf) [Accessed August 2, 2017].

⁷ Her Majesty's Inspectorate of Constabulary [HMICFRS] (2013) *Stop and Search Powers: Are the Police Using Them Effectively and Fairly?* London: HMICFRS, at 8.

⁸ May, T. (2014) 'Stop and Search: Comprehensive Package of Reform for Police Stop and Search Powers', *Oral Statement to Parliament 30 April 2014*, London: Home Office; <https://www.gov.uk/government/speeches/stop-and-search-comprehensive-package-of-reform-for-police-stop-and-search-powers> [Accessed October 30 2017].

⁹ Home Office (2014) *Best Use of Stop and Search Scheme*, London: Home Office, at 2; <https://www.gov.uk/government/publications/best-use-of-stop-and-search-scheme> [Accessed August 7, 2017].

13. The last decade has seen a dramatic decrease in the level of stop and search across England and Wales; with over 1,200,000 conducted in 2010/11 to less than 300,000 in 2017/2018¹⁰. However, as detailed in *The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales*, a recent report by StopWatch, Release and the London School of Economics, the longstanding issue of racial disproportionality not only is yet to be solved but has worsened.¹¹ Alarming, in 2016/17, black people were stopped and searched at over eight times the rate of whites (the highest level for more than 20 years) and Asian people and those in the 'mixed' group were stopped and searched at more than twice the rate of whites. Stop and searches for drugs, which in 2016/17 constituted nearly two-thirds of all stops and searches (up from half in 2010/11) and are frequently focussed on low level possession offences, are more ethnically disproportionate than those for other offences. Black people were stopped and searched for drugs at almost nine times the rate of whites, while Asian people and those in the 'mixed' group were stop-searched for drugs at almost three times the rate of whites.
14. These figures need to be seen in the context that self-report crime surveys have consistently shown that black and ethnic minority ethnic groups offend at similar or lower levels than white people, even though they are subject to higher levels of stop and search and arrest. In particular, the British Crime Survey for England and Wales 2016/17 confirmed that black, Asian and Chinese/other respondents reported lower levels of drug use than their white counterparts. For example, black respondents reported using cannabis at just over half the rate of white people and for Class A drugs at less than a quarter the rate for white people. It is also interesting to note that while the overall rate of stop and search has fallen over recent years, the proportion of stops and searches relating to offensive weapons (including knives) has remained virtually the same between 2010/11 at 11% and 2016/17 at 12%. In other words, despite the growing agitation over knife crime in recent years and calls to combat it through greater use of stop and search, the actual number of stops and searches for offensive weapons has fallen dramatically in line with stops and searches in general.
15. Detailed analysis undertaken by Her Majesty's Inspectorate of Constabulary as part of its 2013 thematic inspection of stop and search indicated that most drug searches are for low level possession. This was considered to be a concern because such offences 'did not feature highly, it at all, in force priorities', suggesting that the use of stop and search was 'not always being targeted effectively in response to force priorities – whereas, for example, stopping and searching on suspicion of knife possession could be linked to a force priority to reduce violent crime.' Similar analysis of 8,000 stop-search records conducted as part of the 2017 PEEL legitimacy inspection found that 70 per cent of drug searches and 45 per cent of all stop-searches were for suspected drug possession, suggesting once again, that 'in many cases' such activity 'is still not being targeted toward tackling priority crimes'.
16. The proportion of stop-searches resulting in arrest increased from 9 per cent in 2010/11 to 17 per cent in 2016/17. The increased arrest rate means that stop and search continues to provide an important gateway into the criminal justice system for certain types of offences, particularly drug offences. Well over a third (39 per cent) of all arrests for drug offences in 2016/17 resulted from stop and search compared with only three per cent of arrests for other offences.¹² Prior to recent reductions in the use of stop and search, the arrest rate was similar for most ethnic groups,

¹⁰Stop and search statistics data tables: police powers and procedures year ending 31 March 2018
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/751147/stop-search-police-powers-procedures-mar18-hosb2418-tables.ods accessed on 15 January 2019

¹¹ Shiner, M., Carr, Z., Delsol, R. and Eastwood, N. (2018) *The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales*, London: StopWatch. Available at: http://www.stop-watch.org/uploads/documents/The_Colour_of_Injustice.pdf

¹² Arrest statistics are available from: Home Office (2017d) *Police Powers and Procedures: Arrests Open Tables*, London: Home Office;
<https://www.gov.uk/government/statistics/police-powers-and-procedures-england-and-wales-year-ending-31-march-2017> [accessed August 16 2018].

averaging out at 10 or 11 per cent for white, black, and ‘mixed’ groups in the five years to 2010/11 compared with 8 per cent for Asians and 13 per cent for ‘other’. By 2016/17 the arrest rate had increased to 22 per cent for black people and 20 per cent for the ‘mixed’ group compared with 16 per cent for white people and Asians, and 15 per cent for ‘others’. However, ethnic disparities in arrests resulting from stop and search cannot be explained by detection rates. Black people are no more likely to be found in possession of stolen or prohibited articles that may justify an arrest than are people from other ethnic groups. The detection rate in 2016/17 was very similar regardless of ethnicity, with nothing being found in 69 to 72 per cent of stop-searches for each ethnic group. Nor can the heightened arrest rate for black people be explained by differences in the rate at which police take formal action. Very similar ‘find rates’ were reflected in the proportion of cases where ‘no further action’ was taken in 2016/17: 68 per cent for black people compared with 71 per cent for white people, 70 per cent for Asians, 66 per cent for ‘mixed’, and 69 per cent for ‘other’.

