

Home Affairs Committee

Oral evidence: [The Macpherson Report: twenty years on](#), HC 1829

Tuesday 18 June 2019

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Members present: Yvette Cooper (Chair); Janet Daby; Stephen Doughty; Chris Green; Kate Green; Tim Loughton; Stuart C. McDonald; Toby Perkins; Douglas Ross.

Questions 183–235

Witnesses

[I](#): Jane Deighton, Senior Consultant, Deighton Pierce Glynn Solicitors; Imran Khan QC, Partner, Imran Khan and Partners; and Matthew Ryder QC, Matrix Chambers.

Examination of witnesses

Witnesses: Jane Deighton, Imran Khan QC and Matthew Ryder QC.

Q183 **Chair:** Welcome to this evidence session for the Home Affairs Committee, looking into the 20th anniversary of the Macpherson report on the Stephen Lawrence inquiry. I welcome our panel of witnesses, and ask each of you to introduce yourselves.

Jane Deighton: My name is Jane Deighton, and I am a senior consultant at Deighton Pierce Glynn solicitors. I represent Duwayne Brooks OBE, and I have represented him since the year of the racist attack on him and the murder of Stephen.

Imran Khan: My name is Imran Khan, and I am a solicitor at Imran Khan and Partners solicitors.

Matthew Ryder: My name is Matthew Ryder and I am a barrister at Matrix Chambers. For the last couple of years I was deputy mayor for social integration at City Hall, so I took a break from my practice. I am back practising as a barrister now. I represented the Lawrence family from around late 1998 onwards, primarily in civil litigation.

Q184 **Chair:** Thank you very much, and welcome to all of you. Thank you for your time. Given your long experience—the work that you did 20 years ago and reflections since then—can I ask you to start with what you think the achievements have been since the Macpherson report was published, and the problems or areas where you think that progress has not been made?

Jane Deighton: The brilliant thing about Macpherson was that it triggered the state taking proactive measures with the potential of reducing racism within state institutions, in contrast to the old, individualised compensation—steps taken after the discrimination had taken place. The potential was amazing. Some things that followed from that were brilliant, such as the race equality duty that followed soon after, which was transformed into the public sector equality duty in 2011; the Home Secretary's various action plans; and so on. That all had amazing potential.

The negatives are that that potential has not been met. Macpherson's focus was of course the point of view of people who are policed. His focus had two main aims. One was to increase the confidence of what he called minority ethnic people in the police. We know that that is behind. The figures from the IOPC say that the confidence levels fluctuate; between 2004 and 2018, though, on the whole, the confidence of BAME people in the police was about 10% lower than the confidence of white people, so there may have been some progress, but that is failure.



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His key aim was of course to eliminate racial prejudice and disadvantage, and for all aspects of policing to be fair. Again, from the point of view of those who are policed, they need to look at what has happened to the prevention of crime. From the statistics that the Government have published, the only ethnic group that says it suffers less crime than it did is that of white people. Again, that is a failure. They are both very serious failures that need looking into.

Imran Khan: In a sense, what Macpherson did, in terms of the best that came out of it, has also been used as the worst, which was institutional racism. It is necessary for society to revisit why that was so important as far as Macpherson was concerned. What Macpherson did was to bring racism to the fore. Now we have these wonderful things in public, with armbands, footballers and banners and so on, so we assume that there is change. Actually, though, there has been change but no change. There is difference but no difference.

What Macpherson was talking about, what he identified, was the key mechanism for change; but it was systemic and institutional. It was not about prejudice; it was about power structures. What has happened is that nobody wants to accept that that label applies to their particular institution—police forces up and down the country have been very much guilty of that. That has been its failure. It is not the failure of Macpherson; it is the failure of institutions to recognise why institutional racism was so important. Though we all today recognise that racism is abhorrent and should be opposed, we still have it very much in the structure of society.

In a sense, what troubles me is that though we have more visible minorities in adverts, for instance, and there are more mixed-heritage relationships taking place, we have more racism. To me, that indicates that it is not a question about visibility; it is about structures. That is therefore the key theme that we have got to revisit. In a sense, we do not have to be talking about this again; the answers were in Macpherson: it was institutional racism.

Matthew Ryder: I agree with both of those. The only thing I would add is that the genius, and historic significance, of the Lawrence inquiry report was to embed in our national culture an understanding of racism that was more complex than the superficial understanding of racism that preceded it. Previously, we viewed racism as a concept of antagonism and hatred. Something utterly remarkable about the Stephen Lawrence case was that an act of hatred and violence became a moment of national understanding racism went far beyond overt hatred and violence and into unconscious, institutional, deeply embedded, structural problems.

For quite a long time after the Stephen Lawrence inquiry report, there was a mismatch between that understanding, which had been received and accepted by many public institutions as a more sophisticated way of looking at racism, and what was almost a list of things that people were trying to achieve that were not really being achieved. That went on for a long time.



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The unfortunate thing today, as we sit here 20 years on, is that we have gone even further back. No longer are we just lagging behind in terms of the checklist of things that should be achieved; we are now having to re-argue and fight again over the concepts established by the Stephen Lawrence inquiry report. We have the spectacle of senior people in public authorities saying, "There's no institutional racism in my organisation," despite huge disproportionalities in how they are treating black people versus white people. That is really reminiscent of the slightly delusional way this was approached by those in public authorities back in the late '90s, until the Stephen Lawrence inquiry report brought light to that misunderstanding.

My concern at the moment is that we are now slipping backwards into having to re-argue many of the things that the Stephen Lawrence inquiry established. It was a historic leap forward into modernity for British society, but we are at risk of that slipping backwards if we don't hold true to the principles that were well established by the Stephen Lawrence inquiry report. That's my main concern.

Q185 Chair: We obviously want to ask you a series of questions about some of the detailed aspects, but thinking about the overview, and bearing in mind what you have said about the potential of the inquiry and the report, and where that did help to make progress, what have been the key reasons why we have not made the scale of progress since then that you would have liked to have seen? What would you identify as the top obstacle or problem? Mr Khan, you talked about structures. Do you have any further reflections on what you see as the main obstacle to that progress? Secondly, what would you identify as the most important issue for us to focus on in this inquiry, and as part of making further progress? Ms Deighton?

Jane Deighton: Starting with the second question, I think the answer is about accountability. I think it would be really helpful if this inquiry could look at the status of police officers. Police officers are not employees. Police officers hold the traditional office of constable. I think they should be made employees, for a number of reasons.

The first practical reason is that they would become more accountable. Why would that be? Well, currently, it's quite difficult, for instance, to dismiss police officers. For a police officer to be dismissed, an investigation has to show the police service that, on the balance of probabilities, the act alleged to have been done has been done. For an employee to be dismissed, the investigation has to lead the employer to a reasonable belief that the act alleged has been done. The test for an employer is far, far lower than the test for the police service, so employers have that much greater management powers over their employees than the police service do over their officers.

Another practical example is that employees owe their employers a duty of fidelity, and employers and employees have to have a mutual trust and confidence between them. For instance, employees would not think of lying to their employers or not co-operating with their employers in an



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inquiry if the employer asked them to do that, whereas the police service don't have that essential kernel of fidelity, trust and confidence, so police officers have a right of silence in disciplinary proceedings; they have a right not to co-operate with the investigation.

Those are the practical things. More generally, those of us who are policed have a sense, often, that the police consider themselves to be outside the law, to be unaccountable. As far as criminal law is concerned, that is a matter of how it is enforced against the police, but as far as employment law is concerned, it is true that they are outside the law as it applies to you and me. They have generally a very privileged status as officers, and they get away with more than most employees. That cultural difference is fundamental.

The difficulties of holding officers to account were recognised to some extent slightly pre-Macpherson, but post Macpherson they were. Various bits of the swathe of statutory instruments that govern how police officers are meant to work were tinkered with. That is a measure of how people recognised that it was important, but it was tinkering with the outside, and not going to the kernel of the relationship.

Straight after Macpherson, chief constables were made vicariously liable for unlawful race discrimination of their officers, whereas before it was only the individual officers who were liable. With employees, automatically the employer is vicariously liable for something done in the course of employment. After quite a struggle, the test that police services had to apply when dismissing police officers was reduced from beyond reasonable doubt—the criminal standard—to on the balance of probabilities.

Those big individual measures are tinkering at the edge of this edifice that protects police officers in their employment, which is good, but it is way off the core problem: they do not have the essential employee-employer relationship.

Imran Khan: I go back and I say that the main obstacle and reason why much more has not been achieved is that there has been a failure by public authorities to embrace institutional racism, and to accept that they are institutionally racist.

If I were to say that the Houses of Parliament are institutionally racist, I suspect most of you would say that was not true, and that you do not see that on a daily basis, but it is. I was shocked a few weeks ago to learn that there are certain individuals who work in the Houses who are not allowed to use the facilities—I mean the toilets. Those who are not able to use the facilities primarily come from black and minority ethnic communities. Nobody has sat down and said, "That is a policy that we will implement." It is the structure that exists that means that is the outcome. I was horrified that in the heart of this Palace, and democracy in the world, we have a form of apartheid, but nobody looked at it until it was raised in the meeting. I do not know what is happening to that particular policy; I was told that it would be looked at. That is what is operating today.



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Post Macpherson, every chief constable, chief executive and chief officer said, "Well, I'm not institutionally racist, because that means we are all racist individually." That is not what it is about. In order to move forward, I would ask you to recommend a means of ascertaining what those structures are and what the outcomes are. Look in your own backyard and see how the Houses of Parliament treat those from black and minority ethnic communities in this instance. Has there been an outcome that produces that disproportionality?

The answer is to examine it, but more importantly, to sanction. The issue that keeps coming up time and again is sanction. There is nothing to allow somebody to provide an enforcement process. We have the Equality and Human Rights Commission, but I have not seen it do anything on race for years. There is no organisation apart from individual lawyers, three of whom are in front of you, seeking to do things on race. I want the Equality and Human Rights Commission to be given the powers and resources to take those actions. One of those might be to send a letter to the Clerks of both Houses to ask, "What are you doing in relation to this particular racist practice? That is a failure."

Up and down the country, wherever I have been, I have seen and heard chief officers and chief executives say, "Institutional racism—nothing to do with us. It's all gone away. We are now in 2019, and we don't need to do anything about it."

Chair: You have given us some further questions to pursue in terms of Parliament.

Matthew Ryder: Why has it not been as successful as we had hoped? I think that those who disagreed with or did not like the Macpherson inquiry findings and recommendations have been forceful, resilient and tenacious in pushing back on them. They will fail to overturn Macpherson only if those of us who agree with the Macpherson recommendations are equally as tenacious and resolute in ensuring that we put things in place to pursue those recommendations, embed the findings in public authorities and continue with the progress that Macpherson made.

I have four short points on what might be important in future. First, the Lammy review, which I advised, importantly recommended "explain or change" as a fundamental practice that needs to be embedded in the way we look at race in public institutions. In other words, if there is a disparity of treatment between BAME and white people in an organisation, you need to be able to explain that or to change it. You cannot simply sit there saying, "We don't really know why this is happening. It seems to be happening for a reason that could be about racism or might not be. Therefore, we'll see how we go with it." You have to explain or change.

