1 Over-policed and under-protected: race and policing from Scarman to Lawrence

Introduction

In this chapter, I examine Lord Scarman’s Inquiry into the Brixton disturbances of 1981 alongside the MacPherson Inquiry into the death of Stephen Lawrence in 1993 to map the trajectory of the initial denial, and eventual acknowledgement, of institutional racism in the Metropolitan Police Service. In many ways, this chapter contextualizes the official (police and government) responses and policy developments in relation to the recognition of institutional prejudice directed at minority groups in British society that will be examined in subsequent chapters in the form of institutional asylophobia, Islamophobia and homophobia. In addition to the central theme of this chapter – that is, the process whereby organizations (such as the police) reflect (or are being forced to reflect) on their institutional racism – other themes that recur throughout the book, such as trust, consultation, citizenship (including the right to fair and equitable policing) and the necessity of protecting minority groups from hate crime, will also be examined. The Stephen Lawrence Inquiry, as will be demonstrated below, is a crucial event in the history of race relations in the UK. The hate crime that resulted in the murder of Stephen Lawrence, and the inquiry into the murder and police investigation of it, has resulted in the beginnings of a re-coding of race and a redrawing of the boundaries of toleration in British society, in which racism and racists rather than ethnic minority groups are increasingly being presented as social problems (or diseases) to be removed from society.

In the first section of the chapter, I examine the significance of Stephen Lawrence’s murder, the Lawrence family’s campaign and the eventual inquiry chaired by Sir William MacPherson. This is followed by a section that examines the failure of the Metropolitan Police Service to serve the Black (African-Caribbean) community in London fairly and equally in the light of both the Scarman and Stephen Lawrence inquiries. Two sections are then dedicated to exploring the denial of institutional racism (in the Scarman Inquiry) through
to the acknowledgement (and definitions) of the various forms that racism can take in public institutions (in the Stephen Lawrence Inquiry). The construction of the social problem of race in the Scarman Report is contrasted with its seeming reversal in the Stephen Lawrence Inquiry, in which racism, and not race, is seen as the social problem to be addressed in contemporary British society. As well as acknowledging the significance of the definitions of the various forms of racism that can be found in the Stephen Lawrence Inquiry, I suggest that these definitions and the recommendations made by the Stephen Lawrence Inquiry might not have gone far enough.

The remainder of the chapter addresses: (1) the recommendations from Scarman to the Stephen Lawrence Inquiry and beyond into the Crime and Disorder Act 1998 with regard to the development of mechanisms of consultation between the police and ethnic minority communities to improve the relationship between them; and (2) the recommendations from Scarman to the Stephen Lawrence Inquiry in relation to stop and search policies, which have been and always will be a major source of resentment because of the disproportionate stopping and searching of the members of the African-Caribbean community, especially young men. Finally, the following question is addressed: Can the police ever police with the consent of the ethnic minority communities if their stop and search policy remains unregulated by race relations legislation? The continual use of stop and search is presented as one of the major inhibitors of the development of ‘active trust’ between the Metropolitan Police Service and London’s ethnic minority communities.

The significance of Stephen Lawrence

Stephen Lawrence was murdered on 22 April 1993. On that evening Stephen and his friend Duwayne Brooks were on their way home, waiting for a bus in Eltham, south-east London. As they waited, a group of five or six White youths crossed the road towards them shouting racist abuse, such as referring to Lawrence and Brooks as ‘niggers’. During this confrontation, Stephen Lawrence was stabbed twice, in the chest and in the arm. Both of these stab wounds severed arteries and Stephen was dead by the time the ambulance arrived at the scene. This incident, according to the inquiry, probably lasted no more than 15–20 seconds (MacPherson 1999: 1.1). The results of the inquiry into the murder were published almost 6 years later on 24 February 1999 and were greeted with a great deal of national (and even international) media attention.¹ On the publication of the inquiry report, the murder of Stephen Lawrence dominated terrestrial and satellite television, radio and the print media² for several days in Britain (Bowling 1999: xi). But why did this particular murder and this inquiry receive such attention?
According to McLaughlin and Murji (1999), the Stephen Lawrence Inquiry was more than just a high-profile inquiry into the murder of an African-Caribbean teenager and the failure to convict his killers. This inquiry had been transformed into a matter of urgent public importance in which: (1) the Metropolitan Police were subjected to unprecedented public scrutiny; (2) the construction of young African-Caribbean men as street criminals and drug dealers by the police was challenged; and (3) previous campaigns for justice were remembered and reconnected to public debate. Bowling (1999) describes the Stephen Lawrence Inquiry and the report of it as being a lightning rod which has drawn down and focused energies from diffuse, private grievances and frustrations, transforming them into highly charged issues of public policy. Variousy described as a ‘landmark’ and a ‘watershed’ by journalists and social scientists alike, the inquiry facilitated a period of unprecedented introspection, examination, reflection and catharsis regarding race relations in Britain.

The wide appeal of the inquiry can be explained through the breadth of recommendations that emanated from it in relation to general policies on race relations, racism, education and social policy, as well as a wide range of related issues (Solomos 1999). As a result, the inquiry has been described as initiating ‘a flurry of activity on tackling racism’, mostly in the form of conferences, internal reviews and ‘race and diversity training’ in many public institutions and voluntary sector organizations throughout the country (Sivanandan 2000: 6). However, without the Lawrence family’s campaign, this inquiry would have never taken place in the manner that it eventually did (Bowling 1999; McLaughlin and Murji 1999; Sivanandan 2000). The Lawrence family, especially Stephen’s parents Doreen and Neville Lawrence, were described as being relentless in their campaign in the face of official indifference and denial (Bowling 1999; Sivanandan 2000). The members of the Lawrence family can also be described as being at the centre of a re-coding of race in Britain through the drawing in the tabloid press, especially in the Daily Mail, of a boundary between ‘ordinary, decent Britons – white and black – and the racist “savages” from South London who killed Stephen Lawrence’ (McLaughlin and Murji 1999: 377).

At the same time, the impact of this murder and the inquiry can be described as the aperture through which so-called ‘hate crimes’, and the inadequate policing of them, came to public attention as social problems simultaneously. According to Jenness and Broad (1997), social problems such as hate crime and the discriminatory practices of public institutions in relation to minority groups targeted by hate crime are rarely fully constituted until its victims are made apparent. The Stephen Lawrence murder fits with Jenness and Broad’s description of the emergence of a symbolic victim associated with a social problem – that is, an injured person who is harmed by forces outside of his or her control – who is essentially innocent and thus worthy of others’
concern. Stephen Lawrence and his family’s ‘victim status’ is undeniable in terms of his death through a racially motivated murder and the family’s, and other witnesses’ unsatisfactory treatment by the Metropolitan Police Service, both factors Stephen and his family had little control over. At the same time, Stephen was an ‘attractive victim’, a young man with a future, from a middle-class, church-going Christian family, whose innocence in his attack was easily dramatized, thus rendering him worthy of others’ concern through what Jenness and Broad (1997) describe as ‘the projections of collective sentiments’ (p. 6).