17. Stop and search distributes out of court disposals unevenly, inverting the pattern that is evident for arrests. While black people were subject to higher arrests rates than white people in 2016/17, they were given out of court disposals at a lower rate (9 per cent compared with 11 per cent). Stop-searches of black people resulted in arrest at almost two-and-half times the rate they resulted in an out of court disposal, whereas stop-searches of white people resulted in arrest at less than one-and-a-half times the rate they resulted in an out of court disposal.¹³

IV: Drivers of Disproportionality:

18. What are the factors that drive the high levels of ethnic/racial disproportionality in stop and search? In particular, how much are they due to the prejudice or ‘unconscious bias’ of police officers, as distinct from being a product of and institutionalised within wider policing strategies and priorities? One key factor driving disproportionality is the concentration of stop and search in larger urban police forces, within whose areas a high proportion of the country’s black and ethnic minority population resides. As documented in *The Colour of Injustice*, London alone accounts for 55 per cent of black population nationally, 36 per cent of the Asian population, and 44 per cent of the ‘mixed’/‘other’ population, as compared to the only 11 per cent of the white population nationally. In 2016/17 the Metropolitan Police Service (MPS) in London had by far the highest rate of use of stop and search in the country, at 16 per 1,000 head of population overall, made up of 10 drug stop/searches and 6 non-drug searches per 1,000 persons. This was more than twice the rate of use of stops and searches in each category than in any other police force area. This combination of a high concentration of the black and ethnic minority population and the high rate of use of stop and search resulted in the MPS accounting for between a third to 45 per cent of the total stops and searches in England and Wales per year since 2010/11, and in this period between 75 and 85 per cent of all stops and searches nationally of black people, between 53 and 66 per cent of those of Asian people, but less than a third of those of white people, here in London. Within London stop and search is further concentrated in the inner boroughs where the largest proportion of the black and ethnic minority population reside. Taken together, inner London boroughs in 2016/17 had a rate of use of stop and search at 22.4 per 1,000 population, with the rate for individual inner boroughs ranging as high 43.8 per 1,000 population. By contrast, the outer London boroughs had an average rate of use of stop and search of 10.7 per 1,000 population, although in fact this was higher than that for any other police force area nationally.
19. Another feature of those areas with high rates of stop and search is that they contain significant levels of social deprivation. Thus, analysis in *The Colour of Injustice* shows that the more deprived London boroughs generally had higher rates of stop and search, but

¹³ Cautions have been included in the overall figures for ‘out of court disposals’ cited above, but are not covered in the more detailed analysis described here because they are under-recorded in the data.

the very highest rates of stop and search – for drugs and all reasons – were evident in Kensington and Chelsea and in Westminster, which are not among the most deprived boroughs, but are among the most unequal. While poverty, inequality and social exclusion are ‘a London-wide problem’, these boroughs have the highest levels of income inequality and contain areas of considerable affluence alongside pockets of extreme deprivation. It is, perhaps, precisely under these circumstances, where rich and poor live in close proximity’ that the disciplinary and order-maintenance functions of the police are likely to be most prominent.¹⁴ (COI, p. 28)

20. However, ‘race’ complicates and confounds the relationship between stop-search and deprivation. The general pattern of higher rates of stop-search in more deprived boroughs holds for white and Asian people, but not for black people or those in the ‘other’ group. White and Asian people’s experience of stop and search is strongly related to deprivation in the sense that they tend to be stopped and searched in deprived areas. Black people’s experience is not related to deprivation in the same way because they are subject to similarly heightened rates of stop and search in deprived areas, affluent areas, and everything in between. The same basic pattern is evident for all stop-searches and those targeting drugs¹⁵. Because rates of stop and search are reduced for white people in affluent boroughs, but remain high for black people, it is here that disparities are most marked. The combination of very low rates of stop and search for white people and high rates of black / white disproportionality is consistent with ethnic profiling because it indicates that black people are singled out for suspicion.
21. While the above analysis is drawn from data on stop and search in London, it is notable that some of the highest rates of ethnic disproportionality in the use of stop and search are found in largely non-urban police force areas. In 2016/17, the five areas with the highest rates of black/white disproportionality were Dorset, Suffolk, West Mercia, Sussex and Gloucestershire, in all of which black people were over ten times more likely to be stop and searched than their white counterparts. Rates of disproportionality were even higher in respect of stops and searches involving drugs. This pattern indicates that black people are singled out for stop and search in affluent and/or largely white areas and is consistent with a greater degree of individual profiling. Such decisions may reflect biases of police officers, implicit or otherwise, whereby the presence of black people is considered incongruent, and therefore suspicious, in such locations.
22. But such bias can also be driven by specific policing policies as well. For example, Dorset Police has regularly had one of the highest rates of black/white disproportionality in the country dating back as far as the Equality and Human Rights Commission review of stop and search in the early 2000s. In 2016/17 Dorset stopped and searched black people at more than 20 times the rate of white people and at more than 25 times for suspected drug offences. When the EHRC investigated this pattern in the earlier period, the force claimed that disproportionality figures were inflated by visitors and students in Bournemouth who were not included in the Census population for the area on which calculations of disproportionality are based. The EHRC undertook a special analysis showing that 82 per cent of black people stopped and searched in Bournemouth were local residents and when stops and searches involving students, visitors and ‘not stated’ cases were excluded, rates of disproportionality remained exceedingly high. Dorset Police have continued to attribute high rates of disproportionality to a force focus on ‘black drug dealers’ and members of ‘organised crime groups’ who are not resident in the area, when it is apparent that such a policy has at least a spillover effect on black people more generally.