Secondly, how we approach race and racism needs to be data-driven. A good example of that is the increase in stop-and-search that we see at the moment. That is not data-driven. There is simply no data that supports the proposition that more stop-and-search will be effective at reducing crime. A longitudinal study does not provide any evidence to suggest that



more stop-and-search decreases the level of serious crime, because it is a trope from a political point of view that people like; they rely on the idea that more stop-and-search somehow reduces crime. Politicians and various others in policing adopt that approach, because it seems to go with the flow of public opinion. It is not data-driven, so those of us who are data-based should say, "If increasing stop-and-search does not reduce crime and there is no data to support that, we do not support that policy."

Thirdly, we need more BAME people in organisations such as the police. It is not sufficient simply to say, "We don't like quotas; they would be bad so we will just have to hope that, with lots of effort and resilience, we will manage somehow to increase those numbers." There has to be a much greater determination to single out certain organisations and say that if they do not change how they look and if they do not have people of colour in senior positions by a certain date, we have to take more radical steps. The Mayor of London has made it clear that he sees it as very important for the police to change the number of BAME people in the police force, and that he is open to all options to do that if it does not change. We have to take the same approach.

There is no data to suggest that putting on quotas will reduce quality. None of us is a fan of quotas, and none of us would want them if we could avoid them, but if we had organisations that were serving women with so few women in them, we would see that as an emergency in those organisations, and rightly so. Similarly, there are organisations, such as the police, that interact with the black community on a very regular basis, but with so few black people in senior leadership positions. That is a crisis that needs to be changed. Serious measures need to be taken.

My final point—I may want to revisit this later, so I will be brief—is that we have to understand the concept of racism and discrimination in modern policing. The Lawrence inquiry looks at choices by individual officers or at a policy level by those in management positions, but modern policing relies on artificial intelligence and algorithms that often embed existing racist practices or viewpoints in the algorithm and artificial intelligence in the machine learning that goes on. Unless we, as campaigners, activists, lawyers, politicians, people who work in the sector and civil servants, become articulate and familiar with the dangers of racism and discriminatory practice becoming embedded in those algorithms, we will completely overlook how that discrimination manifests itself in the modern world.

A good example is the litigation going on about facial recognition software—obviously, I will not talk in any detail about it. Without putting the arguments one side or the other, that is a good example of something that will be a policing tool. We can argue about the benefits or not, but I do not think any of us would dispute that it is vital to understand the risks of racist practice or discrimination embedding in that kind of policing tool, which will be the kind of tool in which discrimination manifests itself in future.

Q186 **Douglas Ross:** Mr Khan, I will start with you, because you have planted a



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seed that many people in here will be interested in. Can you explain the type of racism that you have uncovered in the House of Commons or the Houses of Parliament? I think that you said that something has happened that prohibits certain people from using facilities.

Imran Khan: There is a report, which I read. I spoke at a meeting in one of the rooms here and I was told that there are certain individuals, depending upon your grade, who are not allowed to use certain facilities in the House of Lords and the House of Commons. I don't have the report. It was a subject of the discussion at this meeting. The two Clerks were in this meeting on the panel—the Clerk of the House of Commons and the Clerk of the House of Lords.

As I understood it, depending on your grade of employment within the House, you are not allowed to use certain facilities in the House. Also, as I understand it, those staff in that particular grade are largely from black and minority ethnic communities. I don't particularly like the word "unconsciously," but a system is now in place, which in effect deprives those individuals of using the facilities in the House. No one sat down to create that effect, but that is the outcome, and that is what institutional racism is all about.

Q187 **Douglas Ross:** Just to clarify, this is wider than our Members-only cloakroom et cetera; this is about specific facilities, and it is not necessarily people from BAME backgrounds, but they are the largest proportion within that sector.

Imran Khan: Within that grade—that is how I understand it—unless I am mistaken. Both Clerks, in response to my comment, said that would be looked into, to establish whether that was something that was happening and whether there would be any changes.

Q188 **Douglas Ross:** When was this?

Imran Khan: That was a few weeks ago.

Douglas Ross: I think that will be followed up, I am sure, by this Committee and others.

Chair: We will certainly pursue this further.

Q189 **Douglas Ross:** Ms Deighton, you spoke a lot about changing police officers from being Crown servants, effectively, to employees, and you were expressing the positives of that. What are the negatives of that suggestion?

Jane Deighton: I think that the negatives that have been floated can be overcome. The status of the office of constable is one where the individual officer has individual responsibility for their decisions. They decide to arrest or not, or whatever. A fear has been expressed that if they became employees, they would lose that independence of action. I don't think that is a real problem, partly because other professions have that tension between being employees and oaths, such as doctors.

Q190 **Douglas Ross:** But that is in order to take away someone's liberty, which does make it slightly different.

Jane Deighton: It makes it different from being a doctor, yes, but I was going to go on to say that the individual responsibility and the individual decision-making power—free from political interference and so on—could still be built into the employment contract. The doubt that has been raised is that they would lose that operational independence. My answer is that they don't have to, because a contract can say whatever the two parties want the contract to say. It can say that that operational independence remains. The other downside—I don't think it is one, but you may—is that currently, because of their status, police officers don't have the right to strike. I think that all workers should have the right to strike, so I don't see that as a downside. It is only fair to tell you that.

Q191 **Douglas Ross:** My wife is a police officer, so I am aware of that. It is not for that reason, but I don't necessarily agree with your point. I just think it is quite interesting to get on the record the fact that there are pros and cons to your suggestion.

Mr Ryder, you mentioned having more people from BAME backgrounds in senior policing roles. I think that is something that everyone aspires to. I think you are saying that, because there are difficulties at the moment—there are not enough—we should potentially look at quotas. That is something we discussed with a previous panel for this inquiry. I absolutely agree with what you said, which I wrote down: "There is no data that quotas reduce the quality." Absolutely.

My concern, which I put to the previous panel, is not that it diminishes the quality of the people doing these roles, but whether it will diminish their authority in leading teams. If they are a constable, will the sergeants below them, for example, believe that they only got that job because of quotas, and therefore, will it hide their ability rather than assist them in doing their job?

Matthew Ryder: First, there is no data to suggest that it does. Secondly, my own view is that those who are in jobs and do the role well are respected by those who are managed by them and respected by their colleagues. How they got into that role becomes less important than how they do the role. If the idea that we should be hesitant about increasing recruitment and visibility of BAME people within public authorities because of an inchoate and unevidenced fear that their colleagues may not have sufficient faith in their ability requires further interrogation, research and analysis, fine. However, the reality is that at the moment it is a very vague, nebulous—this is not a criticism of you raising it—and unevidenced concern.

It does not seem to be borne out by, for example, quotas that have been placed on people studying at academic institutions in the US. They either get their degrees or they don't. They either manage to get up to speed with their classmates or they don't, and when they leave with a degree from that university there is no one saying, "You only managed to graduate from an Ivy League school or from a great school because you



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happen to be an African-American." They are looking at how you did when you got there, what grades you got, whether you passed your exams, and whether you are a good doctor, or whatever.

Q192 Douglas Ross: But in that example they are not then taking on senior leadership roles, which is what you want. If I am correct, you are making an example that is not comparable with leadership. I accept your point, but my concern is that in the time that it takes them to establish that they are good leaders, good employees and so on, they have already started off with a disadvantage if people have something at the back of the mind and think, "Well, they only got that first step on the ladder because of the quota, and then they have progressed successfully from there."

Matthew Ryder: What underpins your proposition is not an irrational concern. It is a concern that may be there, but in reality we are in a situation where we have to take choices to improve the situation. You have to decide which is the lesser of two evils. Is a risk that people's colleagues may not have sufficient credibility in them because they know that they were part of a process of trying to increase visibility or increase BAME people in senior leadership the biggest problem that we have, and should we therefore keep things as they are for fear of that concern? Alternatively, should we ensure that we do change what the senior leadership level looks like and grapple with that concern as it arises?

My view is that, after many years of not improving the situation, we should take the second choice. We should be saying, "If we really can't improve things in the current process, then we need to take more radical steps, and if there is a credibility gap, or a culture of a credibility gap, let's grapple with that and try to take it on as it happens." I do not think that simply sitting there on the basis that it may be a problem, and therefore everything should stay as it is because of that unevidenced, uncertain problem, is a meaningful way forward that will get us out of the current situation.

Q193 Douglas Ross: Thank you. Can I go back to the Macpherson report? There were 70 recommendations in the report. When Baroness Lawrence came to our Committee, she said that, 20 years on, it was almost impossible to find any evidence to judge whether or not those recommendations have been met. Yet when a former member of this Committee was able to get a Back-Bench business debate in the House of Commons, the Policing Minister, who was responding, said—I cannot remember the exact figure—"Sixty-three of the 70 recommendations have been met." Who was correct: Baroness Lawrence, who said that it is almost impossible to tell whether the recommendations have been met; or the Government, who believe that you can look at the 70 and say that a significant proportion have been met?

Imran Khan: I assure you that I am not going to say anything against Baroness Lawrence, whether she is correct or not. I think it is difficult. In relation to a speech that I gave some weeks ago, I looked at the number of recommendations made over the last 30 or 40 years and how many



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were implemented. There is research that suggests that. I don't know the answer on the 70 recommendations.

If they have been met, they may have been met on paper, but there is a difference between being met on paper and being implemented. You have to look at whether the Government have accepted it and whether they have done anything about it. I do not know the answer to that. What I do know is that, on the overall recommendations in terms of improving society, it has failed to do so. It has been a failure.

Douglas Ross: Anyone else?

Matthew Ryder: I don't have anything to add to that.

Q194 **Douglas Ross:** While you consider that, Ms Deighton, I will ask a follow-up question. The inquiry took so long, it was highly publicised and then they published their report, and we have had debates 10 years on, 20 years on and so on. Do we do enough in these reports to ensure that there is follow-up later on and that we don't just publish a report, think, "That's our work done" and sit back? Not just on the Macpherson report, but on a number of reports that we do, both within Government and within this area, should we and could we be doing more to ensure that the Government of the day and future Governments are held to account to what was, at the time, a very positive report? If all 70 recommendations had been implemented and enacted, we wouldn't have someone like yourself coming here to say it had been a failure.

Imran Khan: Yes—forgive me; I know you addressed that question to Ms Deighton—but when I was looking at doing this analysis, I was able to find on the internet research that said how many inquiries had taken place in the last 30, 40 or 50 years, what the recommendations were and the percentage of recommendations that had been accepted. The conclusion I came to was that there wasn't a committee of some sort. There were ad hoc committees related to that inquiry that looked at recommendations, but there was not one institutional body or committee that looked at recommendations made from inquiries, to ensure they were implemented and held Government to account to make sure that they were implemented. If that recommendation meets with the Committee's approval, then I would certainly recommend it.

Jane Deighton: I would say two things. Where a change in the law is necessary, then it is possible for a good committee or the parties in Parliament to follow that through, like if you were to adopt the proposed change about the status of police constables.