The Lawrence family campaign and the Stephen Lawrence Inquiry itself are significant components in the process of memorialization, whereby symbolic victims and especially the surviving relatives (mostly parents) of high-profile violent incidents usually involving young people and children become powerful agents of legislative change or legislative review (Valier and Lippens 2004).

**Race and policing**

In this section of the chapter, I examine the similarities and differences between the two most significant reviews of race relations in the UK (albeit in the context of policing in London): the Scarman Inquiry into the Brixton disturbances of 1981 and the Stephen Lawrence Inquiry. The events that triggered these inquiries are rather different. Although the Stephen Lawrence Inquiry had an extremely wide remit, it was inspired by the murder of one young man, and the inquiry into the murder took place 6 years later. The Scarman Inquiry, on the other hand, was ordered by the then Home Secretary, William Whitelaw, two days after some of the most serious disturbances to take place on mainland Britain in the twentieth century (Bowling 1999). The disturbances in Brixton between 10 and 12 April 1981 were not isolated events. Between 1980 and 1981, Toxteth in Liverpool, Moss Side in Manchester, the St. Paul’s district in Bristol and the Handsworth area in Birmingham experienced similar disturbances, all involving young African-Caribbean (and sometimes Asian) men in confrontations with police. These events, including the Brixton disturbances, unleashed a wave of anxious insecurity in the country, which was evident in the official commentary at that time. For example, commenting on the Brixton disturbances, Lord Scarman himself stated that:

> the rioters . . . found a ferocious delight in arson, criminal damage to property, and in violent attacks upon police, the fire brigade, and the ambulance service. Their ferocity, which made no distinction
between the police and the members of the rescue services is, perhaps, the most frightening aspect of this terrifying weekend.

(Scarman 1981: 3.109)

Lord Scarman and others depicted these events in particularly racialized terms, as an indication of ‘something new and sinister in our long national history’ (Sir John Stokes, MP for Halesowen and Stourbridge, cited in Benyon 1984a: 4).

Despite the differences in the events that inspired the Scarman and Stephen Lawrence inquiries, they both share a central concern related to the failure of the Metropolitan Police Service to police ethnic minority groups in London fairly. In relation to the Brixton disorders, the Metropolitan Police Service was accused of oppressive styles of policing in general but especially in the run up to the weekend of 10 April, in particular the police operation known by its now famous codename, Swamp ’81. Operation Swamp as it has come to be known was singled out by the Scarman Inquiry as a particularly ‘flawed’ and ‘inflexible’ policing method, characterized by ‘hard-policing’ and an unwillingness to solicit or consult local opinion on such methods (Scarman 1981: 4.70, 4.71). Operation Swamp, which was directed primarily against street crime, employed three policing methods: the use of special patrol groups, the use of the ‘sus’ law (to deal with suspected persons loitering with intent to commit an arrestable offence) and the exercise of the statutory power to stop and search (Scarman 1981: 4.2).

The decision to go ahead with this operation was described by the Scarman Inquiry as being ‘unwise’ (Scarman 1981: 3.27), in that tensions in the area were already high due to an attempt by the police to come to the aid of a young African-Caribbean male stab-wound victim on the previous day. During this incident on 9 April, a crowd of African-Caribbean residents from the area attempted to seize the stab-wound victim from the police, even though the police, according to the inquiry, were attempting in this instance to help the injured man (Scarman 1981: 3.23). This confrontation ended with a ‘sinister twist’, in that after the crowd seized the stab-wound victim, the police radioed for assistance, which came in the form of a substantial number of officers, resulting in the further escalation of tensions (Scarman 1981: 3.25). The wise course, according to the inquiry, would have been not to go ahead with Operation Swamp in the light of the tensions in the area the day before (Scarman 1981: 3.27). The Swamp ’81 operation, however, did go ahead and on 10 April 112 officers were deployed with the intention of making extensive use of the stop and search power provided by Section 66 of the Metropolitan Police Act 1839 (Benyon 1984b). According to Benyon, 943 ‘stops’ were made during this operation; just over half of those stopped were African-Caribbean and over two-thirds were under 21. The Scarman Inquiry lists the number of arrests at 118 (75 charges resulted), but these included only one for robbery, one for attempted burglary and 20
charges of theft or attempted theft (Scarman 1981: 4.37–4.40). As Benyon (1984b) points out, and this criticism will be further developed below, judged by its own aims (to arrest burglars and robbers) the operation was not very successful and resulted in over 850 ‘innocent’ people being inconvenienced and irritated. There was a complete lack of consultation on this operation within the Metropolitan Police Service. Even the beat officers involved in the day-to-day policing of the area, and who had been involved in tensions just the day before, were not consulted; nor were local community leaders. The Scarman Inquiry described this as ‘a serious mistake’ (Scarman 1981: 4.75–4.80). Operation Swamp, in a context of raised police–community tension in an area characterized by police–community antagonism, became ‘the accelerator event’ (Taylor 1984: 28) that triggered the weekend of disturbances in Brixton on 10–12 April.

The problems identified by the Stephen Lawrence Inquiry were of a different order, yet still related to the Metropolitan Police Service’s incompetence in dealing with members of ethnic minority communities. For example, the principal witness to the murder, Duwayne Brooks, was mistakenly considered by the Metropolitan Police Service to be a perpetrator initially and was marginalized as a witness in their subsequent investigations. Mrs Lawrence was patronized by the members of the Metropolitan Police Service throughout the investigation, and the Lawrence family’s solicitor, Imran Khan, was subjected to a campaign by the Metropolitan Police designed to discredit him. Above all, the main mistake by the Metropolitan Police Service in relation to this murder was their failure to acknowledge how race and racism impacted upon the circumstances of the murder and all aspects of the routine police work associated with the investigation (McLaughlin and Murji 1999).

The terms of reference of the inquiry were announced in Parliament by the then Home Secretary Jack Straw as the following: ‘To inquire into the matters arising from the death of Stephen Lawrence on the 22nd April 1993 to date, in order to particularly identify the lessons to be learned from the investigation and prosecution of racially motivated crimes’ (cited in MacPherson 1999: 6).

The lessons to be learned by the Scarman and Stephen Lawrence inquiries into the policing of ethnic minority groups by the Metropolitan Police Service can be described as being structured around (a) the denial of institutional racism (in the Scarman Inquiry) and (b) the acknowledgement of institutional racism (in the Stephen Lawrence Inquiry). These are explored in turn below.
‘Bad apples’ and weak families

In his report of the inquiry into the Brixton disturbances of 1981, Lord Scarman introduced what has been described since as the ‘bad apple thesis’ (Bowling 1999; Bowling and Phillips 2002) to explain the existence of racism in the Metropolitan Police Service. According to Scarman:

the direction and policies of the Metropolitan Police are not racist. I totally and unequivocally reject the attack made on the integrity and impartiality of the senior direction of the force. The criticism lies elsewhere – in errors of judgement, in a lack of imagination and flexibility, but not in deliberate bias or prejudice.

(Scarman 1981: 4.62)

For Scarman:

Racial prejudice does manifest itself occasionally in the behaviour of a few officers on the streets. It may be only too easy for some officers, faced with what they must see as the inexorably rising tide of street crime, to lapse into an unthinking assumption that all young black people are potential criminals. I am satisfied however, that such a bias is not to be found amongst senior police officers.