¹⁴ *The Colour of Injustice, op. cit.*, p. 28.

¹⁵ 92 For all stop-searches by IMD-2015, $r_s = -0.63$, $p < 0.01$ (white) and -0.70 , $p < 0.01$ (Asian); -0.27 , $p > .05$ (black); and -0.22 , $p > .05$ (other). For drug searches: $r_s = -0.66$, $p < 0.01$ (white); -0.71 , $p < 0.01$ (Asian); -0.19 , $p > 0.05$ (black) and -0.22 , $p > .05$ (other).

23. One example of area-based suspicion is the use made of Section 60 of the Criminal Justice and Public Order Act, under which stops and searches of any person may be conducted in a designated area over a temporary period without a requirement of reasonable suspicion. Although there are examples where Section 60 has been deployed in relation to public order and sporting events, its main use has been in relation to the policing of knife crime within inner city areas with large black populations. Analysis has shown that such use of ‘suspicion-less’ stop and search, even when measured against the overall resident population of the designated area, results in much higher levels of black/white disproportionality and much lower arrest rates than other, reasonable suspicion-based stops and searches. Moreover, arrest resulting from Section 60 stops and searches tend to relate mainly to reasons other than the carrying of offensive weapons or bladed instruments. Various studies carried out of such use of stop and search, whether under Section 60 or otherwise, have shown that it has had little measurable impact in reducing knife or other violent crime.¹⁶
24. Another form of specific targeting of stop and search on black and ethnic minority individuals is the use of gang matrices or databases by a number of large urban police forces. A recent highly critical analysis of the Metropolitan Police’s Gangs Matrix by Amnesty International¹⁷ showed not only that those individuals included on it were drawn overwhelmingly from black and ethnic minority groups (87 per cent, with black people alone accounting for 78 per cent) but that only five per cent were classified as ‘most likely’ to commit serious violence, while no less than 40 per cent had no record of involvement with any serious violence and 35 per cent had never committed any serious offence. Individuals could be placed on the Matrix through apparent non-criminal and/or familial associations with others suspected of gang membership or even because they had been victims of alleged gang violence. As the authors stated:

Many of the indicators used by the Metropolitan Police to identify ‘gang members’ simply reflect elements of urban youth culture and identity that have nothing to do with serious crime. This conflation of elements of urban youth culture with violent offending is heavily racialised. The result is that the matrix has taken on the form of digital profiling.¹⁸

Yet, one of the effects of being included on the Matrix is to single-out the individuals concerned for exceptional police surveillance, including the use of repeated stops and searches as a means of monitoring their activities and supposedly deterring them from gang activity.¹⁹

V. Recording of all police stops and searches

24. The recording of police stop and search was introduced in the Police and Criminal Evidence Act 1984 and is governed by the PACE Code of Conduct A, which has undergone a number of revisions over the years. The process of recording was designed to require police officers to consider carefully their grounds for making stop-searches, provide on-the-spot accountability to the person

¹⁶ Ward, L., Nicholas, S., and Willoughby, M. (2011) *An Assessment of the Tackling Knives and Serious Youth Violence Action Programme (TKAP) – Phase II*, London: Home Office;

<https://www.gov.uk/government/publications/an-assessment-of-the-tackling-knives-and-serious-youth-violence-action-programme-tkap-phase-ii>;

McCandless, R., Feist, A., Allan, J., and Morgan, N. (2016) *Do Initiatives Involving Substantial Increases in Stop and Search Reduce Crime? Assessing the Impact of Operation BLUNT 2*, London: Home Office;

<https://www.gov.uk/government/publications/do-initiatives-involving-substantial-increases-in-stop-and-search-reduce-crime-assessing-the-impact-of-operation-blunt-2>;

and Tiratelli, M., Quinton, P., and Bradford, B. (2018) ‘Does Stop and Search Deter Crime? Evidence from Ten Years of London-wide Data’, *The British Journal of Criminology*, 58(5): 1212–1231

¹⁷ *Trapped in the Matrix: Secrecy, stigma and bias in the Met’s Gang Database* at

https://www.amnesty.org.uk/files/201805/Inside%20the%20matrix.pdf?x_Q7G4ar5uHbWLAklmQ9NSuLFMzrwSyq=

¹⁸ *Ibid.*, p. 3.