The problem that runs through it is that the scrutiny and monitoring needs to be entirely independent of the institution. By that, I don't just mean separate, like the Independent Office for Police Conduct or a Government Department; I mean that it must be culturally independent. Scrutineers who are essentially looking at the position from the point of view of a dominant white culture are not going to be effective independent scrutineers, because they come from the same culture as the police



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service. More often, to effectively monitor and scrutinise changes, some sort of system needs to be set up that is culturally as well as physically independent of the police.

It beggars belief that that hasn't happened. To move on to something that sprung from the Macpherson inquiry—the undercover policing of Mr Brooks, the Lawrences and others—the undercover policing inquiry was set up 20 years on. Mr Brooks was being spied upon as he was in the process of assisting the police in their inquiries; he was subjected to covert tape recording and so on. Ten years on, we found out about that. A further four years on, Theresa May set up the undercover policing inquiry. It was largely about race. It was looking at the implications for Mr Brooks and for the Lawrences, and then about sexism, looking at the women who were deceived into undercover relationships. Racism and sexism were there for many of those who had suffered.

The first thing that Mr Brooks found, when he saw the members of the inquiry, was that the profile was white. It was down to Mr Brooks, the victim of undercover policing, who had suffered the trauma of the attack, to say, "Why has this got a white profile?" It really beggars belief, 20 years on. To try to address that they have employed some black people, but they haven't yet told us how many or, more importantly, their status within the inquiry. Mr Brooks, through me, said, "Well, how can we address this now?"

One thing Jack Straw and Macpherson were very sensible about, was to say, "Actually the Macpherson report isn't up for dealing with policing and race, and first aid, so we'll give them a panel—we'll give them John Sentamu, who is a black bishop, a barrister, an ex-police officer and a GP." That panel was absolutely crucial in helping us explain racism and what was going on to Macpherson. Macpherson acknowledges that, but the current chair of the undercover police inquiry is unwilling to back a panel and the Home Secretary won't impose one either.

Then—this is 2019—we ask the chairman of the inquiry, "What training have you had about racism?" He has not had any training about racism. You will know that it is compulsory for most judges now to have some training about discrimination, but he hasn't had any. He has had no training. Four years on, there has been no evidence to the inquiry, and yet he felt able to tell us that he didn't feel that Macpherson had got his definition of racism right.

I am telling you that not least because you can imagine the upset, anger and frustration of people like Mr Brooks, who are living through this 20 years on, but because unless you are given a concrete example, you don't want to believe something like that—that 20 years after Macpherson, the structure of an inquiry partly triggered by what happened to the participants in the Macpherson inquiry is still that ignorant about race.

Q195 Stephen Doughty: I suspect I might know the answer to this, given the comments you have made about institutional racism and the failure to deal with it, Mr Khan and Mr Ryder, but in February *The Guardian*



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reported that the Commissioner of the Metropolitan police had said that she did not believe that the Metropolitan Police were any longer institutionally racist. Was she right to say that?

Imran Khan: No, absolutely wrong—and she should know. I am disappointed with the Commissioner because this was a Commissioner who had been overseeing the investigation into the murder and whom we came to know very well, and I expected more from her. She had met the families who were involved in that inquiry, had followed the investigation and had supported it to the extent that she could. When I found out that she was to become the Commissioner, I had high hopes that she knew what we knew, that she believed what we believed and that she would do something about it, so I am disappointed, to say the least. She was absolutely wrong.

Matthew Ryder: I agree with Mr Khan. I would also say that it is a shocking statement when you look at the disparity of numbers in relation to stop-and-search of, for example, BAME Londoners versus white Londoners, or when you look, for example, at the gangs matrix that was set up and how the report done by the Mayor's Office for Policing And Crime on the gangs matrix found that there was no justification for the huge disparity of young black people, some of whom had not had any engagement with criminal activity, who were on the matrix.

If all those things were not there and the leader of an organisation that had historically been institutionally racist were saying, "Well, all these things are now gone. There's the same level of confidence between black and white people in London. There are not disparities in stop-and-search. There are not disparities on something like datasets"—even if all of that had gone, it would be a slightly dangerous thing and slightly over-confident to say, "I'm absolutely, supremely confident my organisation has no institutional racism," but when those things are numbers right there in front of you and those disparities still exist and you cannot explain them, it is very surprising to hear somebody with her level of experience have that level of confidence about institutional racism within her organisation. It is unfortunately a bit reminiscent of officers back in the late '90s, who would be confident that there was no racism within their organisations, only to have the concepts properly elucidated to them and to have to realise that what they were initially saying misunderstood the propositions that were being put to them.

Imran Khan: May I add to that? The message it gives, unfortunately, to rank and file officers is, "We're no longer racist. We can do whatever we want. The leader of our organisation has said that. We have been given a clean bill of health." What Macpherson talked about was acceptance, recognition and acknowledgement. When you are presented with the evidence, as Mr Ryder has said, for the leader of an organisation that has been branded institutionally racist in the past to simply say that, without the evidence, is quite shocking.

Jane Deighton: It is not without the evidence; it is against the evidence. What she said was, "I don't see it." That is really concerning because of



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where she was looking. It is not just concerning; it is really dangerous, because if the Commissioner does not see it, not only are there likely to be blocks to further progress, but the areas that have not really been touched yet that Macpherson referred to will not be touched. I am thinking in particular about where Macpherson talks about process, attitudes and behaviour.

The attitudes and behaviour are bound up in the white culture, and the essence of the white culture issue has not really been addressed. With increasing numbers, there will be a point at which there is a sort of critical mass of black officers and the culture might change. If we are thinking about what we mean by the white culture, we think what would the police service be like if it was primarily black, or primarily black women? We are nowhere near there, but that is a failure to see.

The one really enlightening example comes from Mr Brooks, who works sometimes assisting training officers at the national College of Policing. I asked him if he thought he was doing any good. He said, "In the long term, no." I said, "Well, why are you doing it?" He said, "Because it might work for about six months." He said that the feedback he had had from his officers was that yes, officers did come, they did learn, and some of their behaviour and conduct changed, but when they went back into the service, within about six months they were assimilated back into that white culture, and that has not been unpicked; it has not been explored.

If you have a Commissioner who cannot see the institutional racism in the face of the statistics that Matthew is giving us, it is a real worry. We have to get to the culture. It is like the old adage about rotten apples: you can get rid of the rotten apples, but if the apple cart is rotten, the new apples you put in are going to rot. We have not got there yet.

Q196 Stephen Doughty: Can I ask all of you about a wider perspective—the whole of England and Wales? Obviously, in my own city, there is some pretty grim history—the Lynette White murder case and the Cardiff five; the case of Stephen Miller and everything else that came out of one of the greatest injustices in modern British legal history. What do you think the situation is in police forces across the rest of England and Wales? Is the whole police force still dealing with issues of institutional racism? Are there particular pockets, particular cities or particular constabularies that are performing well or more poorly, or is this a cultural problem throughout the whole of the police service?

Matthew Ryder: I think it is very difficult to try to get a detailed analysis of a culture within a force. In a sense that speaks to why it is so important for people in leadership positions in those forces to be very careful about how they understand the propositions put to them.

When we hear the Commissioner say something such as that she does not see institutional racism, the first thing you think is that, having worked on the Lawrence inquiry and worked with the recommendations, she has misunderstood the question. It may well be that there has been a change, with people no longer using racist epithets or saying something really



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clumsy and offensive to each other, even if there are no BAME officers around. That culture, that extreme racism or that casually racist culture, may well have changed, and if that is what someone is talking about, the only response you want to give them is that they are misunderstanding what institutional racism is and not really getting to grips with the magnitude of the problem.

It is very difficult to look at any police force, other than those which have very few BAME people within their area, which is in a position to look at the numbers on disparities between how they are treating BAME people versus white people and say that there isn't a problem that needs to be addressed and examined. I feel that trying to get into a forensic analysis of the culture of an organisation is a very difficult exercise, but it does emphasise how those in leadership positions must be very careful about how they diagnose the culture within their own organisations, when there is evidence that suggests their culture might not be a healthy one.

Imran Khan: My experience is with the Met, within London. I live and work in London. However, we have a department in my firm that takes complaints from all over the country, and I can only give you anecdotal evidence. The incidence of police misconduct and so on is often worse outside London because there are very few support mechanisms for individuals who have experienced racism from the police; and in certain areas, racism is not as well understood as it is in the Met.

Just going from anecdotal evidence from the firm—including from Daniel, who sits behind me—we have a department that, fortunately or unfortunately, depending on your perspective, is responsible for suing the police a lot. It pains me to say that we succeed. That is taxpayers' money going on cases. It should not be happening, but the success of the firm and of that department shows that there is a lot of police misconduct, and the police paying out money means that they accept that there is that misconduct.

That is not limited to the Met police; we get cases from all over the country, and they are similar in nature. It is the same story, although it is perhaps slightly worse in terms of the support mechanism for those individuals, because they can't go to anybody. There are very few firms who do that sort of work outside London, and that is possibly because it is much more difficult to take action against the police, for whatever reason.

Q197 **Stephen Doughty:** You spoke about the role of the Commissioner or the chief constable in setting the tone and asking the right questions. When you look at wider political oversight and political leadership of the police force, whether by the Home Office, the Prime Minister or police and crime commissioners, do you worry when you see these sorts of failure to deal with institutional racism within political parties—I do not think anybody is excluded from this—or public life in general?

Imran Khan: Yes, I am horrified. Twenty years ago, we had an inquiry looking at racism in the police and society, and we came to the conclusion that racism existed and that we had to recognise, acknowledge and accept



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it, yet we are still debating the issue 20 years later. Before coming to this meeting, I did a random estimate of the number of times I have spoken about race and policing in 20 years. It must be coming up to 5,000 times, and that is a conservative estimate. I am asked every single time, "What did Macpherson do? Have we changed?" I am horrified that we are sitting here 20 years later trying to reinvent or work out the answer to dealing with racism.

Macpherson had the answer. The Stephen Lawrence inquiry had the answer. It is about institutional racism. It is about structures. It is about systems. I am disappointed that I have to sit here and go over the same old ground. It is disappointing for me to be associated with a case where we thought we had made great leaps. Political parties, their leaders and what they do internally affects everybody. The Government and their institutions set the tone and tenor of how society operates. If they say that racism is fine, or that we no longer have racism, that percolates down to everybody else.

Q198 **Stephen Doughty:** So calling people "snowflakes" for raising these sorts of issues is completely unhelpful?

Imran Khan: Completely unhelpful.

Q199 **Janet Daby:** Good afternoon, everybody. I am very interested in what Jane Deighton said earlier about police officers not being employees but holding the office of constable. Has that view has ever been reviewed by any public body in any way? I say that because it reminds me of when I was speaking to a young person who had been stopped and searched. On the first occasion he was stopped, he gave an account to a police officer, but then some other police officers came up and he was stopped by another police officer—during the same instance—who then decided to stop and search him. I see more accountability where the police could be held more responsible. I just wonder whether this has ever been reviewed by any public body, or taken seriously in that sense, and if so, how long ago?

