

Understanding Police Reform: the case of stop and search

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Thesis submitted for PhD
University of Surrey
December 2005

Abstract

This thesis is based on government research undertaken by the author as part of a Home Office research team. It presents an empirical examination of the impact of the reform of police stops and searches recommended by the Stephen Lawrence Inquiry. This reform focused on increasing accountability by requiring a record to be made by the police for a broader range of police stops, of concern for their impact on relations between the police and ethnic minority communities. The core of the empirical analysis is based on qualitative and quantitative data drawn from observational fieldwork of routine police patrol and face-to-face interviews with police officers over the period November 1999 to April 2000.

Through this substantive discussion, the thesis also seeks to challenge criticisms levelled against government research by some in academia, specifically about the scope, quality and academic value of such research.

Drawing on a review of the literature on routine street-based policing, the thesis recognises the centrality of discretion for an understanding of police practice, and identifies the influence of a range of factors acting as constraints and enablers on police use of stops and searches. Specifically, it highlights the importance of culturally derived working codes that guide and orient police interactions with the public. This insight yields considerable analytic power and illuminates the fact that the attempt by SLI to improve and enhance police accountability, through a new stop form, actually operates counterproductively to cut across the positive use of discretion. Use of the form disrupts officers' ability to modulate between consensual and coercive management of encounters, to formalise and 'racialise' encounters. This can impact negatively on the interactions between the police and the public. As a result, stop forms were not completed for the majority of encounters.

Acknowledgements

I would like to thank my supervisor Nigel Fielding for his continuing support, encouragement and guidance in the long writing of this thesis.

Also to my long-suffering family; my children, Sam, Rowan and Murrion who experienced my frequent periods of distraction.

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Chapter 1 Positioning the research

Bridging the divide: Government research and the academic project

This thesis is based on research conducted by the author, with others, between 1999 and 2000, working as a Government Social Researcher at the Home Office. The aim of the research was to directly inform the Home Office response to specific recommendations in the report of the Inquiry into the Matters Arising from the Death of Stephen Lawrence (1999) (referred to from now on as the Stephen Lawrence Inquiry (SLI)¹) for changes in the recording requirements for street stops and searches by the police. The results were published as a set of six Home Office reports and led to a number of distinct changes in Home Office and police policy, legislative Codes of Practice, and police practice.

For many in the academic world, this research would be seen clearly, and simply, as government research, conducted by government researchers for government ends. And certain judgements and assumptions about the scope, quality and academic value of the research would be made on this basis.

Although the initial policy impetus for the research was narrow and short-term- the recommendations of the SLI report to extend and enhance the monitoring requirements for police stops and searches- a programme of research developed in such a way as to include far broader and substantive questions, and to explore them in depth. For instance, it interrogated the existing evidence on the effectiveness of stop and search against crime to question police assumptions of its primacy as a tool of law enforcement, and weighed

¹ The inquiry is also often commonly referred to as the Macpherson inquiry, after the name of its chair.

any such effectiveness directly against its impact on public confidence (Miller, Bland and Quinton, 2000). Equally, the research probed the meaning of the national stop and search statistics (Home Office, 2004; Murray and Fiti, 2004) that dominate public debate and fuel ethnic minority complaints, to challenge the claim that they provide clear evidence of direct police racism and discrimination (MVA and Miller, 2000). The research was able to achieve these things via a multi method, triangulation, approach that included qualitative and quantitative elements. The research was designed and conducted by the author, and other members of the research team, as professional social researchers, displaying, I would argue, the methodological competence and rigour, reliability and validity acknowledged by some as characteristic of Home Office research (e.g. Morgan, 2000). The programme of research as a whole, I would argue, therefore stands as a significant contribution to our *understanding* of this specific element of police work.