(Scarman 1981: 4.62)

Part of the problem, according to Lord Scarman, was not racist policing, but rather the belief among ethnic minority communities that the police are racist, a belief which is reinforced by the ‘power of gossip and rumour’:

I have little doubt that behind some of the criticisms lies the power of gossip and rumour. There must be the temptation in every young criminal – black or white – stopped in the street or arrested in Brixton to allege misconduct by a police officer . . . Whether justified or not, many in Brixton believe that the police routinely abuse their powers and mistreat alleged offenders. The belief here is as important as the fact. One of the most serious developments in recent years has been the way in which the older generation of black people in Brixton has come to share the belief of the younger generation that the police routinely harass and ill-treat black youngsters.

(Scarman 1981: 4.66–4.67)

Scarman’s assertions can be described as a political diversion strategy, in
which he reduced objective, institutional racism (in the form of a conscious matter of policy originating from senior ranks) to a matter of a small, but regrettable, number of low-ranking prejudiced officers. And the perception of the local community in Brixton that the police were racist was equally dismissed as the gossip and rumour mongering of ‘criminals’. By not dealing with racism head on, Lord Scarman has gone down in history as the person responsible for shifting the object of anti-racist struggle from public institutions to the individual, from an emphasis on changing society to focusing on the problems of the African-Caribbean community in Brixton (Bourne 2001). Thus, for Scarman, institutional racism, as he understood it, did not exist in Britain (Scarman 1981: 2.22); however, what did exist in Brixton (although exacerbated by flawed and unimaginative policing practices) and elsewhere in the country were African-Caribbean communities blighted by ‘racial disadvantage’ (Bourne 2001: 11). Thus, Scarman managed to turn the inquiry away from the legal and political questions of institutional racism and discrimination by the police against the African-Caribbean community, to a focus on the social problems associated with racial disadvantage, as being at the root of the problems in Brixton.

Gilroy (1992) describes Lord Scarman’s Report as a crucial document in the history of ‘black’ criminality. For Gilroy, the Scarman Report provided the official seal to the definition of the origins and extent of African-Caribbean crime through tying these to distinct patterns of protest and family life that were presented as being characteristic of African-Caribbean culture. This shift in emphasis in the Scarman Report, as depicted by Gilroy, was evident in the media reporting of police and Conservative politicians’ statements in the summer of 1981, which focused on violent street rioting and the alleged weakness of the family unit in West Indian communities (Solomos and Rackett 1991), which was viewed as being incapable of disciplining young people. The Prime Minister at the time, Margaret Thatcher, was quick to place the responsibility for the riots with the families of the ‘rioters’. She was reported in The Times on 10 July 1981 as saying that if the parents concerned could not control the actions of their children, what could the government do to stop them (cited in Solomos and Rackett 1991: 55). Scarman himself also attributed the drift of African-Caribbean youngsters into crime and violence to weak family units, weakened by the ‘change in circumstances’ through migration in which West Indian traditional family structures, especially the roles of the West Indian mothers at the centre of those families, were being undermined by new demands, such as female paid work (Scarman 1981: 2.17). With West-Indian mothers away from the family home as wage earners, and West Indian fathers at worst absent and therefore of little or no significance and at best a distant and supportive (but seldom dominant) figure, Scarman attempted to define the problem in Brixton as one associated with cycles of racial disadvantage. Like the American African-Caribbean, inner-city
underclass theory of Charles Murray (Murray 1990; Herrnstein and Murray 1994) and others that would achieve social and political prominence in the 1980s and into the 1990s, the instability of the ‘matriarchal’ West Indian family identified by Scarman was predictive of a whole host of social problems, including high rates of ‘illegitimacy’, children in care, low educational achievement, exclusion from job markets and, eventually, crime (Scarman 1981: 2.17). Scarman thus diverted attention away from the social problems associated with the institutional racism of public institutions such as the police to focus instead on the social problems associated with West Indian families. This is part of a wider history of the political response to African-Caribbean immigration, which is deeply infused with the common-sense notion that ‘black’ is intrinsically a social problem (Solomos and Rackett 1991). The circularity of the argument is evident in the following, which although sympathetic to the plight of inner-city African-Caribbean youth, manages to further distance the consideration of institutional racism from public debate through focusing instead upon the compound social problems resulting from racial disadvantage which explain African-Caribbean hostility to the police:

would it be correct to conclude that young black people are wholly alienated from British society as a result of the deprivations they suffer? But it would be surprising if they did not feel a sense of frustration and deprivation. And living much of their lives on the streets, they are brought into contact with the police who appear to them as the visible symbols of the authority of a society which has failed to bring them its benefits or do them justice.

(Scarman 1981: 2.23)

When we fast-forward to the Stephen Lawrence Inquiry, we see that Lord Scarman’s quasi-sociological theory of the social problem of African-Caribbean ‘culture’ (as associated with social disadvantage and hostility against the police and as the cause of social disadvantage and hostility against police) was challenged. For example, the Institute of Race Relations, in their submission to part two of the Stephen Lawrence Inquiry, sets the scene for the reversal in the conceptualization of the social problem of race with regard to the policing of the African-Caribbean community, to focus instead on the social problems associated with racism through suggesting that policy be redirected in two major ways. First, policy should no longer focus on African-Caribbean people as a source of social problems, but instead should focus on the need for all institutions in this society, not least the police, to respect civil rights and afford ethnic minority groups the proper protection against racial harassment and attacks. Second, it is racism, not ethnic minority groups, that needs to be targeted for remedial action, not just in policing but across a
The acknowledgment of institutional racism

Jenny Bourne (2001) captures the reversal in terms of conceptualizing the social problem associated with the policing of the African-Caribbean community from Scarman to Lawrence when she suggests that the emphasis of the Scarman Inquiry Report had been about managing ‘them’, the problem; what the Macpherson-led inquiry emphasized in contrast was that racism in Britain was the problem and this was shaming for the nation through bringing home to Britain the extent of racist violence and the way miscarriages of justice could take place through incompetent and racist policing. In contrast to Lord Scarman’s rejection of the accusation that Britain was an institutionally racist country (Scarman 1981: 2.22), MacPherson acknowledged the existence of racism in a wide range of institutions. The result was that Scarman’s bad apple thesis was replaced in the Stephen Lawrence Inquiry by a thesis that implied that the apple tree, if not the whole orchard, was infected with the disease of institutional racism:

racism, institutional or otherwise, is not the prerogative of the Police Service. It is clear that other agencies including, for example, those dealing with housing and education also suffer from the disease. If racism is to be eradicated there must be specific and co-ordinated action both within the agencies themselves and by society at large, particularly through the education system, from primary school upwards and onwards.