¹⁹ P. Williams, *Being Matrixed: The (Over)Policing of Gang Suspects in London*, London: StopWatch, 2018.

stopped, to allow monitoring and publication of search statistics and to provide a management tool for supervisors to identify where officers might be incorrectly using powers. Standards are reinforced through a series of duties to inform and monitor the use of stop-search powers. Crucially: (1) Front-line officers must take ‘reasonable steps’ to inform the person searched of the officers’ name and police station, the legal power that the officer is exercising, the purpose of the search, and the grounds for it. (2) Officers also have a general duty to make a record of the search, which conveys much of this information, and provide it to the person searched. As well as facilitating on-the-spot accountability to the person stopped and searched, PACE creates obligations for supervisory oversight and corporate accountability. Supervising and senior officers are required to monitor the use of stop-search, taking action where necessary to ensure compliance with the regulations. Supervisors must examine whether the records reveal any trends or patterns which give cause for concern and, if they do, take appropriate action. Senior officers with area or department-wide responsibilities are required to monitor the use of stop-search and, where necessary, take action at the relevant level. The code of practice requires the compilation of comprehensive statistical records of stop-searches at force, area and local level, identifying and investigating any apparent disproportionate use of the powers, to support supervision and monitoring. Finally, the code requires transparency and community consultation.²⁰

Recommendation 61 of the Macpherson Report proposed the full recording of all "stops" and "stops and searches" made under any legislative provision (not just the Police and Criminal Evidence Act) and including non-statutory or so called "voluntary" stops. The record was to include the reason for the stop, the outcome, and the self-defined ethnic identity of the person stopped and a copy of the record to be given to the person stopped. With the introduction of the Home Office’s Best Use of Stop and Search Scheme in 2014 and Her Majesty’s Inspectorate of Constabulary annual PEEL inspections on stop and search, there have been improvements to data collection nationally. However, BUSS data requirements are voluntary and there remains important data not collected and changes to PACE Code A in 2011 have severely limited on-the-spot accountability for the person stopped.

25. The recording of stop-search in England and Wales has traditionally been on paper forms, but this approach has been largely displaced as part of a government-led push towards technological data-capture. As part of the 2014 stop and search reforms, stop and search data was added to the government’s police portal, a website that shares data on crime rates and police activities at a local level.²¹ Accurate mapping requires a specific geocode, thus this requirement has led police forces in England and Wales to adopt technological data-capture. A key advantage of paper-based recording over other technologically driven forms of data-capture, is the ability to provide on-the-spot accountability. Paper recording produces a carbon copy of the record that officers can easily give to the subject of the search, allowing the provision of complete information. Individuals are able to see the reason for the stop-search and compare it with their perception of the situation, and with what officers told them, and decide whether they feel the record is accurate and would like to take follow up action. Revisions to the PACE Code of Practice A in 2011, changed the requirement, so that the person searched “must be asked if they want a copy and if they do, they must be given immediately, either: a copy of the record; or a receipt which explains how they can obtain a copy of the full record or access to an electronic copy of the record.”²² Technological forms of data-capture make on-the-spot accountability more difficult because they do not produce a physical record that can be handed over to the subject of the stop-search. The majority of stop and searches are now recorded on mobile devices and the person stopped is given a receipt with a unique reference number that allows them to collect a copy of the form or in some cases access it on-line. This can create barriers for people stopped to access the information due to concerns about going

²⁰ Home Office (2015) *Police and Criminal Evidence Act 1984 Codes of Practice, Code A*, London: Home Office, at: para. 5.4.

²¹ www.police.uk

²² Home Office (2015) *Police and Criminal Evidence Act 1984 Codes of Practice, Code A*, London: Home Office, at: para. para. 4.2

into police stations or accessing information online that may then allow their IP address or mobile phone to be traced.