Jane Deighton: There was an inquiry in 2004, chaired by Bill Morris, and I think it was actually commissioned by the then Commissioner. As far as I remember—I tried to check it this morning—the actual reports of inquiry are not readily available, but a *Guardian* report said that that recommendation had been accepted. The inquiry was reporting to the Commissioner, but clearly the Commissioner did not do anything with it. It is a centuries-old tradition, so it will take some working through.

Q200 **Janet Daby:** Yes, obviously. Thank you very much for sharing that. There is a disproportionality of officers from black, Asian and minority ethnic backgrounds leaving the police force. I want to get a sense of why you think more police officers from BAME backgrounds are leaving the police force.

Imran Khan: Because they are treated in a racist fashion. That is the simple answer. I can give you example after example after example. I have many clients who are police officers who come from BME



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communities, and they tell shocking stories of how they are treated. I do not want to go into all of them today, but I can tell you that being a black or minority ethnic police officer within the police service at the moment is pretty awful. You do not succeed going up the chain. You are treated in an awful manner. You are assaulted. You are demoted. You are suspected of offences—everything that you can think of. There has not been that embracing of BME police officers into the force, and they then leave, because who wants to live like that or work in that environment?

There are attempts by us to take action on an employment basis, but the employment tribunal regime is not particularly favourable to do that. The police fight back. You try to get the leadership of the police to sit down with you and see whether this can be sorted out, but there is a sense of: "It isn't happening." The problem is that if the Commissioner says, "We don't have institutional racism," it is very difficult for officers on the ground to say, "Actually, let's deal with it." It is like: "It's not racism; it's something else." It is that old adage: "It's not because of racism; it's because they don't like each other for some other reason." There isn't openness to engage in that process because the leadership has said, "We're no longer racist."

That is the danger that we have, at the stage that Ms Deighton talked about. If the leadership says, "We've dealt with racism," then you cannot have a conversation. If a black officer says, "Look—I've been racially abused within the workforce and I've been taken off this particular patch because I'm not liked. It's because of racism," they will say, "No, it's not. It's because of something else." Some other excuse is made up.

It is quite difficult now to take race discrimination cases. If we start to talk about money everyone is going to think that it is lawyers asking for money, but it isn't. These are people that I want to take on as cases to expose racism within the police service and employment. I can't do it. All I can say to you is that there are shocking amounts of racism, and that is why BME officers are leaving the police service up and down the country.

Matthew Ryder: I would add that the first position that we would normally take on something like that is to ask the officers. Ask those people who are leaving. Have good research on why people are leaving, and get good information. Commissioning that research would be a powerful step—finding out why officers are leaving. I know research has been done, but it is important that you keep doing it to understand why those officers are not comfortable with staying.

To answer the question, many of us can just look to our own experiences in the institutions that we work in. Why is it that sometimes people who are women, who are gay, or who are minority ethnic self-select out of organisations, or do not see a career path in those organisations? It is because they do not see people like themselves in senior positions. They do not see a culture that is supportive of their identity and who they are, and they feel uncomfortable within those organisations.



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I completely agree with Imran, but even if you discount and put to one side the more egregious examples of racism that would constitute the basis for legal action, if you do not feel that there is leadership and a pathway to the top, why would you continue in an organisation? If you do not see anybody who looks like you or shares your characteristics in leadership positions, you wouldn't. You would see a limited future in that organisation for yourself, and you would see your authority questioned by your colleagues, not because they think that you are of a lower standard, to go to Mr Ross's earlier point about quotas, but because they just do not feel that you are the kind of person they are familiar with working with, and you do not feel that you carry the confidence of your colleagues.

That is why, most times, people self-select out of organisations or do not feel comfortable in organisations, quite apart from the racism that they might face. That is the kind of thing that we do address in other contexts—in the business context, in the political context, and to some extent in the legal context—which we must address better in the police context.

Jane Deighton: I agree with Matthew and Imran, but to give some concrete examples, an element is that the structure is racist, so however the Commissioner or the chief constables are playing around with the process, as long as the structure is discriminatory it does not really matter whether the process is fair or not, because the structure is unfair.

One example that might be helpful was one of the few cases funded by what was in those days the Equal Opportunities Commission, now the Commission for Racial Equality, that I took for a police officer. She was bilingual, and she was required to spend a lot of her time assisting investigations that required the use of her language knowledge. It was useful for the victims and it was useful for the suspects. That was a necessary element of the investigation. When it came to applying to be a detective, she did not meet the detective criteria because she had not been deployed on various lists of things you had to be deployed on, and the crucial thing of having a second language was not there. That was a discriminatory criterion.

Going back to the culture thing, until the criteria, whether for promotion or even admission to the police service, are looked at from the point of view of something other than the dominant white culture, of course people are going to leave, because they do not fit the criteria—not because they are in any way inadequate, but because the criteria are discriminatory. For admissions there used to be height criteria, which are clearly discriminatory. Thinking of the places where there are no black women officers, one of the conditions of work that affects a lot of women more than men is a lack of flexible working. Those are all concrete conditions that could be changed.

Q201 **Janet Daby:** Is there anything you would like to add about how we could reduce racial discrimination or institutional racism within the police force and other structures—anything else that you think would assist in reducing that?



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Imran Khan: We have touched on it: the leadership has to accept that it is. I am afraid what I have found with the police is that, until it hurts their pocket, they do not change. If I were to say, "I want more money to sue the police.", that is not a recommendation that you are likely to make, but that is the only way it will make changes, because somebody at the top has to say, "It is affecting our finances, it is affecting our resources, and therefore we have to change." All the other stuff is simply lip service. When you take legal action, that is when people sit up and listen, so of course I want to say, "Change the structures—encourage more people."

I want to say one other thing about what Mr Ryder said: I think this Committee now has to recommend positive discrimination. There has to be a change in the law. I have been speaking about how we can change the structures in society and the nature of the workforce, but every other process has failed, and failed miserably. We have to come to a crunch point. If we are sitting here 30 years from Macpherson, and I am giving evidence in 10 years' time, I will still be arguing that we have not done enough. I don't want this Committee to be sitting in 10 years' time and saying, "What do we need to do?". This is the time to do it.

If we have positive discrimination, we will get people in there. The legal profession is one of those where you can take an example. There are very bright, talented BAME lawyers out there, particularly barristers, but to get them into court, they have to rely on solicitors to instruct them. I don't want to embarrass Matthew on this, but it was only those black and BAME solicitors who believed in those individuals and gave them the opportunity, and they succeeded. It is only when you give them the opportunity that you will realise that they are talented and up for that job.

Matthew Ryder: Imran is hinting; let me make it explicit. Imran instructed me in the Lawrence case and instructed me in other cases, in circumstances where he showed a level of confidence in my ability as a young barrister that enabled me to have a career and the opportunity to do work. I don't think I would have received that same level of confidence from somebody who was not committed to finding good black talent. The whole process did not mean just instructing any old barrister of colour, whether they were good or not—there were plenty of people, white people and other people included, who Imran instructed who were the right person for the case—but it illustrates an important point that Imran was talking about.

If you require people to have really stringent targets and guidelines—and, if necessary, quotas—on the number of people within their organisations who, for example, are people of colour, I have enough faith in our institutions to think that it will not cause people to say, "I want to reduce the quality here." It will prompt a determination to find the talent that is currently lacking, or if it can't be found, to nurture it. Whether it is the judiciary, which I have some experience of, the legal profession generally, policing or politics—the civil service is another good example—we pride ourselves on the quality of the people in those institutions, and those who work within them feel very proud of the high bar that we set before

someone can enter those institutions, and of the quality that is then produced.

We are not going to compromise on quality if we say that there need to be certain people in there. We will reinvigorate the search, and we will make sure that we find and target the people who are currently slipping through the net. If we don't think the talent is being properly nurtured, we will make efforts to nurture the talent at an earlier stage than when we try to recruit. I will give you two really short examples.

First, the Mayor of London has put in place a programme that targets women who are on the brink of leadership positions, investing not in mentoring but in what we call sponsorship. It is a much more resource-heavy, intensive programme. We find women who are on the brink of leadership positions and get them into a position in which they get the opportunities, the care and attention, and the guidance to make sure that their talent shines, so that when the big jobs come up, they are in a position to say that they have the experience and know how to do the job, and they get the job. It is not simply a question of recruiting the first person who walks through the door. It is about nurturing and finding that talent.

The second thing I will really quickly say is on one way that that has been articulated in the judicial context, which I have some experience of. It will be quite common for a judge to sit in court and see, for example, a really talented woman advocate or black advocate in front of them. When that person sits down, the judge thinks, "I really hope that person applies." The difference in the mindset is not simply saying that they really hope the person applies, but saying to one of their team, "Before they leave court, can you stop them? I want to have a coffee with them. I want to talk to them and make sure that I personally see what they would need in order to make them want to apply for this job. I will target that." It is a difference in mindset when you are talking about setting a target. Sorry; I am giving a long answer, but it is an important point.

Jane Deighton: I agree that it is crucial that there be a critical mass of BAME officers in the police service. It has to be a critical mass, because otherwise the culture won't change. However, I am not so sure that we have explored using positive action enough, as opposed to positive discrimination, and using the public sector equality duty. The things that Matthew was talking about were actually positive action, which is permissible now but is not being used sufficiently. Where enough people with a protected characteristic are not participating in a job, it is perfectly appropriate and right, particularly for public bodies, to do something like what the Mayor of London has done. That is positive action. The law is there now, but it is not being used appropriately by the police services.

Similarly, the public sector equality duty, which sprung from Macpherson, requires public bodies to think about, in all their policies, prohibiting unlawful discrimination and fostering equality of opportunity and good relations between people with different protected characteristics, but it has not been used. Positive action and the equality duty are so important,



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because they address some of the inequalities that Matthew was talking about. For example, if there are talented women barristers, what do they need to be able to move on to another position? The Mayor of London is saying we should give them guidance and training.

For officers, that may be what they need. That would address this one step back from the numbers. These people have missed out on some sort of training opportunity, or guidance or mentoring, or opportunity to make contacts, so let us give them that to redress that discrimination at a different level, not just at a numbers level. It is very important that all public bodies, including the police, really work out positive action programmes. The Equality and Human Rights Commission has the power to look at why the public sector equality duty is not being used appropriately, and I agree with Imran that it should be encouraged to do so.

Janet Daby: What you are saying about positive action, positive discrimination and the use of quotas is in line with the National Black Police Association, as you are probably aware. That is their view, too.

Q202 **Chair:** Could you clarify your approach to having positive discrimination, rather than positive action?

Imran Khan: I am certainly advocating positive discrimination. There have been attempts at positive action, but I have not seen it. We are seeing the same problems: it would require a change in the law.

Q203 **Kate Green:** I would like to ask you about unconscious bias. You hinted at that earlier, Mr Khan, in one of your answers. Is it important?

Imran Khan: I am not sure quite what it means. It is used as an excuse, I'm afraid, to say "I am not racist, but I may be racist." I would prefer to look at systems and structures than at unconscious bias. I do not think it is a helpful term, because it allows people to say, "I am not deliberately doing this, and therefore you can forgive me." Structures are being put in place, resulting in a discriminatory outcome. That is what it is. I do not know how you would discover unconscious bias. What would you point to in order to say that somebody is unconsciously biased? It is not a particularly helpful phrase to use. That is my view.