(MacPherson 1999: 6.54)

In the view of the MacPherson-led inquiry, institutional racism in the Metropolitan Police Service was apparent in relation to what they had seen and heard throughout the process of their enquiries in relation to the following: (a) the police investigation (and treatment of witnesses) in relation to the murder of Stephen Lawrence; (b) a general concern relating to the policing of the African-Caribbean community in Britain in relation to, for example, disproportionate application of police stop and search powers; (c) concerns related to the under-reporting of racist incidents due to a lack of trust in police by many members of the African-Caribbean community; and (d) concerns about the evident lack of police training in racism awareness that emerged in relation to the specific inquiry into the murder and in the inquiry’s hearings around the country which were recorded in part 2 of the report (MacPherson 1999: 6.45). Thus rather than being an intermittent problem (with a few bad
apples), the Stephen Lawrence Inquiry diagnosed a systematic, institutionalized problem that required root and branch reform (Bowling and Phillips 2002). Institutional racism was defined thus in the report in relation to the concerns listed above:

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

(MacPherson 1999: 6.34)

Even though this definition was welcomed as going some way to refocusing the problem at the heart of the policing of the African-Caribbean community, this definition is inadequate. For example, Solomos (1999) describes the definition as not being rigorous enough. In fact, Solomos suggests that the Stephen Lawrence Inquiry offers a ‘rather limited, and in places contradictory, discussion of racism’ (p. 2). Solomos’s main problems with regard to the inquiry were that: (1) it did not come up with a satisfactory definition of what it means by institutional racism in relation to the police; and (2) it did not provide us with a framework of what kind of policy and political initiatives are necessary to tackle racism in institutions or in society. Solomos suggests that rather than focusing on the meaning of institutional racism and examining the mechanisms that would help us to understand the historical processes and the contemporary realities that shape relations between the police and ethnic minority communities, the inquiry emphasized instead ‘discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people’.

Alongside the criticism that the inquiry did not go far enough (which will be expanded on below in relation to the definition of racist incidents), the other main criticism levelled at the inquiry was that its limited engagement with institutional racism has in turn resulted, in recent years, in similarly limited anti-racist reviews and agendas being perpetuated throughout the country in a wide range of organizations. There is a sense in the social science commentary on the inquiry of a missed opportunity simultaneous with the pronouncements of the inquiry’s ‘landmark’ status. For Sivanandan (2000), the inquiry’s recommendations have resulted in the development and pre-occupation with formulaic anti-racist procedures, which he describes as ‘off-the-peg’ blueprints for institutional reviews for ‘every problem and every occasion’ (p. 5). The result is that ‘anti-racism itself has become institutionalised’ (Bourne 2001: 16) in the post-Stephen Lawrence Inquiry period mostly in
the guise of the ‘development’ of ‘staff competences’. The inquiry, according to Sivanandan (2000), did enough to put institutional racism on the map and to draw attention to its prevalence in society in general. The point, however, is not to look to this particular inquiry for a solution to racism in non-police organizations. Rather, these organizations should examine their particular roles, the context in which they work and the way in which racism has developed in their fields, not just to accept definitions derived from the Stephen Lawrence Inquiry, which might not be appropriate in every organizational context.

Another effect of the inquiry and the 6-year build-up to it was the re-coding of race in and through Stephen Lawrence and his parents, in which, according to McLaughlin and Murji (1999), ‘inclusive gestures’ from the print media, especially the Daily Mail and the Daily Telegraph, can be described as a significant development in which those tabloids that speak for ‘Middle England’ initiated a discourse that ‘blackness’ and Britishness are not mutually exclusive, through the process of readers sharing in the grief and anger of the Lawrence family. This seemingly positive development, however, has had unintended consequences, which in turn have also limited British society’s thorough engagement with racism. According to McLaughlin and Murji (1999), this has occurred through the tabloids’ demonization and pathologization of the five suspects referred to ‘as the racist “savages” from South London who killed Stephen Lawrence’ (p. 377). The key achievement of this demonization of the five suspects was that racism is distanced from mainstream society. Racism was thus depicted as the overt and violent practices of a few dangerous people and not a social problem or a disease, to use an analogy employed by MacPherson, endemic in mainstream society. This re-coding of racism also resulted in the more right-wing tabloids’ support of the Stephen Lawrence Inquiry and the Lawrence family’s campaign as focusing exclusively on the need to bring the suspects to justice (thus punishing the explicitly racist ‘few’), while at the same time arguing that the legacy of the inquiry should not be a ‘general “witch hunt” against racism’ (McLaughlin and Murji 1999: 377). Thus, for the tabloids, the mainstream or popular racism of society in general was not the problem, nor even in the end the Metropolitan Police Service’s institutional racism; the problem became the overt racist violence synonymous with a small group of abnormal, excessively racist individuals. Despite this significant, yet ultimately limited re-coding of British identity against extreme racism in the tabloid media’s response, recommendations made in the inquiry about the recording of racist incidents and for the criminalization of racist incidents would formalize this re-coding process in law.
Taking racist hate crime seriously

As well as the acknowledgement of institutional racism, the Stephen Lawrence Inquiry has also been lauded for its recommendations in relation to the policing of racist incidents. These recommendations emerge from the inquiry’s recognition that there were inadequate measures in the criminal law for the protection of ethnic minority communities from the range of behaviours motivated by racist prejudice.7 The recommendations for criminal legislation that would protect ethnic minority communities from racist incidents were in part related to the recognition in the Stephen Lawrence Inquiry that African-Caribbean people (and their families), even when they were the victims of a serious crime, were rarely seen as victims of crime. Thus, the recommendation in the inquiry that legislation covering racist incidents should be introduced was to ensure that crimes and incidents motivated by racism and perpetrated against the members of the African-Caribbean community and other minority racial groups8 should not be subjected to a similar degree of ignorance and indifference that the Lawrence family, Duwayne Brooks and the family’s solicitor experienced. Stephen Lawrence’s father, Neville Lawrence, stated during the inquiry that ‘it is clear to me that the police come in with the idea that the family of African-Caribbean victims are violent criminals who are not to be trusted’ (MacPherson 1999: 4.4). In response to these and myriad other statements from the members of the African-Caribbean community and representatives of organizations, the recommendations of the inquiry for the introduction of legislative measures for dealing with racist incidents can be described as an attempt to re-classify African-Caribbean people in the procedures of the agencies of criminal justice as victims of crimes rather than criminals. This can be described as an attempt to disrupt the stereotyping and criminalization of all members of the African-Caribbean community, but especially young men, which has characterized the relationship between the police and the African-Caribbean community since the 1950s.

According to the Association of Chief Police Officers’ (ACPO) Guide to Identifying and Combating Hate Crime, hate crime ‘is a crime where the perpetrator’s prejudice against any identifiable group of people is a factor in determining who is victimised’ (ACPO 2000: 13). The ACPO’s former definition of a ‘racial’ incident is similarly worded:

A racial incident is any incident in which it appears to the reporting or investigating officer that the complaint involves an element of racial motivation, or any incident which includes an allegation of racial motivation made by any person.