26. The Best Use of Stop and Search Scheme (BUSS) requires forces to record and publish a broader range of outcomes which could follow from a stop and search. Police forces participating in the Scheme collect information on the outcome of the search (e.g. Arrest, Summons / charged by post, Caution (simple or conditional), Khat or Cannabis Warning, Penalty Notice for Disorder, Community resolution or a no further action disposal). This allows for a fuller analysis of outcomes and to determine if the ‘hit’, or positive outcome, is connected to the reasonable grounds for suspicion, a chance detection or escalation of the encounter. However, there are gaps in recording that prevent a full analysis of practice. This includes the age of the person stopped, whether handcuffs were used during the stop and whether any injuries occurred and a record of the substances that are suspected (i.e. name of the drug) and the nature of suspected offence (i.e. possession-only or supply) and what substance is found.
27. The police do not record all stops as recommended by the Macpherson Inquiry. “Stops” or “stop and accounts” refers to those encounters where police officers stop (and, in many cases, effectively detain) members of the public to ask them to account for their actions, behaviour or presence in an area but do not go on to search them. In response to community concerns that stops were being used disproportionately against black and ethnic minority communities and to circumvent the safeguards contained in the Police and Criminal Evidence Act 1984 (PACE), recommendation 61 of the Lawrence Inquiry proposed that police officers should make a record of all stops which includes the reason for the stop, the outcome, and the self-defined ethnic identity of the person stopped. The recording of stops was widely consulted on with community groups and extensively piloted and implemented by a 2004 amendment to PACE Code A.²³
28. In 2008 – 09, there were 2,211,598 stop and accounts across England and Wales. Black people were stopped and asked to account for their actions at 2.7 times the rate of white people.²⁴ In some forces, such as the West Midlands the disproportionality ratio was as high as 6.9. The large number of police stops makes them highly influential as a point of contact between the police and the public. Stops and stop-and-search are on a continuum of police-initiated contact meaning they cannot be separated. Indeed, members of the public often do not separate them and consider all stops to be “stop-searches.” While stop and search happens to be more intrusive, the sheer numbers of stop and account as well as the possibility of abuse means that it has considerable potential to alienate individuals and communities.²⁵
29. At the time of implementing recommendation 61, the Home Office acknowledged the importance of the recording as a means of promoting “trust and confidence in the police by providing transparency and accountability on the spot at a strategic level, for police initiated non-statutory encounters.”²⁶ The importance of recording stops was again recognised by Sir Ronnie Flanagan in his independent review of policing in 2008. His report acknowledged the importance of recording stops to community trust

²³ Quinton, P. and J. Olagundoye (2004). *An evaluation of the phased implementation of the recording of police stops: in response to recommendation 62 of the Stephen Lawrence Inquiry*. London: Home Office; MORI (2004) *The Views of the public on the phased implementation of recording police stops*, London: Home Office; Shiner, M (2006) *National Implementation of the recording of police stops*, London: Home Office. The amendments were introduced in August 2004, to be implemented by all forces by 1st April 2005.

²⁴ Ministry of Justice (2009) *Statistics on Race and the Criminal Justice System 2007/08*, London: Ministry of Justice and Ministry of Justice (2010) *Statistics on Race and the Criminal Justice System 2008/09*, London: Ministry of Justice.

²⁵ Please see: Bridges, L., Shiner, M., Delsol, R and Gill, K. (2011) *StopWatch Statement on Police Stop and Account*, London: StopWatch. Available at: http://www.stop-watch.org/uploads/documents/StopWatch_Statement_on_Police_Stop_and_Account_-_21Dec11-FINAL_%282%29.pdf [accessed January 28 2019].

²⁶ Home Office (2004), *Recording of Stops Implementation Guide: In Response to Recommendation 61 of Stephen Lawrence Inquiry Report*. London: Home Office, at 7.

and confidence and recommended the recording process be made less burdensome. He “remained convinced that there is a need for officers to demonstrate accountability to individual members of the public,” and agreed with community representatives that “building a national picture of our behaviour and actions as police officers is crucial”. Further, he considered that stop and search figures ought to “be given the weight they deserve at force level.”²⁷ These concerns have not gone away.

30. In March 2011, the government introduced changes to PACE Code of Practice A, removing the national requirement to record stop and account and giving police forces the discretion to choose whether to record it. Police forces could maintain or subsequently reinstate the recording of stop and account when there were local concerns about disproportionality. Without stops being recorded, communities will never have the means to prove that there is a problem or demonstrate concern around the disproportionate use of stop and account that would require police forces to reinstate recording. The changes since 2011 have removed a vital form of redress for individuals who feel they are being unfairly or inappropriately stopped. The complaints system is now undermined as there is no proof that the stop took place, thus denying those affected the chance to seek remedy through the complaints system and ultimately the courts. These concerns were recently recognised by the United Nations Committee on the Elimination of Racial Discrimination (CERD). After its periodic review of the United Kingdom, 23rd – 24th August 2011, the Committee concluded in its report dated 14 September that it:

regrets the increased use of “stops and searches” by the Police which disproportionately affect members of minority ethnic groups, particularly persons of Asian and African descent. The Committee further regrets reports that the State party *has discontinued the issuance of reports for stops unless they lead to a search*, and has adopted a policy to issue only receipts for stops and searches instead of a full record. The Committee is concerned that these measures may not only encourage racial and ethnic stereotyping by police officers but may also encourage impunity and fail to promote accountability in the police service for possible abuses (articles 2 and 5). (emphasis added)²⁸

31. By September 2012, only eight police forces were still recording stop and account and many of those were only recording the overall number of stops and the ethnicity of those stopped and not the reason and outcome to allow for a fuller analysis.²⁹ In 2019, the Metropolitan Police Service, without any community consultation, ceased to record stop and account encounters. With all the 43 police forces now having opted to implement detrimental changes, communities’ ability to monitor how stop and account is used are hindered and an erosion of long-fought for accountability mechanisms is evident. This weakening of accountability is deeply concerning, especially in a time where internationally police forces in major cities such as Toronto³⁰ and New York³¹ recognized the importance of accountability and transparency and are committed to recording all stops and providing a record to those stopped.
32. “Traffic stops” or “163 stops” include stops of vehicles under Section 163 of the Road Traffic Act which gives the police broad powers to stop anyone driving on the roads without the need for any

²⁷ Sir Ronnie Flanagan, *The Review of Policing: Final Report* (February 2008), Paras. 5.56 - 5.63.