The breadth of the programme thus allowed us to draw a wide range of conclusions and recommendations that went much further than simply considering the implications of the SLI recommendations (summarised in Miller, Quinton and Bland, 2000). Our research reports are part of a Home Office series which was established with the aim of providing concise, clear overviews of the findings of research projects and programmes, and in particular what the policy or practice implications of these might be, as quickly as possible after the research is completed (Davies et al, 2000). However, this agenda meant then that I (and the research team) did not have the time nor space to consider the implications of our work for *academic* debates on policing.

Some of the academic value of the work has nevertheless been recognised. The research has been drawn on, for instance, in academic commentaries on police powers (Sanders

and Young, 2002, 2003) and on the relationship between ethnic minority populations and the police (Bowling and Foster, 2003). One element of the work (seeking to better understand the reasons for the disproportionate impact of stops and searches on ethnic minority populations) has been replicated in an academic study (Waddington et al, 2004).

The purpose of this thesis though is to allow the author to more directly engage with, and add to, academic debates about the broader issues of police discretion, accountability and reform than was possible or accepted in government research publications. Based on administrative research that I conducted as a government researcher, the thesis stands as my contribution, still as a government researcher, to the wider academic criminological project.

I will also seek to reflect on the importance of this thesis as a prime space that allows a bridging of the government and academic research contexts and forms of knowledge to explore more fully the knowledge potential of this work. In so doing, the thesis will, amongst other things, raise the issues of:

- the status of the research
- the nature and status of the knowledge that the research has produced,
- the forms in which that knowledge can be produced and communicated
- the impact of this status on the way that the 'knowledge' is used, and by whom it is used.

Exploring the links: government and academic criminology

It is in the field of criminology, amongst all social science disciplines, that government (research) and academic study have had some of the longest and closest links. The Home Office has played a key role in the history of the development of criminology in the United Kingdom as an academic discipline.

Garland (2002) highlights the key role of RA Butler, as Home Secretary, in both extending criminological research capacity and developing the academic discipline in the late 1950s. He was instrumental in establishing the Home Office Research Unit, as a centre for in-house government research, and the Cambridge Institute of Criminology, an academic institution, based at Cambridge University. Although it was anticipated that the latter centre would engage in more 'scientific' research than the former and be independent of government, in both cases the driving force was pragmatic, that is to conduct and deliver 'useful' knowledge to policy makers. Thus at a time when there was a widespread political belief that policy-making could be improved by the availability of systematic research and trained professional expertise, the research agenda pursued by the Cambridge Institute was, Garland (2002) argues, heavily influenced by immediate policy needs. It was also largely indistinguishable from the in-house research carried out by the Home Office.

What this highlights is some shared beginnings, original aims and research contributions for government and academic research in the field of criminology. These links play out to the current day. The Home Office is the largest single employer of criminological researchers – at its peak, around a hundred at any one time – in the UK, many current

senior academic criminologists served their research apprenticeships working as government researchers there, and it has the largest institutional budget specifically designated for funding criminological research, both academic and government (Morgan, 2000).

Academic criminology, moreover, although having evolved somewhat since these early days, continues, according to Garland (2002), to be a discipline 'oriented towards a scientific goal but also towards an institutional field; towards a theoretical project, but also towards an administrative task' (ibid: 16). This 'administrative task' is also one that brings academic and government researchers together, largely (though increasingly not exclusively) through the former conducting work commissioned and managed by the latter. This is, of course, a role that government researchers continue to fulfil (though decreasingly) through conducting in-house research. Indeed, the research on which this thesis is based is an example of such work.

It is of particular personal interest, then, that Garland (2002) goes on to highlight a belief among (some) UK academic criminologists that these two projects – administrative and theoretical – 'are mutually supportive rather than incompatible, that etiological research can be made useful for administrative purposes, and that the findings of operational research further the ends of theoretical inquiry' (ibid: 16). Indeed, Garland goes as far as suggesting that, although there may be tensions (these are explored below) and the balance between the two changes over time, the very viability of criminology as an accredited, state-sponsored academic discipline depends on the combination of these two projects (but see Walters (2003) for a more critical view). Here he is talking about

administrative and theoretical work conducted by academics, but my point is that government research can make a contribution to the academic project too.