(cited in MacPherson 1999: 45.16)
According to the MacPherson-led inquiry, this widely used definition was problematic because: (a) it over-emphasized the perpetrator’s motivation; (b) the definition was not victim-oriented enough; and (c) the words ‘racial’ and ‘racially motivated’ were deemed by the inquiry to be inaccurate and confusing and should be replaced with the adjective ‘racist’ (MacPherson 1999: 45.16–45.17). As a result of these problems, the definition of a racist incident (recommendation 12 of the inquiry), which has also been subsequently adopted by the ACPO,9 is: ‘a racist incident is any incident which is perceived to be racist by the victim or any other person’ (MacPherson 1999: 45.17). In this definition, the victim of and witnesses to a racist incident are clearly given preference, in an attempt to ensure that they will be recognized by the agents and agencies of criminal justice and that their complaint will be taken seriously by them. This should lead to the protection of ethnic minority groups rather than the habitual stereotyping of whole sections of the African-Caribbean community, especially young men, as hostile ‘anti-police’ criminals, which has consistently de-emphasized the position of African-Caribbean people as victims.

A few months before the publication of the inquiry’s report, on 30 September 1998, the Crime and Disorder Act came into force (after receiving Royal Assent on 31 July 1998). This legislation included new offences under Sections 28–32 which deal with the crimes of racist violence and harassment, in the form of ‘racially aggravated offences’. In their guidance on these new offences, the government stated the purpose behind them:

The Government introduced these new offences in order to deal with the problem of racist violence and harassment. The government recognises that racist crime does not simply injure the victim or their property, it affects the whole family and it erodes the standards of decency of the wider community. Trust and understanding built up over many years can be eroded by the climate of fear and anxiety which can surround a racist incident.

(Home Office 1998a: 1.1)

Paul Iganski’s (1999b) work on racially aggravated ‘hate crime’ legislation isolates the three main objectives for including racially aggravated crime legislation in the Crime and Disorder Act 1998. These are the ‘deterrent-effect’ or function of the legislation, the promotion of social cohesion and the impetus for a more effective response to incidents by the criminal justice system. In terms of the promotion of social cohesion, the symbolic force of this legislation was supposed to operate in two main ways. First, through the expression of collective social opprobrium against perpetrators and the acts they commit. The legislation was also expected to contribute to social cohesion by countering ‘the marginalization experienced by communities targeted by attacks’
(Iganski 1999b: 389). Thus, in many ways this legislation offers those targeted by hate some protection from it. This legislation also performs a symbolic role in attempting to modify or correct undesirable behaviour in society not only in the name of greater protection for certain groups who are ‘injured’ by hate, but also in the name of protecting wider society from the negative impacts of a hate incident in the form of institutional mistrust, and the potential polarization between social groups. The legislation also emphasizes the destructive and often marginalizing impact of hate crimes such as racist incidents on the victim, family, neighbourhood, community and ultimately the nation.

The developments so far in relation to both racist incidents and racially aggravated offences can thus be described as mechanisms that attempt to overcome inequity in criminal justice service provision to ethnic minority groups, especially the members of the African-Caribbean community. However, they are also about winning the trust of the members of the African-Caribbean community and other ethnic minority groups through ensuring that the hate crimes and incidents they experience will be taken seriously by the police and other agencies. Thus, a victim-oriented definition of ‘racist incidents’ was introduced for the purposes of victim and witness reporting processes (as well as for the recording of them in local police and national criminal statistics). In contrast, racially aggravated offences were introduced for the purpose of punishing the racist ‘aggravating factor’ motivating or accompanying ‘ordinary’ offences such as assaults, criminal damage, public order offences and harassment. Racially motivated offences differ from these ‘ordinary’ offences in that stiffer sentences are available for people convicted of the new offences. Thus, hatred, prejudice or intolerance are not being punished here as separate offences; this is sentence enhancement legislation that increases punishment for conduct that was already a crime (Jacobs and Potter 1998) when racist bias or motivation can be proved as being a motivating factor during the commissioning of these offences.10

The creation of these types of offences and associated sentence enhancement is not without problems. The provision of sentence enhancement for hate crimes, including racially aggravated offences, has been both welcomed and the subject of concern in social science. According to Jacobs and Potter (1998), in talking about hate crime provisions in the USA, one of the problems associated with legislation such as this is that it could be targeted at the wrong type of offenders because the definition of racist aggravation is often too wide. The result is that many minor incidents, including the use of racist language during an altercation or assault, are being caught by the legislation. The use of racist language in these instances, according to Jacobs and Potter, is low-intensity prejudice, aberrant, ad-hoc or ‘heat of the moment’ behaviour that does not indicate the deep prejudice of, for example, a member of a Far Right organization. Jacobs and Potter note that there are many different forms of prejudice (as observed in the Introduction of this book), and that enhanced
sentencing provisions for hate crimes can be interpreted too literally without distinguishing deeply held prejudices from, for example, a racist epithet spoken during a heated encounter. The fear is that low-level, surface racist incidents will be caught by this legislation, when its ‘real’ target should be deep-seated, ideological hatred.

In the UK, a number of commentators (Bourne 2002) and social scientists (Burney 2002; Ray and Smith 2002) have voiced similar concerns regarding Section 28 of the Crime and Disorder Act. Bourne (2002) suggests two main problems with the provisions. The first echoes Jacobs and Potter above, in that the literal interpretation of the presence of racist language during the commissioning of a crime has resulted in prosecuting authorities criminalizing the wrong people and in fact trivializing the issue of racial crime. I would disagree with this concern and with the distinction between the typology of hate criminals. This distinction is offender-centric, as it focuses on the motivation of the hater and thus ignores the victim-centred definitions of a racist incident in the Stephen Lawrence Inquiry. I do have more sympathy for Bourne’s second major criticism associated with evidence in relation to the Crime and Disorder Act hate crime provisions. According to Bourne, whereas an assault on someone is objective and measurable, the motive for an assault is subjective and difficult to prove. Because of this, the Crown Prosecution Service brings only one in four racially aggravated crimes to court. This is an unsatisfactory outcome, as ‘having a law on racial motivation which is available, but impossible of proof, has effectively put back the struggle to get the racial context of a crime treated as material evidence in trials’ (Bourne 2002: 83).

‘Hate crime laws’ have been described by North American scholars as the ‘next generation’ of criminal laws which have been enacted to condemn traditionally and officially designated prejudices, such as racial, religious and gender prejudices, that are held, expressed and acted upon by individuals (Jacobs and Potter 1998). These types of criminal laws, according to Jacobs and Potter, are a product of increased race, gender and sexual orientation consciousness in contemporary Western societies. Hate crime categories are, as Jacobs and Potter suggest, a new component in the criminal law lexicon and to our way of thinking about ‘the’ crime problem. However, and despite the problems explored above, I would suggest that hate crime legislation, proposed legislation and the declaratory statements supporting hate crime initiatives (see also Chapters 4 and 5) also offer a new component in our way of thinking about ‘social problems’ in general. Hatred that is incited, expressed or acted out has been conceptualized as having an undesirable impact beyond the individual victim, his or her community, neighbourhood and town, culminating ultimately in injury to wider society. Thus, by taking hate crime seriously, the discourses, practices and legislation associated with it can be described as connecting with the government’s wider concerns and objectives in that: (1) hate crime is presented as a particular social problem that has a negative
impact well beyond the individual victim(s); (2) which is in turn connected to the failures of public institutions (e.g. institutional racism and institutional homophobia in the police) to deal with the victims and perpetrators of hate crime; (3) which is in turn connected to inclusive strategies dedicated to ameliorating the social detachment and marginalization of minority communities targeted by hate from the social mainstream. Thus, by taking the social problem of hate crime seriously, the wider strategy of increasing trust in public institutions and thus also attempting to increase political and civic participation (i.e. attempting to activate or re-activate the ‘citizenship practices’ of British ethnic minority groups) is exposed for our scrutiny.