Q204 **Kate Green:** Yet many institutions, including Parliament, train people in unconscious bias as a concept, and in recognising individual prejudices that they may have. Are you suggesting that that is worthless?

Imran Khan: Yes. I am not one to mince my words. It is pointless, because there is a difference between race awareness training and anti-racist training. I have been talking about this for 20 years. The fundamental thing about racism is not about personal prejudice; it is about power—the power of a dominant white community over a black and minority community. It is about structures that exist. If I were to call you a name or some such thing, that is simple prejudice. What leads you to go to prison and so on is a structural issue. Anti-racist training needs to



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happen, in which participants are told about how racism exposes itself, how it affects structures, what the outcomes are and that kind of training.

I am not into the sort of training where people are told "This is what Muslims do, this is what Sikhs do, this is what Hindus are." Those are the old days. That did not work at all. That was about teaching people about different faiths and different societies. That is not about racism, and that is not dealing with the issue of racism.

Matthew Ryder: I have a bit of experience in relation to unconscious bias training, having experienced it in the context of my chambers and as a barrister, and also in the context of working at City Hall. I do not think that it is a redundant concept. It is a valuable concept, and it is something from which people can benefit. I do agree with Imran that it should not be confused with or characterised as something that it is not. It is not teaching people about the imbalances of power within organisations in a way that will produce remedy or change the way that organisation is structured. It does explain elements of human nature in how we deal with each other, which are valuable.

It is valuable for people to have that training—I might have a slight difference on that—but it should not be elevated to something that it is not. It is different from remedying structural inequality within an organisation. It is about teaching people a better way of managing those around them, improving diversity, and reducing personal discrimination or prejudice towards others that people may not realise they are exhibiting. That is valuable, but it is not the same thing as what we are discussing in the context of institutional racism from the Macpherson inquiry.

Q205 **Kate Green:** Is it your impression that it is now being treated as a substitute for addressing structural racism in police forces? Most of you are most familiar with the Metropolitan police, but the question covers any police force.

Jane Deighton: Yes. There has been a real backsliding in concepts around racism. Macpherson talked about racism and racial prejudices, attitudes and disadvantages. We hear more about unconscious bias and disproportionality now. They are all symptoms of the core wrong that is racism. That is a problem, and I think it gives rise to a more practical problem: because racism is not confronted overtly, the police service tend to be extremely defensive where it is confronted.

That shows itself in a number of ways, one of which—I notice that it is the same for black police officers as for black people who have been policed and discriminated against—is that if you sue the police for race discrimination, you usually also sue them for other things like false imprisonment or whatever happened, but it is almost impossible to get the police to admit to race discrimination. You might settle for vast amounts of money, with concessions on false imprisonment and so on, but it is almost unheard of to settle a case now with an admission of race discrimination.



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I was interested to hear that the national police association has said that if internal complaints did not go to tribunal, they were settled without admitting to race discrimination. What is the practical consequence of that? If it is not admitted to, it is not recorded, lessons are not learned and the discrimination is not addressed. It is too big, it seems.

There is another way in which it is defensive. This is another tale from Mr Brooks: when he was doing his training, a police officer said that a black officer had been referred to the department of professional standards for breaking a rule about wearing bracelets. The manager realised that he was breaking the rule but did not want to manage him about it for fear of being called racist, so the poor bracelet-wearing officer was referred to the department of professional standards, which dealt with it. That defensiveness has a number of consequences: it means an unduly heavy and antagonistic process for the bracelet-wearing officer.

If a manager thinks, "Maybe I am being racist," the answer, if we want progress, is not to shunt it off to an inappropriately heavy-duty disciplinary process, but to say, "Well, am I being racist?" and have some sort of independent supervision where the manager can go, "I feel that there is something racist about this." Maybe it is unjustified and he is not being racist, or maybe he is—maybe he has not called to account other people wearing bracelets. Maybe the criterion that you should not wear bracelets is itself discriminatory. While people are so absolutely on the defensive, things like that will happen and lessons simply will not be learned.

Another example is inquests into black deaths in custody. On one side of the inquest, you have a grieving, wretched family who just want to know what happened. On the other side, you have barrages of generally white police officers and white police lawyers—solicitors and counsel—who are effectively trying to establish that whatever happened, it was not racism. So long as that defensive attitude is there, the institutions are stuck where they are and cannot progress, and it is unfathomably cruel to the families.

Q206 Kate Green: Do you think that police chiefs have become more reluctant in perhaps the last 10 years to identify institutional racism in their forces? If so, why? Have we moved from pre and around the time of Macpherson, when, as I think one of you said, we were very reluctant to accept institutional racism, through perhaps a period of acceptance and recognition, and back to a space of reluctance again? I am sensing that from your evidence. Why might that be?

Imran Khan: The reversal that we are now seeing—with stop-and-search being brought back in, as Matthew said—is, to put it in blunt terms, about trying to give more power to the police. If you say that you are no longer racist, you can talk in terms of stop-and-search being not a racist practice but a crime prevention strategy.

But stop-and-search is disproportionate in its effect on BAME communities. The leadership has to say, in order to defend itself, "Look, we are not racist any more. We are carrying out or implementing these policies



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because it is crime prevention. If it so happens that more BAME communities end up being criminalised, that is nothing to do with racism, because we are no longer institutionally racist.”

I was horrified to see stop-and-search back in. I know knife crime is a huge problem here, but in my view stop-and-search has always been a barometer of how a police force is acting in terms of its understanding of institutional racism. If it now wants to bring it back, that suggests to me that this was a deliberate ploy to ensure that there was no criticism. I am not saying that there is some political conspiracy by police officers saying, “Look, let’s reverse what Macpherson did, and what came out from the Stephen Lawrence inquiry.” There certainly is pressure on police forces up and down the country to deal with crime. Some of the mechanism by which they believe that they can do it is being curtailed for the right reasons.

Without any other answers, they go back, as Matthew said, to the old trope of stop-and-search. It gives the impression that something is being done, but actually not much is being done to prevent crime. That may be the reason; I don’t know. I am giving you a long answer without necessarily knowing, but I can speculate about what I believe to be the case.

Q207 Kate Green: Was it unreasonable, though, for police chiefs—and they have given evidence to this Committee to this effect—to say, “Look, stop-and-search was significantly tightened up by Theresa May as Home Secretary. The aftermath of that was a significant rise in violent crime. We need to go back to using stop-and-search”?

Matthew Ryder: First, on stop-and-search itself, the numbers do not withstand that kind of interpretation. Stop-and-search fell dramatically in the period 2012—really from about 2010—to 2014. In that period, section 1 stop-and-search—which is suspicion-based stop-and-search—fell by something like 20%. Section 60 suspicionless stop-and-search fell by 90% during that period. During that period we saw a commensurate fall in serious violence and crime. Stabbings fell by about 32% and gun crime fell by 40%, during the time that stop-and-search was required to be more rigorous and was reduced. It became more effective and crime went down.

What has happened is that we have a situation where, because for various other reasons crime is on the increase, we are reaching for stop-and-search and, worst of all, we are reaching for suspicionless stop-and-search—no suspicion stop-and-search—we are increasing that in communities that don’t have confidence in the police. Based on what evidence? There is no evidence; it is based simply on the notion, the “common sense” trope, that if you stop and search more people, somehow you will reduce crime. We have seen in practice that the numbers go down. The best interpretation you could put on the numbers is that they are inconclusive; there is not even correlation, let alone causation.

That is the best interpretation you can put on it: sometimes when stop-and-search goes up, crime goes up; sometimes when stop-and-search



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goes up, crime goes down. That is the best interpretation you can put on a longitudinal study from London going back to the early 2000s. Realistically, the idea that you can sit here and say, "Increasing stop-and-search is a good thing and will reduce crime," is just not borne out by any data or evidence whatsoever. That is part of the problem.

Let me just take 10 seconds to refer to your earlier point about constables. In fairness to them, I think their answer would probably be that it is about morale. They would probably say that the reason why they are reluctant to keep on about institutional racism is that they feel that that reduces the morale of officers. Because officers are trying, and to be continually told you are racist is demoralising to officers who are trying their hardest.

If that is the answer—I have heard that suggested—it is a failure of leadership. Because leadership should be about explaining to people that saying your organisation is institutionally racist does not mean that you are personally racist, or you are personally doing racist things. It doesn't mean that there is bad will in this organisation. It means, for various reasons, that this organisation at the very top is failing the community it is trying to serve, and we have got to do better on that. To use the morale of officers as an explanation is not the officers' fault; it is the fault of leadership not showing sufficient leadership to bridge the gap between saying, "Here is a problem and here is how we can solve it together."

The last thing I will say on that—I am sorry if this is a recurring theme—is that if you have more BAME people in the police force, you are not going to get that kind of problem to such an extent. For example, you may have officers, as Jane described, being frightened of pulling someone up on an infraction of the code of conduct, because they are worried that that might be interpreted as racist. If you have enough non-white officers in the force, you just go to a colleague and say, "Should I pull the person up on this?" and they will tell you straight, or you get them to do it. The reality is that if you don't have enough people in the force or in leadership positions, you are going to make those kinds of mistakes. The mistake about institutional racism is one of them.

Q208 Toby Perkins: I am interested in establishing the extent to which the experience of the panel is predominantly London based. Could each of you explain, from the perspective of what you and your organisations deal with, what proportion of the work you deal with is in London and within the Met police area, and what proportion is outside that?

Jane Deighton: I will have to guess, because I haven't researched it. Most of it is London. We are based in both London and Bristol. Most of our clients are poor, so in order to take on the police they require legal aid. There are strange legal aid rules about how many people you can take from outside the area where you are based, so we are predominantly Bristol and London.



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Imran Khan: This is a guesstimate, but I think a fair one. I suspect that about 60% of our work is London based, and 40% is from outside London. It is predominantly in relation to police forces.

Matthew Ryder: My experience is almost exclusively London, but I have experience of understanding what goes on in other forces in comparison with London, not just through legal work, but through work at City Hall, which is clearly London based.

Q209 **Toby Perkins:** I am interested in asking you about disproportionality in police powers. Stop-and-search is a tactic used by the Metropolitan police much more than other authorities. In terms of the disproportionality, I imagine that is part of the reason why that is found. I would be interested in the panel's perspective. We have obviously heard the statistic that black people are nine-and-a-half times more likely to be stopped and searched by the police. Why do the panel believe that disproportionality exists? To what extent is it explained by the fact that the Metropolitan police are much more likely to use it than other forces?

Imran Khan: The reason why it is disproportional is down to institutional racism. It is about the culture and structure of a particular police force. The cases that we get suggest that if you are a young black person—a young African-Caribbean man, in particular—you are more likely to be stopped and searched for no reason. You are more likely to be charged with an offence, be put into custody, not get bail, and get a longer sentence—all the things that appear in the criminal justice system. When we take action on behalf of our clients, we get a concession from the police that, yes, this is what happened. We find that time and again.