²⁸ Concluding Observations of the Committee on the Elimination of Racial Discrimination, United Kingdom of Great Britain and Northern Ireland, 14th September 2011, at para. 18.

Available at: http://www2.ohchr.org/english/bodies/cerd/docs/UK_COBs_CERD79.pdf

²⁹ Stopwatch (2012) *Factsheet on stop and account*, available at: <http://www.stop-watch.org/get-informed/factsheet/stop-and-account>

³⁰ Tullock, M. (2019) *Report of the Independent Street Checks Review*, Toronto, Available at: <http://www.mcscs.jus.gov.on.ca/sites/default/files/content/mcscs/docs/StreetChecks.pdf>

³¹ Davis Z. (2018) ‘A Judge Has Ordered the NYPD to Record Every Interaction’ in *Reason*, July 20. Available at: <https://reason.com/blog/2018/07/20/a-judge-has-ordered-the-nypd-to-record-e>

form of suspicion. Survey data suggests that there are over 5.5 million traffic stops a year.³² These stops are by far the most widely used form of police stop power and represent a significant use of police time, but they are not subject to basic safeguards such as recording and monitoring and fall outside of the stop and search guidance.³³

33. In 2014 Her Majesty's Inspectorate of Constabulary (HMICFRS) commissioned a survey of 10,094 members of the public about police use of the traffic stop power.³⁴ Seven to eight per cent of white drivers who responded were stopped in their vehicles in the previous two years, compared with 10-14 per cent of black and minority ethnic drivers. Of those individuals who had been subject to a traffic stop, seven per cent reported that no reason had been given and 21 per cent said they had been given a reason other than criminal suspicion, vehicle defect or ownership check. The survey also suggested that black and minority ethnic drivers are less likely to be provided with a reason for a stop and more likely to have their vehicles searched than white drivers.³⁵ This confirms the findings from other public surveys. A 2012 study based on an analysis of the British Crime Survey, found that that people from mixed black and white ethnicities, Asian Muslim and black Caribbean ethnicities were more likely to report being stopped than those with white ethnicities.³⁶ The survey also shows that those from mixed black and white, Asian Muslim and black Caribbean communities are significantly less satisfied than white people with how the police dealt with them during traffic stops. These findings are similar to an analysis of the British Crime Survey data from 2000, which found that: "black, Pakistani and Bangladeshi people are more at risk of being stopped in their cars, even after many other relevant factors have been taken into account".³⁷
34. In 2016, Theresa May (as Home Secretary) acknowledged the problem "if you are from a black and ethnic minority community, you are more likely to be stopped by police under the Road Traffic Act but actually less likely to be arrested or fined." She promised the introduction of traffic stop recording and action to reduce disparities. The Government's reforms have been too soft and too slow. A pilot conducted by the National Police Chiefs Council shows that traffic stop recording is possible without increasing bureaucracy for officers. Yet, the Home Office's BUSSS initiative to improve stop and Search still does not include traffic stops and discrimination on our roads continues.
35. Recording stop and account is sometimes portrayed as being a layer of burdensome bureaucracy but such representations, when closely examined, hold no weight. Most people would agree that a certain amount of record keeping is necessary to ensure that the police are accountable, effective and transparent. The idea that completing stop forms is a distraction from 'real' police work is simply incorrect, and underestimates both the rigor of modern policing and the fundamental need for accountability and transparency. Real police work is about building trust and confidence, promoting accountability, and building legitimacy around the use of all stops.
36. Simply making a record of police stops does little to address the potential problems with such encounters and much depends on what the police do with the resulting information. Community scrutiny panels have often become vehicles for police forces to simply distribute general statistical information with little meaningful exchange about what that data means and incorporation of

³² StopWatch and Liberty (2017) "Driving while black": Liberty and StopWatch's briefing on the discriminatory effect of stop and search powers on our roads, London: StopWatch/Liberty, Available at: http://www.stop-watch.org/uploads/documents/StopWatch_Liberty_Driving-while-black_2017.pdf

³³ StopWatch and Liberty (2017) "Driving while black": Liberty and StopWatch's briefing on the discriminatory effect of stop and search powers on our roads, London: StopWatch/Liberty, Available at: http://www.stop-watch.org/uploads/documents/StopWatch_Liberty_Driving-while-black_2017.pdf

³⁴ HMIC, Stop and search powers 2: are the police using them effectively and fairly?, p61. Available at: <https://www.justiceinspectorates.gov.uk/hmic/wp-content/uploads/stop-and-search-powers-2.pdf>.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Clancy A., Hough M., Aust R. and Kershaw C. (2001) Policing, Crime and Justice: the experiences of ethnic minorities, Findings from the 2000 British Crime Survey (Home Office: London).