However, North American writers (especially Jacobs and Potter) have suggested two significant problems with this potential political strategy in relation to hate crime legislation. First, hate crime legislation in the USA is a rather blunt weapon in the fight against bigotry in that it does not differentiate sufficiently between ‘low-level’ and ‘high-level’ episodes of prejudice (as mentioned above). However, Jacobs and Potter’s second concern in relation to hate crime legislation is that it could prove to be the source of social division rather than social cohesion in society. That is, with the introduction of hate crime laws, social relations between groups could become increasingly ‘balkanized’ through the fragmentation of the criminal law into various offender/victim configurations, such as race, gender, religion and sexual orientation, and that this will inevitably heighten tensions and reinforce prejudices and mutual suspicions between groups. Thus, Jacobs and Potter fear that in the process whereby minority groups will be encouraged to lobby for recognition as victims of hate crime (already evident in the UK in relation to protecting many more target groups from the incitement of hatred, including Muslims; see Chapter 4), a central function of the criminal law as a vehicle for enhancing social solidarity, recognized by Durkheim, will be put in jeopardy.11

In relation to the first concern, the problem in the UK identified by Bourne (2002) is that too few, not too many, hate crime incidents (e.g. racist incidents), are finding their way into hate crime statistics due to the under-reporting of racist incidents by victims and witnesses and the under-recording of incidents as racist by police and other agencies.12 And the UK hate crime legislation (including the incitement of racial hatred) is seen as declaratory legislation, which establishes boundaries and plugs legal loopholes, but is rarely used as a specific mechanism in law for punishing ‘hate criminals’ (this will be explored in greater detail in Chapter 4). In relation to Jacobs and Potter’s (1998) apocalyptic perspective on hate crime provisions turning an advanced Western society such as the USA (or for that matter the UK) into ‘the nightmare in the former Yugoslavia’ (p. 132), this concern appears somewhat exaggerated, especially their suggestion that the violent fragmentation and balkanization of these societies is an inevitable result of the over-zealous introduction of hate crime provisions. In the UK, hate crime legislation is
being introduced as a means of making society more cohesive, more democratic and fairer through extending protection and participation to the social groups injured and detached (from mainstream society and civic participation) by hate (a theme explored in Chapters 4–6 in particular). This is evident in the following statement from the Association of Chief Police Officers:

Social tolerance towards hate crime needs to drop to zero. Such behaviour must be regarded as totally unacceptable. It must be marginalized and isolated from the mainstream. Hatred must be met by a hostile environment. Corresponding efforts must be made to draw isolated victims and victim groups into mainstream society by fair treatment, dialogue, respect and the inspiration of trust.

(ACPO 2000: 51)

This is one of many similar statements from police and government organizations that will feature in this book with regard to the ‘war on hate crime’ in the wider context of the intolerance of intolerance. However, it is important to note that the offer of increased protection from the harm of hate for the communities targeted by it is part of a wider Third Way strategy in which the right to these protections is offered in a social contract that expects the groups that will benefit from this protection to become less insular, less defensive and take up the obligations and responsibilities associated with the wider political community. In the UK, therefore, hate crime provisions and the taking of hate crimes seriously are ultimately matters of citizenship understood as rights with responsibilities – the right to be protected from harm in the provisions of the criminal law with the understanding that this right is accompanied by a re-orientation of commitments, loyalties and responsibilities to the wider political community. Instead of heating-up tensions and competition between groups, as in Jacobs and Potter’s (1998) ‘balkanization theory’, hate crime provisions in the UK are part of the wider strategy (explored in greater detail in Chapter 7) of cooling-down group tensions and loyalties so that ‘we’ can all move to the common ground of shared values through toleration forged in the presence of, and in active dialogue with, others (Creppell 2003).

The politics of consultation

Whatever was done ‘after Scarman’, it became clear during the Lawrence Inquiry that the loss of ‘confidence and trust’ among ethnic minority communities had, if anything, worsened in the intervening 18 years.

(Bowling and Phillips 2002: 17)
In addition to the recommendations associated with ‘racially aggravated’ provisions, and the suggestions regarding the reporting and recording of racist incidents, a third component of the Stephen Lawrence Inquiry’s recommendations was devoted to overcoming the antagonism and mistrust between minority groups and the police through mechanisms that would ensure greater police–community consultation. These recommendations were made in an attempt to overcome one of the most obvious indicators that ethnic minority groups did not trust police – that is, the under-reporting of racist incidents. To encourage the reporting of racist incidents, the Stephen Lawrence Inquiry recommended ‘that all possible steps should be taken by police services at local level in consultation with local government and other agencies and local communities to encourage the reporting of racist incidents and crimes’ (MacPherson 1999: recommendation 16). In the Crime and Disorder Act 1998, this recommendation became law through the statutory consultation requirement involving police services, local authorities, local agencies and communities in the form of crime prevention initiatives and ‘crime reduction partnerships’. This legislative requirement placed a duty on the police as an organization to ‘open-out’ to the other (in this case, ethnic minority communities) to develop stable ties with them (Giddens 1994b). As already suggested in the Introduction to this book, this is an attempt to win, achieve and actively sustain trust. In relation to racist incidents and ethnic minority communities such as the African-Caribbean community, and as will be demonstrated in Chapter 5 in relation to sexual minority communities, the Stephen Lawrence Inquiry and the Crime and Disorder Act ‘consultation’ recommendations and requirements are part of a bridge-building strategy between the police and other agencies (in a multi-agency complex), as well as between police, local authorities and local communities with special reference to ‘hard to reach groups’, so designated through their enduring lack of trust in the police (this will be explored in greater detail in Chapters 5 and 6).

Police and minority community consultation is not a recent policy recommendation in that consultation was proposed but rarely (and problematically) implemented on the ground as a result of recommendations made by the Scarman Inquiry. The Scarman Inquiry suggested that a statutory framework should be developed to require local consultation between the Metropolitan Police Service and the African-Caribbean community at borough or police district level (Scarman 1981: 5.69). Keith (1993) describes the latter as a crucial development that placed consultation on the political agenda in a context which explicitly linked consultation to the prevention of public disorder and the resolution of the clashes between the police and African-Caribbean people in London. According to Holdaway (1996), Lord Scarman’s ambition was to have police–community liaison or consultative committees established as a statutory duty on the Metropolitan Police Service to bring ‘representative’ public opinion to bear on local police policy to improve
police race relations, especially through the presence of minority ethnic representation on the committees. Section 106 of the Police and Criminal Evidence Act 1984 made statutory requirements in London for all police constabularies to establish such consultation committees. However, Holdaway (1996) describes research conducted at the time (by Rod Morgan) as indicating that there was evidence of widespread confusion regarding non-London police forces that thought they were required to create such committees and those police forces that instituted them reported varying, yet limited success. Consultation between the police and ethnic minority groups was to be raised again as a mechanism for bridging the gap between the police and African-Caribbean communities during the Stephen Lawrence Inquiry and in the year in which the Crime and Disorder Act was implemented. For example, Her Majesty’s Inspectorate of Constabularies (HMIC), in the Thematic Inspection Report on Police Community and Race Relations, noted there was a growing awareness that:

the police cannot win the battle against crime without the support of the communities they serve. As communities become more plural, gaining their trust will require both improvements in the quality of service they receive and the adoption – as a core element of all policing activity – of a community focused strategy which recognises diversity . . . In effect this means that all the various components . . . of the police organisation should reflect a community and race relations element in their individual plans and strategies.