There are a number of cases of young black men, in particular. I recall one—a young man of 15, arrested for no reason, taken to a police station and stripped to his boxer shorts. He was 15 at the time and there was no appropriate adult there. He was detained, unconscious and had to be taken to hospital. We sued, and we are getting money for him. Is there any reason why that happened? I don't know. What was interesting is that he was described as a huge man who required three officers to detain him. I met him a few weeks after the case started. He was a petite, slim young man, about 5 feet 2 inches. There you go. It may be that that is relevant to unconscious bias. There is a perception.

It comes down to this. If the figures don't match, as Matthew said, in terms of the crime from that community, the answer can only be explained by institutional racism.

Matthew Ryder: You are right to point out that the Met police are using stop-and-search much more than other forces, but one of the most frustrating things is that we were making progress on this—

Q210 **Toby Perkins:** When you say making progress on this—

Matthew Ryder: In reducing the difference between white people being stopped and searched and black young people being stopped and searched. For example, not long ago—2014-15—black people were four



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times as likely to be stopped and searched as white people in London. The year before last, it was eight times as likely, and now it is nine times as likely. Before that, around the time of Operation Blunt, it was around nine or six times—certainly higher than four. We were making progress.

One of the frustrating things is that there are times when we talk about stop-and-search before a Committee like this and people think, "You're always talking about this problem, and it's always the same situation; the police say one thing and others say something else. We can never solve the problem." We were solving it; it was remedying. One of the reasons it was being solved is because the urgency of reducing stop-and-search was being taken seriously by everybody, including the then Home Secretary, Theresa May, who made a determined effort to try to reduce stop-and-search.

It is interesting that the efficacy of stop-and-search was improving during that period. It was more likely—increasingly above 10%—that there would be an arrest leading from stop-and-search, which is important.

Section 60 is the one clear thing we should be talking about in stop-and-search. Section 60 stop-and-searches had plummeted by 90%. Over the past two years, in the Met, section 60 stop-and-searches have increased by 400% and are back on the increase.

Q211 **Toby Perkins:** Could you explain that?

Matthew Ryder: Section 60 stop-and-search is where there is no need for any suspicion at all; you are not stopping and searching someone based on any information or anything suspicious about them. You can simply randomly stop and search people within an area. It is interesting and important to note that section 60 stop-and-search is the only one that can be turned up and down at whim politically.

If you think about it logically, you cannot turn up suspicion-based stop-and-search just because you want to. You cannot increase the numbers, because if you don't have a suspicion, you can't do it. With section 60, if you just say to people, "Let's do more," you can do more. If you say, "Let's make it easy to do it," you can do that. If you say, "Let's increase the duration period for a section 60 authorisation over a particular area," you can do it.

I am not suggesting that any kind of political statement is being made—I am sure everybody is acting in good faith—but the temptation to use section 60 searches as a way of showing that you are doing more is obvious if you don't need suspicion. Section 60 stop-and-searches are the primary way we see a difference in the disparity of stop-and-search increases. It is in excess of 14 times more likely in section 60 stop-and-searches, whereas it is nine times as likely overall, and less than nine times in section 1, which are suspicion-based stop-and-searches. Section 60 is the real issue if you want to start thinking about it. That is the problem.

Q212 **Toby Perkins:** The report I have here on statistics on race and criminal



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justice from 2016-17 suggests that 1% of all stop-and-searches were section 60. Has that changed much since then?

Matthew Ryder: What was the date of that report?

Toby Perkins: They were 2016-17 statistics, so the report was in 2018.

Matthew Ryder: I am not sure that the 2019 report is out yet. I would imagine, if you are talking about a 400% increase in section 60 over the last 18 months, that you are going to see a significant increase in the percentage of section 60s. Section 60s are fewer than overall section 1 stop-and-searches. Before section 60s were cut down, they started to correlate, or were creeping up closer, around the time of the big police operation in London, Operation Blunt. They started to creep up and get closer, but they plummeted during the period from about 2012 to about 2017.

Q213 **Toby Perkins:** As far as I was aware, these statistics were the latest that were produced—they were saying 1%. They also said that white suspects had increased by 14% and black suspects had reduced. Clearly, the disparity still exists, albeit slightly less. Can I ask you—

Matthew Ryder: Forgive me, but you have to remember that when you talk about disparity, overall percentages are not necessarily as helpful. If you have a huge number of young black people being stopped under section 60 disproportionately, versus the overall number of stop-and-searches, you are not necessarily going to be helped by a 1% or 2% figure. The overall section 1 stop-and-searches can involve the whole of London, which, like any city, is more than 50% white, being susceptible to stop-and-search on a suspicion base and all sorts of reasons. You have to look at where you are creating particular problems within certain sections of the community, which is what we are discussing here—black community and policing—by a disproportionate number of section 1s in that community. Sorry to interrupt.

Q214 **Toby Perkins:** That is a perfectly reasonable point. You said previously that stop-and-search was useless when it came to reducing crime.

Matthew Ryder: I didn't say that it was useless.

Toby Perkins: The statistics show that about 21% of suspicion-based stop-and-searches lead to success, in terms of the thing that was being searched for being found. Do you accept that, at least in those cases, it is helping to identify crime?

Matthew Ryder: I am sorry, Mr Perkins, because I was not clear enough. I am absolutely not saying that stop-and-search is useless in stopping crime. What I am saying is that you cannot turn it up and down at will and expect that to change how effective it is. Stop-and-search that is based on suspicion, and done in a focused and effective way, will of course reduce crime. But you must be driven by the information that you have in deciding whether to do the stop. Simply deciding to increase it will not have a connected effect to how effectively you are reducing crime. It is not that it does not help in reducing crime when it is based on suspicion, but

you cannot turn it up and down and expect there to be a commensurate correlation in solving a crime. That is the issue.

Q215 Toby Perkins: I understand that. Thank you for that clarification. In terms of the report, would you say that the proportion of suspicion-based stop-and-searches leading to the item searched for being identified is important in displaying the extent to which it is being appropriately used?

Matthew Ryder: Do you mean stop-and-search that leads to arrest?

Toby Perkins: Yes.

Matthew Ryder: First, that is an important statistic. What is often missing from those statistics is what they are being arrested for. One of the things that the Met has tried to do a good job on is unpacking which stop-and-searches lead to arrests. I will tell you why that is important in relation to young black men, for example.

There is a disproportionate number of arrests that follow from stop-and-search, which are either public order offences—in other words, “I’ve stopped you and now I’m arresting you because I didn’t like the way you were talking to me, or you and I have had an argument”—or alternatively, a stop-and-search that is purportedly for knives but leads to an arrest for possession of cannabis, or some other low level offending that results in arrest. That can give a misleading appearance to the statistics.

If, for example, we are concerned about knife crime in London, and we say, “How effective is stop-and-search for dealing with knife crime in London?” you are not helped if the stops and the effectiveness rate do not reflect knife crime, but possession of cannabis or an argument between an officer and the person stopped, which ends up in a public order offence. You have to unpack the efficacy for the sort of thing that you are stopping and searching for.

That is why it is so dangerous to say that if we want to solve knife crime, we should increase stop-and-search. Even the effectiveness figure that you are talking about needs to be unpacked, if it is to be one you can rely on with confidence.

Q216 Toby Perkins: I take your point entirely. In terms of this report, it says that 21% of stop-and-searches resulted in an outcome that was linked to the reason for the search, and in fact white people were slightly more likely to have been stopped and searched, and the suspicion was not found to be justified. Some 20% of white people were stopped and searched, but nothing was found, and 23% of black people, so it was relatively proportionate—actually white people were slightly more likely.

Matthew Ryder: Sorry, which report are you citing?

Q217 Toby Perkins: This is the statistics on race and criminal justice produced by the MOJ in 2018.

Matthew Ryder: The MOJ, so that is national.



Q218 **Toby Perkins:** Yes.

Matthew Ryder: I am trying to remember, because I have looked at this before, but I think there is a difference in London. The national statistics are difficult to assess, in terms of the race disparity, partly because of the scale that you are talking about, in terms of London being a city with a high BME population versus the rest of the country. But I think that you are right to say that those statistics show that, when it comes to efficacy, for the reason for the search in the first place, there is some similarity. I remember somebody within my team having looked at an element of this, so if I may, I will come back after this session to see if there is anything I want to add to that, but I take your point.

Q219 **Toby Perkins:** That would be helpful. Some 46% of all stop-and-searches were in London, so within these figures, you are right, there might be other things. That report also showed that white people were more likely to be arrested for something different to that which they were originally searched for than Asian people across the country. Does that fit in with your experience and what you expected to find?

Matthew Ryder: With Asian people or black people?

Toby Perkins: White people were most likely to be arrested for something different from what they had originally been searched for.

Matthew Ryder: Compared with?

Toby Perkins: Any other group—4% for Asian, 8% for white.

Matthew Ryder: How many for black?

Toby Perkins: I think it was 6%, but white people were the most likely anyway.

Matthew Ryder: Forgive me; it is very difficult. I have not looked at those figures before and if they are out of context, I am not sure I can give a meaningful answer on them. I am happy to look at them. Is the point you are making that there is a similarity between the way that white people are stopped and searched, and the effectiveness of it, and the way that black people are stopped and searched and the effectiveness of it?

Q220 **Toby Perkins:** I am just analysing the statistics. Obviously, there is a disproportionality—we have seen that, and we will have to ask the police about their reason for that—so I am trying to investigate some of the figures in terms of that. If there was a huge discrepancy between the number of black people being searched and nothing being found, or a huge discrepancy in the number of black people being arrested for something different from what they were originally searched for, that would be important and relevant. It does not appear, from these statistics, that that is being found, so I am interested in whether that fits in with your experience and whether it might be something that provides a different context for the comments you are making?



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Matthew Ryder: If the point that we are making here from those figures—which, again, I would need to see in front of me—is that on suspicion-based stop-and-search, which is normally section 1 of PACE, there is a similarity between the efficacy of that search between white people and black people, for example, that would not surprise me. There may need to be greater context on it.

That is an entirely different conversation, however, from when we are talking about the 13-times greater likelihood of black people being stopped under section 60. Section 60 is the one that is most likely to cause the kind of resentment that we are talking about. In a sense, when I was talking earlier about us making progress on the issue, that was because there was a greater emphasis in 2014-15 on suspicion-based stop-and-search and the efficacy of those searches. I know that the Mayor and the Mayor's office for policing and crime put a lot of emphasis on trying to make sure that search was more effective.

That is a different proposition from four times as much section 60, and we will see what the effectiveness of that is. By and large, from the early 2000s onwards, section 44 of the Terrorism Act, which was found to be unlawful by the European Court of Human Rights, and section 60 have tended to be by far the least effective type of stop-and-search, so an increase in those causes a cultural change within areas. If you drive through an area in London and see young black men up against a wall with a group of police officers frisking them all, which is unfortunately a relatively common sight nowadays, there is a very high likelihood that we are talking about a section 60 stop, where there is no suspicion and they are just pulling over a bunch of young guys and saying, "I just want to check you." That is the kind of search that I am most concerned about. That is the point I am making.

Toby Perkins: Can I ask the panel about the gangs violence matrix database?