But this kind of administrative research – even of the academic variety – is subject to (much) criticism within the academic community. According to Morgan (2000) there are three widely perceived key problems associated with this work, particularly that commissioned by the Home Office. These serve to encourage members of the discipline to question not only whether involvement in administrative research is a suitable role for academics, but its value to the academic enterprise and its contribution to academic knowledge.

First, this kind of research is seen as ‘almost entirely atheoretical fact gathering’ (Morgan, 2000: 71) – largely the collecting of crime and policing statistics. It is about measuring rather than *understanding* the phenomena under study. Often implied in such a charge has been a dismissal of the intellectual value of administrative work. Secondly, the work is regarded as narrow in focus and short-termist: focused on recent policy initiatives or legislative changes. It is characterised as involving the evaluation of these reforms on tightly defined ‘immediate impact’ and cost-benefits grounds, rather than any attempt to place and appraise them within the broader socio-economic context. Thirdly, such research is ‘policy-friendly’ (ibid: 71), in design and final product. Home Office research in particular is at best, Morgan argues, about fine-tuning policy, not challenging it, and certainly not discrediting it. It is this issue that is, and has long been, particularly problematic for ‘radical’ researchers in the discipline (e.g. Cohen and Taylor, 1972; Walters, 2003; Hillyard et al, 2004) who strongly believe that it is not the role of academics to ‘prostitute’ themselves to government and in so doing help maintain the political/policy status quo. From this perspective, official research acts simply as a

smokescreen to provide 'scientific' reassurance of the appropriateness of any policy response (Cohen and Taylor, 1972: 205).

Criminological researchers in government have been largely mute in response to such challenges (see Clarke and Cornish (1983); and more recently, Wiles (2002) as rare exceptions to this). Some in academia have sought to rise to their defence, however, demonstrating a plurality of perspective on the nature of the 'academic criminological project' that is sometimes (deliberately) downplayed. Ken Pease, with a long history of working closely with government researchers, policymakers and practitioners, advocates strongly the important contribution research can, and should, make to policy and practice and is critical of those academics who 'remain distant from the fray, and unconcerned with noble efforts to make things better' (Pease, 1998: 41). Fielding (2002), while advocating for the importance of academic theoretical work has recognised the 'equally substantial intellectual challenges' (ibid: 151) of such a pragmatic perspective.

In these debates there is also often a failure to consider the importance of the different institutional contexts in which academic and government researchers sit. Most academics, for example, have demands on their time other than directly for research, not least the performance of their pedagogical role and the institutional pressure to secure external funding for research. So while government researchers spend the majority of their time focused on research activities, academics must find time for them in the margins of their other responsibilities, often narrowly concentrated at particular points in the academic calendar. But these different contexts have not simply such practical implications, they also shape and influence the purpose to which the research is aimed and to which the knowledge it produces is put. These issues will be touched on at points throughout the thesis.

Nonetheless, administrative research still faces a not inconsequential body of academic opinion that for some time has dismissed it as basic, 'shallow', uncritical; determined and led by governments' short-term political needs and agendas rather than by any intellectual project (Clarke and Cornish, 1983). This is directly contrasted with more 'pure' academic research which is characterised as superior in its original, deep, theoretical, critical and independent nature.

My argument is that this criticism is based on an artificial and simplistic distinction between the two types of research and the use that can be made of them. Perhaps, it might tentatively be suggested, it is an illustration that (some) 'academics are quite prone to make use of such contrasts for didactic effect' (Rock and Holdaway, 1989).