(HMIC 1997: 4)

The Stephen Lawrence Inquiry also recommended that the Metropolitan Police Service should include targets for the recruitment, progression and retention of ‘minority ethnic staff’, which was to be monitored by HMIC (MacPherson 1999: recommendations 64–66) to ensure that the Metropolitan Police Service is more representative of ethnic diversity in London, thus further attempting to ‘change’ the racist culture of the organization from the inside-out. On the whole, this legislation and these recommendations can be described as progressive attempts at developing a police force that polices with the consent of many more communities than those represented by White Middle England. It should also be noted that the aim of these consultation mechanisms (and increased recruitment and retention of ethnic minority police officers) is not just to facilitate passive trust, but instead are attempts to promote ‘active trust’ through dialogue with the other in a wider process of institutional reflexivity (Lash 1994b).

In the Metropolitan Police Service, one of the most significant developments in relation to anti-hate crime initiatives has been the formation of the high-profile Diversity Unit (Stanko 2001), which has the remit of (i) monitoring
incidents of hate crime across London and (ii) formulating strategic policy and promoting good practice for the investigation of such crimes. At the same time, special community safety units were established in each of the Metropolitan Police Service’s 32 boroughs. These units deal with racist and homophobic hate crime but mostly, according to Stanko (2001), with domestic violence, which accounts for four out of five community safety unit referrals. The combination of these developments amounts to a commitment on the part of the Metropolitan Police Service, and increasingly police forces throughout Britain, to take racist (and other) hate crimes seriously and of attempting, through mechanisms of consultation, to promote dialogue between the police, other agencies and diverse community groups. However, despite all of these progressive developments, there remains at least one major problem regarding the policing of ethnic minority communities. All of these developments sit uncomfortably with one of the most persistent and virulent policies that impacts on the relationship between the police and many minority groups and ‘subcultural’ groups, in particular young people, and especially young African-Caribbean men – that is, police stop and search.

**Over-policed still? Stop and search**

The cultural link between crime – the original cause of police interest in the Brixton area – and politics is not the only connection between them. Their common context – ‘the street’ – defines them both and reveals their essential similarity. Scarman’s report indexes the gradual replacement of ‘mugging’ as the central sign for black criminality. The concept has been replaced in more recent pronouncements by police and politicians by the term ‘street crime’.

(Gilroy 1992: 106)

According to the Stephen Lawrence Inquiry, ‘if there was one area of complaint which was universal it was the issue of stop and search. Nobody in ethnic minority communities believes that the complex arguments which are sometimes used to explain figures of stop and search are valid’. However, the inquiry noted that on the issue of stop and search:

it is not within our terms of reference to resolve the whole complex argument on this topic. Whilst there are other factors at play we are clear that the perception and experience of minority communities that discrimination is a major element in the stop and search problem is correct.

(MacPherson 1999: 45.8)
Despite the acknowledgement of the discriminatory effects of stop and search in the inquiry report as being the most historically enduring factor in the problematic relationship between the police and minority ethnic communities, this policing method was excluded from the recommendation ‘that the full force of the Race Relations legislation’ should apply to all police officers, and that Chief Officers of Police should be made vicariously liable for the acts and omissions of their officers relevant to this legislation’ (MacPherson 1999: recommendation 11). The inquiry’s recommendations with regard to stop and search were that the powers of the police under current legislation should remain unchanged. This decision was justified by the inquiry on the basis that this policing method was required ‘for the prevention and detection of crime’ (MacPherson 1999: recommendation 60). Several commentators (Anthias 1999; McLaughlin and Murji 1999; Lea 2000; Mooney and Young 2000), in particular Bridges (1999), have noted the inquiry’s ‘contradictory approach’ when it comes to stop and search, in that they clearly acknowledge the problem and offer a hard-hitting rejection of police rationalizations for the vastly disproportionate use of stop and search against the Black community (Bridges 1999; MacPherson 1999: 6.45(b)). But crucially, despite this the inquiry did not recommend that stop and search procedures should be subjected to the full weight of law (in the Race Relations Amendment Act 2000). The inquiry instead suggested an administrative tightening of the procedures (Lea 2000) in the form of regulations found in recommendations 61–63 of the inquiry, which suggest that: records be kept by police officers of all stop and searches made under any legislative provision; these records should be monitored, analysed, presented for HMIC review and the results of the latter should be published; and, finally, publicity campaigns should be introduced to promote the public’s awareness of stop and search provisions (including their right to a receipt in all circumstances) (MacPherson 1999: recommendations 61–63). But is regulation, analysis and monitoring of these practices enough? And is stop and search really an efficient crime prevention and crime detection method?

In the rest of this section, the precarious balancing act between the Metropolitan Police’s insistence that stop and search is an effective policing tool for fighting ‘street crime’ and the negative impact which this policing method has on minority ethnic communities will be examined through exploring the questions above. The concern expressed by many social science commentators regarding attempts to tighten stop and search procedures is that reasonable suspicion will remain a process very difficult to ‘purify’ of discriminatory factors such as ageism, racism and cultural differences while policing Britain’s streets. The grounds of reasonable suspicion will, regardless of informing those stopped of their rights and each encounter being recorded and eventually monitored and reviewed, still impact disproportionately on those members of society who are young, Black and male (the considerable
increase in the stopping and searching of young Asian men since 9/11 2001 is seen as evidence of institutionalized Islamophobia; see Chapter 4). The problem is one of police discretion: the decision to stop and search will not be determined by law or policy, but by situationally justified reasons (Waddington 1999), which although subject to tighter regulation and monitoring, the type of behaviour that will arouse suspicion in a police officer will remain anomalous – that is, behaviour that is judged as being suspicious in terms of a general background understanding of what is ‘normal’. It seems that the grounds of anomalous suspicion are strongly related to a suspect being young, African-Caribbean and male when the figures for police stop and search are reviewed. There is consistent evidence that the ratio of young African-Caribbean men to young White men of the same age stopped and searched varies, yet is always disproportionately focused on African-Caribbean people, for example 5:1 (Home Office, in Waddington 1999: 6), 7.5:1 (Statewatch, in Kushnick 1999: 3–5) and 8:1 (Bowling, in Dodd 2003: 1). These figures therefore support Gilroy’s (1992) proposition that ‘street crime’, which encompasses the offences stop and search is designed to ‘police’, has a ‘black’ face and is indexical of the problem of ‘black’ criminality. One could be convinced that even though stop and search is one of the major stumbling blocks in the police winning the trust and confidence of ethnic minority communities in England and Wales, it must be an incredibly important tool in crime prevention and crime detection for the Stephen Lawrence Inquiry to have left it untouched by one of its major recommendations that all police operations should be brought within the terms of the Race Relations Act 2000. However, this too is subject to debate. For example, research has shown that stop and search is not an efficient policing method (see also conclusions drawn from the results of Operation Swamp above). For example, Wilkins and Addicott show that between 1986 and 1996 stop and search (under PACE regulations) rose over nine times in England and Wales as a whole; however, the proportion of such stops which led to an arrest fell over the same period from 17 to 10 per cent (Kushnick 1999: 230). According to Kushnick, such figures suggest that stop and search is anything but a useful method of apprehending criminal offenders. At the same time, Bridges (2001) noted that the Home Office’s post-Stephen Lawrence research on stop and search (Miller et al. 2000) also disproved the basic premise that stop and search is required for the prevention and detection of crime when it was suggested that police forces with similar characteristics and crime rates (to the Metropolitan Police Service) make widely differing use of stop and search tactics. The conclusions of Home Office researchers Miller, Bland and Quinton on stop and search were that it has:

- a minor role in detecting offenders from the range of all crimes that they address, and the relatively small role in detecting offenders for such crime that come to the attention of the police... searches
appear to have only a limited direct disruptive effect on crime by intercepting those going out to commit offences . . . it is not clear to what extent searches undermine criminal activity through the arrest and conviction of prolific offenders.

(Miller et al. 2000: v–vi)

For all its attempts to define institutional racism, unwitting racism and its acknowledgment of the specific policing methods and procedures that bear down more heavily on ethnic minorities, the Stephen Lawrence Inquiry has taken many steps forward since the Scarman Inquiry, yet one crucial step back. By suggesting that stop and search not be subjected to the full weight of race relations legislation and instead be more tightly regulated by police services and reviewed by HMIC, the inquiry has missed the opportunity to eradicate a significant source of police–ethnic minority community tension. Stop and search is one of the main procedures through which police services acquire their reputation for racism, at the same time as being the main police procedure through which ethnic minority community members’ perceptions of police racism are reinforced. By excluding stop and search from the rigours of race relations legislation, the inquiry tipped the balance of their recommendations in favour of supporting existing policing practices over improving wider race relations. The assumption the inquiry made about stop and search was that policy or procedure could be uncoupled from outcome through tightening regulations. That a young African-Caribbean person is subjected to a more carefully monitored stop and search procedure will do little to restore his or her confidence in the police, if being repeatedly and disproportionately stopped and searched by police is part of their everyday experience. The central problem, according to Anthias (1999), was that the Stephen Lawrence Inquiry failed to distinguish between police mechanisms that unwittingly exclude and disadvantage groups through criteria that are not ethnically specific, and mechanisms that specifically and ‘wittingly’ are applied differently to different groups on the basis of ethnic membership or its perception, including the disproportionate stopping and searching of more African-Caribbean than White people. Thus in relation to stop and search, the inquiry needed, yet failed, to disassociate the unintentional effects of procedures from procedures that relate to the exercise of judgements and agency (Anthias 1999).

According to Lea (2000), the inquiry’s recommendation that all stops be recorded with the aim of filtering out those stops not justified by reasonable suspicion is easily got round by police officers. For Lea, stop and search policy should be subjected to a more radical approach that would change the role of stop and search itself, from a largely ineffective mechanism for gathering information to one which takes place only on the basis of information gathered. Thus, the primacy of ‘reasonable suspicion’, so central to the accusation of institutional racism and to the universal complaint emanating from ethnic
minority communities found in the inquiry, could be replaced by suspicion based on ‘concrete evidence’ (Mooney and Young 2000). Mooney and Young suggest that stop and search procedures in their current form, regardless of proposed improvements in recording and monitoring, have counterproductive effects, and on the whole have inconclusive crime prevention functions. As a result, Mooney and Young (2000) suggest that stop and search should be replaced with procedures that are ‘a smaller, precision instrument, intelligence led and sharply focused’ (p. 85). At the same time, rather than attempting to apprehend criminals and prevent crimes through stop and search mechanisms that are counterproductive to police–community trust and confidence building, an intelligence-led policy for stopping and searching suspects might also be fed by intelligence and information offered to police from the members of ethnic minority communities. Stop and search will always be a sign that police services do not trust communities to be the eyes and the ears of the police. By building trust in communities, by encouraging communities to have confidence in a fair and equitable police force, rather than antagonizing communities through policing methods (with uncertain success rates) which disproportionately target their members, police–community relations would improve, reporting behaviour would improve, and the flow of information about actual and potential offences could be beneficial both to communities whose members are blighted by crime and to the police who are in the business of preventing and detecting crime.

**Conclusion**

It is undeniable that the Stephen Lawrence murder and the inquiry that followed put race relations on the policy agenda and has had an impact on many other police–community relationships, especially those with lesbian, gay, bisexual and transgender communities, which will be explored in Chapter 5. Unfortunately, however, in some crucial respects, especially stop and search, the Stephen Lawrence Inquiry failed to deliver the new era in British race relations it promised. By failing to recommend that police stop and search policies be covered by the Race Relations Act, and by insisting that reasonable suspicion should be at police officers’ discretion (although more tightly regulated and monitored) rather than being based on intelligence or evidence-related suspicions, the inquiry missed perhaps the greatest opportunity in the final year of the last millennium to eradicate the most persistent source of tension between police and ethnic minority communities. One is left wondering why this was the case, since (a) stop and search has been and still is a major source of police–community tension, and (b) there is little agreement among researchers that stop and search is an efficient policing mechanism. In the light of the latter, one could conclude that the desire to police ‘street’ criminality...
or, more accurately, ‘black’ street criminality, through the disproportionate stopping and searching of young African-Caribbean men on British streets has, in the end, overridden the desire to eradicate institutionalized racism from policing practices.

Many of the themes explored in this chapter will be taken up in subsequent chapters. Therefore, the chapter is an analysis of police–race relations in its own right but also acts as a springboard to the exploration of many of the themes to be examined in the chapters that follow in relation to a range of related ‘social problems’ that have emerged in increasingly multi-ethnic, multi-faith, multilingual and multicultural societies such as contemporary Britain. The importance of governing and policing with the consent and active participation of communities, so central to this chapter is a theme that recurs in Chapter 3 in relation to ‘migrant’ and ‘host’ communities in asylum and immigration policy, and in Chapter 5 in relation to the multi-agency response to the low reporting of homophobic crimes and in relation to the requirements and mechanisms relating to police–community consultation in the Crime and Disorder Act 1998. At the same time and interdependent with the latter themes, the chapter above signifies a discernible shift from race or difference as a social problem to racism, hatred and prejudice as the social problem, described in this chapter as a disease that must be eradicated from British society. In the next chapter, I turn from the analysis of police–African-Caribbean community relationships to focus instead on White and Pakistani community relationships in towns and cities in the north of England. The focus is on the institutional reflexivity associated with the examination of the lack of community cohesion in some of Britain’s most culturally segregated areas, for example post-‘riot’ Bradford.