community feedback on that data into police practices. HMIC found that fewer than half of the police forces in England and Wales complied with the PACE requirement to make arrangements for the public to scrutinise the use of stop and search powers. Almost half ‘did nothing to understand the impact of stop and search encounters upon communities’. Only 4 out of 43 had made any attempt to consult those who had been stopped and searched.³⁸ This echoes public concerns about the external forms of accountability developed around stop and search oversight. Where scrutiny mechanisms do exist, they often involve the police providing explanations of stop-search statistics with very little oversight of strategic decisions or of individual officers’ actions. The power imbalance between the police and community, insufficient diversity amongst community participants, and lack of independence from police structures have led these initiatives to be labelled ‘talking shops’.³⁹

37. One of the primary ways in which scrutiny of stop and search occurs is through ‘community consultation groups’ or ‘independent advisory groups’, often organised by police forces, Police and Crime Commissioners or both. Research into these groups is rare, but consistently shows that they have become ‘talking shops’ due to members of the public lacking adequate training or understanding of the issues discussed and for not sufficiently including people with negative experiences of policing.⁴⁰ A recent study of these groups reaffirms these findings, but also adds that police officers usually chair those meetings and use this position to steer conversations away from issues uncomfortable to them.⁴¹ On the other hand, it does find some cases of good practice where senior officers were partnering with local race equality groups to ensure meetings were chaired by informed members of the public and held outside of police stations - two strategies that ensured more robust scrutiny could occur. However, it still notes a lack of power held by these groups as members of the public could only register their views but senior and chief officers were not obliged to change their practice in response to concerns raised. This suggests a need to rethink how those police-community groups operate and to ensure members of the public have stronger powers to make recommendations.

VI. Conclusions

38. The Stephen Lawrence Inquiry based its finding of ‘institutional racism’ in stop and search primarily on the widespread perception of its disproportionate use and impact on members of the black and ethnic minority communities across the country. In response, the Inquiry limited its recommendations in this area to extending and improving the recording and scrutiny of stop and search. Twenty years on and despite some of gradual improvements in some aspects of stop and search practice during the intervening period, rates of racial and ethnic disproportionality are today at some of the highest levels they have ever been. Moreover, the police have resisted reforms, particularly in respect of opposing and even reversing improvements in the recording of stops and search and have demonstrated an inability to fundamentally address the discriminatory manner in which stop and search continues to be used.

³⁸ Her Majesty’s Inspectorate of Constabulary [HMICFRS] (2013) *Stop and Search Powers: Are the Police Using Them Effectively and Fairly?* London: HMICFRS, at 6.

³⁹ Lea, J. (2000) ‘The Macpherson Report and the Question of Institutional Racism,’ *The Howard Journal*, 39 (3):219-233; Delsol, R. and Shiner, M. (2006) ‘Regulating stop and search: A Challenge for Police and Community Relations in England and Wales,’ *Critical Criminology*, 14: 241-263.

⁴⁰ Morgan, R. (1987) Police accountability: developing the local infrastructure. *British Journal of Criminology* 27(1), pp.87-96.; Brogden, M. & Jefferson, T., & Walklate, S. (1988) *Introducing Policework*. London: Unwin Hyman Ltd; Rowe, M. (2004) *Policing, Race and Racism*. Cullompton: Willan Publishing.

⁴¹ Derfoufi, Z. (2016) *The Impact of Elected Police and Crime Commissioners in England and Wales on Police-Black and Ethnic Minority Community Relations, with Specific Reference to Stop and Search*. [Thesis] Department of Sociology: University of Warwick.

39. We set out below a number of steps that need to be taken to give effect to the Macpherson Report's original recommendations on recording and scrutinizing stop and search. Democratic policing should seek to limit intrusion into peoples' lives to that which is absolutely necessary and should, as a matter of routine, justify and explain any such incursions. The exercise of police powers should also not be used disproportionately against certain groups within society, in particular those from black and minority ethnic backgrounds. The recording of all stops and searches (including stops, stop and accounts and traffic stops) and the providing of a full receipt is consistent with these principles. But the steps taken to limit the full recording recommended by the Macpherson Report has undermined the central doctrine of policing by consent.
40. However, if the persistent problem of underlying ethnic and racial disproportionality in stop and search is to be tackled, improved recording and scrutiny will not be enough. Rather, it will require more fundamental changes to the policing strategies and institutionalized practices which drive disproportionality in stop and search and more widely within the criminal justice system.⁴² To this end, we reproduce here a number of recommendations originally put forward in our 2018 report, *The Colour of Injustice*.⁴³ As that report concluded:

Given the particular and enduring nature of the problem, specific safeguards are required that target key drivers of disproportionality, and a degree of compulsion is necessary. As noted by the EHRC, ethnic disparities that cannot be convincingly explained and evidenced should be considered 'unlawful and discriminatory'⁴⁴. Part of the problem here is that HMICFRS is an inspectorate, not a regulator, and has powers to secure information, but not to give orders for change. Rather than granting police new stop and search powers, the government should honour the pledge made by the current Prime Minister - and former Home Secretary - in response to a specific question about disproportionality: 'if the voluntary code does not work we will introduce primary legislation'.⁴⁵