First, it ignores arguments that criminology is in any case 'an ineluctably empirical discipline [which] serves as a constant check and brake on its propensity to theorise' (ibid: 5). Second, it minimises the influence, and importance, that new empirical areas of work developed by the Home Office have had on criminological thinking. Of findings from the British Crime Surveys, for example, it has been suggested: 'the new facts they supplied were intellectual anomalies that could change minds...Radicals found it harder to treat crime as an ideological distraction or mystification' (ibid: 8-9). Finally, it fails to consider that there may be 'often neglected but unique benefits of government research... [which allow a] dynamic interplay among research studies, theoretical formulations and policy implications' (Clarke and Cornish, 1983: 5) more difficult to replicate in academia.

Any argument that government (-commissioned) research is defined by immediate political and policy agendas should, of course, be balanced by recognition of the politics

present in academic research and knowledge creation (Walters, 2003). Garland (2002) talks of the way that 'Modern criminology, like any other academic specialism, consists of a body of accredited and systematically transmitted forms of knowledge...and a cluster of questions which make up the subject's recognized research agendas' (ibid: 14). Others have pointed to the 'pendulum of fashion within the subject' and criticised the 'myopia among criminological theorists...[and their] chronic tendency to partiality' (Young, 1994a: 70). Young (1994a) also challenges the supposed independence of academic thinking, to highlight the *inter*-dependence and impact of the broader social and economic context on the development of criminological theory: 'exterior problems of crime, of law-making, of political opinions and current ideas, all profoundly shape the theories emanating from the interior world of academic criminology' (ibid: 71).

With respect to the more 'academic' contributions of such research, Morgan (2000) points out that government (administrative) research can be, and crucially *is*, used extensively in furthering academic knowledge and theory development. He cites the 'catalogue' of academic publications – both books and peer-reviewed journals – making theoretical contributions to criminological debates that are based on research originally commissioned and funded by the Home Office. Moreover, he suggests that this contribution could be even greater but for unimaginative, uncritical, 'self-censoring' researchers who fail to realise and seize the opportunities this research provides.

A further, related, point is that even those academics who do not conduct government research themselves, including those 'radicals' who do not think academics *should* undertake this task, draw heavily on the empirical data produced and collected by Home

Office research. They do this in both their 'abstract theorising about the social construction of crime', and their criticism of government policy and state intervention:

'These data...are the clay and straw that make the bricks which both make for an accountable criminal justice system and permit it to be effectively challenged and analysed' (Morgan, 2000: 77).

In other words, governments' own research and data are used to hold them to account.²

These are interesting points for the author, suggesting as they do that there *is* a broader use and value of administrative research, including perhaps that conducted by government researchers. The problem is that they are implicitly based on the idea that this research can – and needs to be – worked on further and 'theorised' by academics (even when they are the ones conducting the original research). Even here then it is assumed that academic researchers have the monopoly on theory development and use. The role of Home Office research, for instance, in theoretical development within the discipline of criminology is largely ignored in these debates, although it has been recognised by others (see, for example, Young, 1994a). The usefulness of government research and researchers in the development of academic knowledge is then relegated to a secondary one: as simply the generators of empirical data for academics to take forward theoretically.

² But see Walters (2003) on the influences that, he proposes, constrain a 'truly' critical criminology.

In summary, the principal criticisms laid against administrative government research are that it is:

- Restricted in its scope to specific and short-term policy initiatives
- Limited in its ability to question or challenge policy agendas
- Conceptually (and by implication) intellectually impoverished

In the pages that follow I develop a thesis that seeks to presents a challenge to the validity of these criticisms. The next chapter begins by introducing the substantive topic under examination.

Chapter 2 Introduction

The police and the public

The legitimacy of the British police has long been built on the *idea* that they police 'by consent' (Reiner, 2000a), and exist to uphold 'law and order'. The authority they draw on to perform this role, however, comes from their unique position as the monopolists in the legitimate use of *coercive* intervention at any time (Bittner, 1970, 1974; Waddington, 1999a). To square this inherent ambiguity, however, the consensual policing model is based on a presumption of the minimal use of that coercion, achieved through the use of police discretion.