Q221 **Chair:** Toby, before you do, I have a quick follow-up on stop-and-search. As part of the evidence around our knife crime inquiry, we heard about the police wanting to target particular hotspots on the basis of data that showed that the likelihood of a fatal stabbing was much higher in areas where there had been previous stabbings. What is your view about the use of section 60 in those circumstances, if it is linked to that kind of data? Do you still have concerns?

Matthew Ryder: If section 60 is being used in a short burst—for example, one of the periods that Theresa May was proposing when she was introducing it was 15-hour bursts, no longer than that—in areas immediately preceding, or where an officer is satisfied that an incident will take place, that is the kind of much more focused approach to section 60 that has been encouraged and that, in itself, is certainly not as egregious or problematic as a much more relaxed section 60 regime.

The current Home Secretary is keen to relax section 60 significantly, and is doing everything he can to do so, and that is a return to the high levels



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of section 60. In answer to your question, Chair, when section 60 was focused in the way you are describing, it reduced by 90%.

Q222 Toby Perkins: I want to turn to the gangs violence matrix database. First, can I ask the panel what your assessment is of the database as a police intelligence tool?

Jane Deighton: We have decided to defer to Matthew on this.

Matthew Ryder: My own view is that I agree with the conclusions of the Mayor's Office for Policing and Crime in its report of December 2018 that at the moment the gangs matrix is not fit for purpose. The reason it is not fit for purpose is that it is an amalgam of different datasets that were compiled on different criteria over a period of time following the 2011 riots, which do not properly reflect who should be targeted.

As a result, you have a disproportionate number of young people on there who have never been involved with the criminal justice system at all—they have committed no offence—and as a result the dataset that you have got at the moment, on which the gangs matrix depends, just isn't fit for purpose.

In his report, the Mayor has given the Metropolitan police a year to rectify that problem and sort it out. My own view is that a dataset that informs the police as to who may be the people under suspicion is not only a useful tool but an inevitable tool, and far better to have a transparent dataset than a secret one.

Therefore, some form of database or intelligence-based dataset is necessarily going to have to inform modern policing, but the way that it has been structured at the moment is a very good example of how, if you build flaws into the system, those flaws simply result in discrimination and do not target those who should be targeted.

Jane Deighton: Going back to the issue of whether there has been change, what is scary about that matrix is that they have merged victim and suspect, and that is an institutional stereotype of exactly the sort that Mr Brooks faced, as a victim of crime being treated as a suspect, more than 20 years ago.

Matthew Ryder: That is a feature of the matrix that the Mayor's report in 2018 said should be changed.

Q223 Toby Perkins: In terms of gang membership, are you aware what evidence we have as to the proportion of those members of gangs who come from the black community?

Matthew Ryder: I know that politicians usually do this—lawyers do it, so I apologise for doing it—but the premise of your question is a difficult one, so I am going to challenge the premise of the question, I'm afraid.

The reason I do is because the Amnesty report in early 2018 and the various other reports on the gangs matrix have said that the whole utility of the definition of gang is one that is not clear. The 32 boroughs in



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London all have their different information, which they are using, and many of them are using different criteria; and the concept of gang has been interchangeable with the idea of group or informal network of friends and relationships.

So there is not a definition of gang that necessarily imposes some form of finding or assessment that those persons have conducted criminal activity. It is assessed as a kind of working way of seeing a network or social group, and there are various reports from StopWatch and Amnesty International that say that that of itself is likely to lead to discrimination. If you have a community where the police do not properly understand the social networks within that community, you are much more likely to frame that as a gang.

A really good example is when the public health approach was taken in Scotland, around trying to target those who would be involved in networks. This is not very often discussed, but in Glasgow they deliberately did not look at organised crime as a model for trying to assess how they would look at those young people at risk. Trying to use gangs as a tag with which to define people who would be on the matrix is the very reason why the current matrix is not fit for purpose.

Q224 Toby Perkins: The reason I asked the question was that, presumably, identifying whether the people who are on the gangs violence matrix database was disproportionate or not starts from a basis of knowing roughly what you are looking for. We heard last week that 80% of people on the matrix database were black, and obviously I take your point entirely that unless you know what it is you are attempting to identify, it is hard to know whether that is disproportionate, but that was the reason for my question.

I guess my first question is this. Do you think it is disproportionate, or are you saying that actually the very purpose of the database is fundamentally flawed and the database should effectively be scrapped?

Matthew Ryder: I do not want to be repetitive. We have already discussed that some form of dataset—some form of tool for policing, to enable them to have information about the communities they are policing—is necessary in the modern world. The argument you are having is not whether some form of dataset or intelligence-based tool is a good one. You have to use it; the questions are how you use it, how you assemble it, and how you ensure it is not discriminatory.

The first part of the question is yes: some form of—I wouldn't call it a gangs matrix—dataset in which you are assessing and sharing among police intelligence-based information about where risks might be, and who might pose a criminal threat, is obviously an important policing tool. The questions that follow from that, though, are how you define the parameters of that, who you share that information with, and how long you keep it for. All those things just have not been thought through in the way the dataset was compiled from 2011 onwards.



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It is really important, because those are the fundamental questions that, if you do not get them right at the beginning of trying to use a modern policing tool, cause it to fall apart in the way that the gangs matrix was found not fit for purpose by the Mayor's team. We are trying to do more of that kind of policing and use those tools, which are important policing tools that police do need. They need modern policing tools, and if we do not get it right at the beginning, the police are then going to be in a scramble and a fight to say, "Hold on, we need this tool." They will be told, "But the way you set it up was flawed, and as a result it is discriminatory." It is in everybody's interest to get this right as we are assembling these new datasets and these new policing tools.

Q225 Stuart C. McDonald: My apologies for missing the very start of the evidence session. I wanted to ask a handful of questions about institutional racism and disproportionality in disciplinary and conduct proceedings.

When it looked at this back in 2016, the Mayor's office through MOPAC offered three academic theories as to why this seemed to be a persistent problem. One was fear of being accused of racism, which I suppose ties in with the defensiveness—Jane Deighton's example of the bracelet case might tie up with that. Another was conscious or unconscious bias, which we have spoken about, and a third was failure to deal with difference. Do those explanations adequately explain why we still see this issue, or are there other explanations that we should be looking at?

Jane Deighton: The other point that has come up before is criteria. What amounts to the criteria for misconduct proceedings to be taken? What amounts to criteria to be promoted? It is the structural stuff, rather than the process, that really has to be looked at.

Q226 Stuart C. McDonald: Various recommendations have been made as to what should be done to try and address this. In 2015, the inspectorate made a specific call on chief constables to review all their processes. Have you seen changes made by chief constables as to how their disciplinary proceedings, complaints and misconduct arrangements are put in place, and if not, what would you recommend to chief constables and others to try and address this issue?

Jane Deighton: There have been a series of changes by way of statutory instruments. The biggest one was that the burden of proof changed from being beyond reasonable doubt to the balance of probabilities, and there have been various other rules and regulations coming in. I go back to my first suggestion: the biggest change must be that officers should become employees, and the full force of employment law should be applicable to them as it is to every other worker in the country.

Q227 Stuart C. McDonald: Mr Khan, Mr Ryder, do you agree with that suggestion, or are there other things we should be looking at?

Imran Khan: I agree with that, but I think it is a more complicated issue in so far as the complaints procedure is concerned. We have had, I think, three iterations of the Police Complaints Authority—the PCA, the IPCC and



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the IOPC—and I have not seen any change in any of those. We have now had a framework for many years, in terms of the code of conduct and what police codes of conduct should be. The difficulty has been having a truly independent complaints system in relation to—well, all complaints, really.

The problem we have found with any disciplinary process that is police investigating police—in fact, there is an investigation that is ongoing as far as the DPS in the Met is concerned. A suggestion is being investigated that it was deliberately set up to ensure that complaints that were made by members of the public against police officers, or indeed complaints, were generally downgraded and found in favour of the person complained about, so you effectively had a systemic structure to avoid complaints being found in favour of the complainant. If that is right, it means that there was a corrupt DPS organisation within the Met police, which is that complaints were covered up or somehow found against the complainant.

There is a real problem in terms of how complaints are investigated. We still have a situation in which the Independent Office for Police Conduct has ex-police officers investigating. Our concern is that we have no faith or confidence in that process as we go through it for any complaint that is lodged. The complaints we get relate to that. We are now making the complaints simply in order to go through the process, and to ensure that we are in a position to take civil action against the police service responsible. As far as we are concerned, that process remains as bad as it ever was.

I'm afraid that the other part of the issue is that complainants now do not have the ability to put in complaints, because they have no recourse to legal aid whatsoever. I'm afraid I am the only person raising it. I am sure that Jane Deighton and Matthew Ryder will agree with me. A whole range of complaints do not ever get investigated. Complaints are not made because the person cannot afford a lawyer and cannot go through the process.

Matthew Ryder: May I just ask about one point you raised about fear of being called racist?

Stuart C. McDonald: Yes.

Matthew Ryder: Could you explain the context in which that was suggested as an explanation?

Stuart C. McDonald: I suppose it goes back to the example given by Jane Deighton about the bracelet. Something that was pretty low-level might have been dealt with informally, but because of fear of being labelled racist for taking that action, they try to protect themselves by going through the formal disciplinary process instead.

Matthew Ryder: I can say, as a lawyer, as a senior member of my chambers and as someone who worked at City Hall, we are hopefully now in modern times. Somebody is saying, "I couldn't institute a meaningful



policy in relation to it because I didn't want to be called sexist," or, "It's too difficult to understand what sexism is or isn't these days." Thankfully, in most institutions we are much less tolerant than we might have been 20 years ago of that kind of narrow excuse for not getting your behaviour into line. Similarly, when people say "I'm just nervous, I don't really understand the nuances of racism"—individual junior people need to be able to be given leadership and training to ensure that they are not coming up with those kinds of excuses. If that is the answer to why somebody is behaving in a discriminatory way, then that is a failure of management and leadership.

I have been in policy-developing situations and working with people developing policy on, for example, violence against women and girls, and seeing how it is played out. In those situations, it would be inconceivable to develop a policy on violence against women and girls and to not have women in the room developing that policy, and rightly so. The idea that men would develop a policy around abortion rights or violence against women and girls without women being in the room is anathema in the modern way of doing things. Unfortunately, it is quite commonplace to have policy around young black men with a black man in the room sometimes as the only black person, and if I was not there, then there was no black man in the room at all. The reality is that it is quite common for us to have policy around race where no black people are in the room helping to explain and develop that policy, or providing a sounding board for those trying to enact that policy. That is to the detriment of everybody. Those trying to enact it feel lost at sea, they are not sure, and they do not have anyone to talk to about it. That is only remedied by having more black people in senior leadership positions within organisations.

Q228 Stuart C. McDonald: That is helpful, thank you. Returning to the issue of the IOPC, I accept your point on legal aid, but what other changes can be made to that institution to try to rebuild confidence—or is it beyond that? Do we need to look at a completely different institutional structure altogether?