VII. Recommendations

- (i) The Government should honour the pledge made by Theresa May in 2014 to introduce primary legislation to ensure that stop and search powers are used fairly, effectively and proportionately. Given the persistent nature of ethnic disparities and the failure to deliver sustained improvements in this area, an element of compulsion is required. Forces that fail to meet acceptable standards should face sanctions. The Home Office should be able to suspend poorly performing forces from using stop and search powers until appropriate safeguards have been put in place, which should be subject to further review.
- (ii) Recording of stop and search should be extended to require that officers conducting stop-searches for drugs make a record of the substances that believe to be involved and the nature of the suspected offence (i.e. possession-only or supply). Such information will help forces and others assess the extent to which stop and search is being targeted at priority crimes, as well as its effectiveness and likely impact on trust and confidence.
- (iii) The national requirement that ensures police officers fully record all 'stop and account', and 'traffic stops' under all powers should be reinstated. The recording of traffic stops and stop and accounts

⁴² See *The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System*. 2017.

⁴³ *Op. cit.*

⁴⁴ Equality and Human Rights Commission (2010) *Stop and Think: A Critical Review of the Use of Stop and Search Powers in England and Wales*, London: Equalities and Human Rights Commission, p. 4.

⁴⁵ May, T. (2014) 'Stop and Search: Comprehensive Package of Reform for Police Stop and Search Powers', *Oral Statement to Parliament 30 April 2014*; <https://www.parliament.uk/business/news/2014/april/statement-on-stop-and-search-30-april-2014/>.

should include at a minimum: the circumstances of the stop (date, time, duration and location of a stop); demographic information about the subject of a stop (age, gender, and ethnicity); reasons for the stop (broad categories should be supplemented by the requirement for officers to provide a free-text reason); outcomes (eg. summons, fixed penalty, caution, unlawfully held items discovered, vehicle seized, driver or passenger arrested, the specific stop and search powers used, arrest or other positive outcome, words of advice, intelligence report, no further action, specified other outcome); and whether force or restraint was used (e.g. control tactics or handcuffs).

- (iv) Community engagement on stop and search through structures such as stop and search scrutiny panels and community consultation panels should be independent and effective. Members should be provided with independent training on the use and interpretation of relevant information and statistics. Such groups should not be chaired by police officers or meet on police premises, and their remit should be extended to look at outcomes. They should also be given statutory powers to make recommendations for change and chief constables and their local elected policing bodies should be obliged to give a public response to those recommendations.
- (v) Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services should include a broader range of stakeholders in the PEEL inspection process. Inspections appear to be predominantly undertaken by current or former police officers, raising concerns about the independence and legitimacy of the process. Forces are required to make provision for public scrutiny of stop and search forms and/or statistics and this principle should be extended to the inspection process by including representatives from civil society and other community stakeholders.
- (vi) Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services should consider ethnic disproportionality as a specific, standalone assessment criteria for the PEEL Legitimacy inspections. Forces should be rated on their record of taking action to reduce ethnic disparities as well as their attempts to understand the nature of the problem. Greater attention should be given to area-based drivers, including the potential for the kind of geographical and policy-driven profiling we have identified as well as for ethnic profiling by individual police officers.
- (vii) The Best Use of Stop and Search (BUSS) voluntary scheme has failed to deal with the central problem of disproportionality and does not incentivise forces to do so because it makes no distinction between those that are performing well or poorly on key indicators. Given existing levels of disproportionality, it is not credible that all 43 territorial forces in England and Wales should be deemed to be fulfilling the requirements of the scheme, including the public sector equality duty that they have due regard to the need to eliminate discrimination. Rather than relying on a voluntary scheme, the Home Office should ensure that stop and search is subject to robust inspection and rigorous enforcement of legal standards.
- (viii) No new stop and search powers or related measures (eg. knife crime prevention injunctions) should be introduced unless it can be demonstrated that existing powers are being used lawfully, fairly and effectively. An evidence-based case needs to show how recently proposed stop and search powers to target acid, drones and laser pointers will be effective in tackling related offences. An equality impact assessment is required to establish what effect the proposed powers would have on existing ethnic disparities, community relations and police legitimacy. It also needs to be demonstrated that these powers are necessary and do not replicate existing provisions.
- (ix) The College of Policing should strengthen its Authorised Professional Practice guidance by reinstating the original statement that the smell of cannabis alone will not normally justify a stop and search. It should also make clear that selectively using 'the smell of cannabis' to target people who are thought to be involved in other forms of criminal activity is inconsistent with the requirements of PACE and unlawful.
- (x) National Police Chiefs' Council should provide clear guidance on how out of court disposals can be made available in ways that do not exacerbate ethnic disparities. Specific consideration should

be given to providing disposals that do not require a prior admission of guilt, and to relaxing current restrictions on the number of disposals somebody can receive.

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