The power to apply this coercive intervention is provided for by law (Dixon, 1997). In practice, however, this authoritative intervention is used not primarily for law enforcement- despite the popular police and public image- but rather in the reproduction of order (Ericson, 1982; Reiner, 2000a). Nonetheless, the police are held formally accountable to the law.

Policing by consent has been taken to imply a particular, but nonetheless ambiguous, 'special relationship' between the police and the people. This view draws on an ideological image of the police constable as a 'citizen in uniform' (Reiner 2000a: 55; Dixon, 1997: 50; see, for example, Sampson, 2003), which denies any distinction in legal power between the two. (It is arguable whether this has ever been the case but is self-evidently not so now.) This conception of the relationship between the police and the public has been summed up as 'the police are the public and the public are the police' (Reith, 1956: 287 in Reiner 2000a: 55). Such a 'mystical process of identification with the British people' (Reiner, 2000a: 55) has also been put forward as a form of accountability.

Consent was not, however, a founding element in the development of the modern British police. Rather, its construction was an historical and ideological achievement, engineered by the originators of the modern police- Peel, Rowan and Mayne- in the face of initial opposition from across the social classes (Reiner, 2000a: 50). This was achieved by explicit police policies including the minimisation of force, an emphasis on crime prevention and a service role, and accountability to the law. The salience of this notion may have waxed and waned since then but its inherent ideological importance for the conception of policing in Britain has remained. This can be seen by the recent re-emphasis given to it by the Home Office as an underpinning of its 'citizen-focused policing' agenda which has highlighted the importance of police engagement with local communities as part of 'reassurance policing' (Home Office, 2005).

Policing by consent is not, however, to be confused with policing by consensus: 'if there was universal consensus about norms, values and appropriate modes of social behaviour there would be no need of a police force' (Reiner, 2000a: 49). The social patterning of policing does not, indeed cannot, fall equitably across the population; there are inevitably winners and losers. Some are policed for, others against. The police impose, uphold and maintain a conception of order defined by the social values of the dominant majority in society; the so-called 'respectable classes', the eponymous 'ordinary decent people' (Waddington, 1999a: 41). The brunt of coercive policing power has thus tended to concentrate on the economically and socially marginal (Brogden et al, 1988; Reiner, 2000a) who by their very status may 'fail' to demonstrate their social *respectability*. Law is exercised for the maintenance of a particular order; the police patrolling the boundary between the socially included and excluded (Waddington, 1999a).

Although this picture can be seen to hold in the perceivable pattern of policing across society, the police do not impose a singular conception of order- there is local variation. The police are sensitive to the need to attend to the values prevalent in the community in which they operate (Waddington, 1999a: 44).

Consent is not explicit but implied in and through (negotiation and) cooperation: it is a tacit contract between the police and the public. This is played out in the encounters between the police and the public. For most of the population, such encounters are in the main consensual; the authority of the police to stop is recognised and accepted. But encounters between the police and those on the margins in society display more conflictual relations, reflective of the fact that they are subject to greater coercive intervention by the police.

So for the marginal sections of the population, the notion of policing by consent appears ambiguous, if not contradictory; their acceptance or recognition of police legitimacy cannot necessarily be assumed. Their marginal status and position in society, however, renders no political voice or influence to register their discontent and the withdrawal of their consent. They are left as 'police property' (Lee, 1981; Reiner, 2000a). Police legitimacy can only be challenged and denied through 'resistance' (Brogden et al, 1988: 98), resulting in ongoing conflictual relations with the police. These relations, however, are not usually politicised because for some their membership of this section of society is temporary (by growing up or getting a job). For others, more permanently excluded, their social relations are atomised, restricting the development of any sense of a group identity, as a self-conscious target of coercive policing (Reiner, 2000a: 78).