Imran Khan: I think the first point has to be that you cannot have police investigating the police. That is a real problem. An example is when Stuart Lawrence was stopped by the police many years ago. He complained, and we lodged a complaint on his behalf. The internal police investigation found that there was no case to answer. It went to the IOPC or the IPCC, whatever it then was, and it completely reversed the decision. I do not know if it was a systemic thing, or whether it was the police trying to protect the police. In that case, we had success going up to the IOPC or IPCC, but even within the IOPC, you have police officers doing the investigating, who then provide reports to assessors. The danger we see is that if you have that—either because of unconscious bias or because of the way the culture was—police officers tend to protect other police officers. We have to get away from that, or we will have real problems.

It will require more independent people coming into the institution in order to get confidence in the process. I'm repeating myself, but as I said before, it must follow, must it not, that if we are taking action in the civil



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courts and succeeding on the same facts that went into the complaint, or there has been a concession, then why wasn't that dealt with at the complaint stage? Why wasn't that acceptance made? If the police were able to, as they should, apologise and accept at an early stage, you would not have thousands of pounds spent on civil litigation—taxpayers' money—where the police deny an allegation and then are forced to accept it and pay huge amounts of compensation and legal costs.

Q229 Stuart C. McDonald: Lawyers quite often investigate lawyers and whether they live up to their professional standards.

Imran Khan: I'm not saying that's the right thing to do. It needs to be independent. Since the Lawrence report, we have had the Police Complaints Authority, the IPCC and now the IOPC, and each of those organisations had the opportunity to ensure that it was properly independent and accountable; it has not done so.

Matthew Ryder: I think the shift from the IPCC to the IOPC was a welcome one; it was a good opportunity for there to be a change of culture. The only thing I would add to what Imran said is that it was alarming to see, as a lawyer, the number of times the IPCC misdirected itself on the law when it was dealing with complaints. That's not something you see that often. It's quite unusual to see a public authority charged with determining disciplinary offences misdirecting itself on the law. There was quite a large number of cases that went to a higher court in which the IPCC actually got the law wrong in how it was approaching it, and that was worrying.

Jane Deighton: The change in culture must not just be not to have police officers. That could be a negative. I was appalled at a homicide inquiry where one of the investigators was an ex-PR person. The investigators have to be properly trained, and they have to have no fear of or loyalty to the police. "No fear of" is quite a big one, because the police are powerful and many people are frightened of them. The other cultural change has to be that the investigators must not come from the same dominant white culture that the police are coming from. Until there is that independence of investigation and scrutiny, the prospects of our clients having an independent and fair investigation will remain very low.

Imran Khan: Forgive me if I am the only one banging the drum on legal costs, but it is important, because we get hundreds of inquiries from people who want to make a complaint against the police. We can't take all of them; we have to make decisions. The only way we are able to succeed in those cases—they are quite horrific cases—is to take them to court or threaten court action, and I think there is a suggestion, now, that there is going to be something called fixed recoverable costs so that, as lawyers, we are going to be given only a small pot of money if we succeed. At the moment, many lawyers are doing it on conditional fee arrangements, if they see a case that is worth pursuing. We have to be satisfied that there's going to be some sort of compensation. So the ability to hold this very powerful institution to account is becoming increasingly difficult.



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This is not banging on about money; can I be absolutely clear about that? We have done lots of pro bono work over the last 20 or 30 years. Legal aid is being removed from individuals, and that is making it even more difficult for them to access justice and hold this very powerful institution to account.

Q230 Stuart C. McDonald: Absolutely. My final question is about the College of Policing. Correct me if I'm wrong, Jane Deighton, but you suggested that the College of Policing has an impact for six months and then it sort of dissipates away as the officer returns to their duties. What about codes of ethics or the guidance that they put in place for stop-and-search? Has any of that had a positive impact?

Jane Deighton: Not that I've noticed.

Imran Khan: I must confess that the College of Policing sounded like a great idea, but—forgive me if this sounds pejorative—it looks like a members' club, quite frankly. I saw its website today. It just promotes itself. We know what the standards are, in terms of what it should be, and it is a good idea to have joined-up policing across the country—all of that is accepted. The problem with policing is not what the standards ought to be; this should be about how effective we are at rooting out misconduct, and that doesn't seem to be high on the priority of the College of Policing.

I don't think you need another institution which is simply looking at the standards. Yes, there ought to be a college that shares information about good policing, but if we are looking at integrity and accountability issues, it needs to move away from the College of Policing. That cannot be the organisation that looks at that. I have not seen anything there that deals with sanctions, and I don't think we needed another code of conduct by which police officers should be behaving. We have had that for many years.

Jane Deighton: This might be quite interesting, and quite shocking: one of the recommendations of the Angiolini report, two years ago, was that police officers' statements about a serious incident should be honest. It is a measure of how far we haven't come that it has to be a recommendation in a public report that police officers should be honest. Of course, if they were employees, that would be implicit in their contract.

Q231 Stuart C. McDonald: The College of Policing has said to us in its written evidence that it has "played an important role in improving the manner in which stops are conducted", and speaks about stop-and-search guidance that it has issued. There is no support on the panel for that.

Matthew Ryder: My own view is that there are a number of institutions, the College of Policing being one of them, that are set up with the good purpose of trying to ensure that they embed best practice, disseminate good practice across police forces, get it right, and help officers get it right. I don't think I am disagreeing with Imran and Jane when I say that all of us are in favour, I would imagine, of organisations and institutions that would embed the Lawrence recommendations and Lawrence inquiry approach into the policing practices of police forces across the country.



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Where it breaks down—and I have slightly seen it a little bit on both sides of the table, having worked at City Hall a little bit, although policing wasn't explicitly my brief, of course—and why you see the cynicism is because what ends up resulting, in terms of practice, doesn't seem to have dramatically changed. There is a concern and a cynicism that when these organisations are set up to embed best practice and disseminate knowledge, in some areas they are very good. Some areas of policing have seen real progress over the years: FGM and violence against women and girls are improving. There are a number of other areas, in terms of how we approach what we are doing for victims, that are improving well, but something like stop-and-search and the exercise of that police power has resolutely been something that is stubbornly not changing.

When pressure comes, as is happening across the country—not just in London—with serious violence on the rise, that is the measure of how much we hold these principles dear and how confident we are in upholding them. When pressure comes, that is when we need to be saying, “Increasing suspicion, and stop-and-search, aren't going to solve the problem.” Doing the kinds of things suggested by the Lawrence inquiry, or by other people, or doing what happened in Glasgow, is what is going to solve the problem. The problem is a lack of holding our nerve when there is political pressure and public concern. The trigger for progress on the Lawrence recommendations slipping backwards over the last 20 years is people not holding their nerve on these principles that we all hold so dear, and that we felt had been established.

Q232 Chair: You answered questions about the IOPC and the College of Policing. What about the inspectorate? Do you have any thoughts on any action that they are, or are not, taking?

Jane Deighton: One quite telling thing about the inspectorate was, I think, that they, in a report a couple of years ago, asked the police to answer the same question that your colleague just put to us: why is there disproportionality in stop-and-search? The police haven't answered it. So whatever the merits of their particular investigations, which I am not experienced enough on them to judge, if they are requiring police services to do something and the police services are not doing it, then that is something that needs to be addressed. They need to have the power to secure answers to the questions that they put to the police.

Q233 Chair: If the role of the inspectorate is to address these sorts of issues and whether there is racism in particular forces or more widely, have you seen work done by the inspectorate that is doing any of those things?

Imran Khan: It is a subject close to my heart. I have not seen anything that has been particularly outstanding as far as that is concerned. It is a failure on their part if it hasn't been done.

Matthew Ryder: My view of it would be that some of the research and reports that are done, and some elements of what they seek to put in place in training, are very good. Some of the reports that the inspectorate puts out are very helpful; they compile a lot of data and release good



reports on what is going on. However, there seems to be a gap between identifying something as a problem in the data that they gather and the good research that they do, and getting a solution implemented.

My own view—it may have changed slightly as I have gone from being just a litigating lawyer to some of the work that I have done more recently—is that there has to be deference to the police and their organisation in finding the best way to sort out their problems and solve the issues that they are facing. They understand their members, they understand officers, they understand politicians and the political process that they are under, and they understand how to make our communities safer.

You have to be deferential to them—I do not think that any of us disagrees with that—but what is so frustrating is that all of the good reporting just does not seem to translate to action on the ground, which in the context of this hearing means action on the ground for young black people across the country. It does not translate to a change. However much good work is being done, if it is not changing things, it is really difficult to be confident about it.

Q234 Chair: Do you have any further thoughts or evidence on the IOPC, the College of Policing or the HMICFRS—either good things that they have done that have not been implemented, or failings and inadequacies in things that they have done? If these are the institutions that have a role in improving policing, it would be very helpful to know if you have any thoughts or examples of things that they have done that either help or hinder this process.

I also have a quick question on stop-and-search. Have body-worn cameras made any difference?

Imran Khan: No, because they often turn them off in certain scenarios. It is discretionary in a lot of cases. Where it has existed, of course it has been incredibly helpful, but it is not across the board—that is the problem. If it were mandatory across the board, I think it might be much more helpful.

Matthew Ryder: There is a really important feature of body-worn cameras that rarely gets discussed. The type of misconduct that they identify is when a police officer behaves visibly, physically badly towards someone. If the camera is turned on, as it is supposed to be, and someone is manhandled or something goes on, that will be picked up—but with a lot of these issues, that is not what we are talking about. We are talking about people being pulled up for stop-and-search in circumstances where they have no idea whether it is lawful or why it is happening. It happens to them repeatedly, and a body-worn camera does nothing to solve that problem.

Furthermore, the only way a body-worn camera works is if the person is confident about making a complaint and then someone goes on to view that footage. Even when there are physical problems or physical manhandling, that has to happen. Very few young people who have been stopped on the streets of London for the fifth time in the week, or who feel



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that they have not been treated properly, will have the confidence to report it and see what the body-worn camera shows. The body-worn camera probably will not tell them anything at all. To call body-worn cameras a panacea or a way of solving the problem is to misunderstand what the real problem is.

Jane Deighton: The other problem is that I understand the tapes tend to be destroyed after 30 days, as a matter of routine. The process that needs to be triggered to make a complaint, if people are going to get help or get representation, takes longer than 30 days, so the tape is quite likely to have been destroyed. The record that is left will be what a police officer has put on a criminal intelligence sheet as their version of what they saw, knowing that it cannot be checked because the tape has gone.

Q235 **Chair:** Mr Khan, you raised an issue about the Houses of Parliament. We have been pursuing that this afternoon and have got more information, both on the report that I think you referred to and on a proposal from the Clerk of the House that was circulated last week. We will be pursuing that further, as well as their proposals for change.

Let me ask a final question. I am conscious that we have taken a lot of evidence from you, and we are very grateful for your time—this has been a long evidence session. What would be your short recommendation for the one thing that can make the biggest difference, so that you do not have to give the same evidence again in 10 years' time?

Jane Deighton: Employment status.

Imran Khan: Positive discrimination.

Matthew Ryder: Discrimination in new policing techniques, including algorithms and machine learning.

Chair: Thank you very much for your time. We are really grateful for the evidence that you have given this afternoon.