This, however, is not the situation for many ethnic minorities, particularly the Afro-Caribbean community. Such communities have long had a strong sense of their identity and a clear consciousness of being discriminated against by the police- the oppressive use of coercive powers has been documented for over four decades (Bowling and Philips, 2003). The controversy surrounding the exercise of powers to 'stop and search' is emblematic in this regard.

The inner-city riots of the early 1980s can be interpreted as a symbolic and graphic demonstration of the withdrawal of consent and cooperation by ethnic minorities. The Brixton riots of 1981 were regarded as the result of longstanding discrimination and disadvantage (which went beyond simply the experience of policing and included, for example, restricted educational and employment opportunities) but were also a direct reaction to the targeted and intensive use of stop and search powers by the police in the area as part of 'Operation Swamp 81' - 943 people were stopped in four days (Bowling and Philips, 2003).

The Scarman and Lawrence Inquiries

The Scarman Inquiry was set up in 1981 to investigate the origins of the riots and made a clear link to the police use of stops and searches. The centrality of the principle of 'policing by consent' was given particular emphasis by Lord Scarman. In his report, he highlighted two 'principles of policing a free society': consent and balance, and independence and accountability.

The first principle emphasised the requirement of the police to 'strike an acceptable balance' between the functions of law enforcement and order maintenance so as to secure the consent of the community, 'which they [the police] need to support their operations'. What this meant, according to Scarman (1981), was that in instances where conflict between them arose, priority should be accorded to the maintenance of order. The 'constant and common-sense exercise' of discretion was placed explicitly at the heart of achieving this balance.

'[...] successful policing depends on the exercise of discretion in how the law is enforced. The good reputation of the police as a force depends on the skill and judgement which policemen display in the particular circumstances of the cases and incidents which they are required to handle. Discretion is the art of suiting action to particular circumstances. It is the policeman's daily task.' (ibid: para. 4.58)

Scarman's conception of discretion encapsulates its role in both macro and micro-level policing. He attends to its importance for the pattern of operational policing at a community level, but gives particular emphasis to its contingent and contextual role in specific interactions. He identified the art (and craft) of discretionary action as a central element of police competence. The implications of this in police use of stops and searches will be examined through empirical examples in Chapter 5.

Scarman (1981) also emphasised the importance of police independence from political direction. This independence is tempered, however, through the 'constitutional control of accountability' (ibid: para. 4.60): not only adherence to the law but also attention to the support of the community 'as a whole'.

The Stephen Lawrence Inquiry

More than two decades later, many of the same issues were raised again as a result of the Stephen Lawrence Inquiry (SLI) (1999). Set up to look into the failed police investigation of the racist murder of the black teenager Stephen Lawrence, the inquiry once again highlighted the broader problems of relations between the police and ethnic minorities. It specifically identified a lack of trust and confidence in the police, driven by the experience of being 'over policed and under protected' and encapsulated in their experience of stop and search. The recommendations of the inquiry led to what has been described as the 'most extensive reform programme in the history of the relationship between the police and ethnic minority communities' (Bowling and Philips, 2003: 546).

The feeling of the black community as over policed and under protected was clearly and explicitly articulated during the inquiry. The way in which individuals were treated by officers in encounters was also emphasised in a call for the police to 'treat us with respect'. This was tragically and powerfully symbolised in the circumstances of the murder of Stephen Lawrence. Stephen Lawrence was murdered in public on the street, stabbed by white youths. The police failed to investigate properly the kind of criminal incident that the powers to search are explicitly designed to target and prevent.

Part II of the inquiry, which involved public hearings in London, Manchester, Bradford, Bristol and Birmingham, looked beyond the specific case of the murder of Stephen Lawrence to the investigation and prosecution of racially motivated crimes in general. This process highlighted to the inquiry ethnic minority communities' general lack of trust and confidence in the police, the report noting particularly that 'if there was one area of complaint that was universal it was the issue of "stop and search"' (SLI, 1999: para. 45.8).

A central basis for this complaint was unambiguously due to police discrimination, the report concluded, evident across the whole range of police-initiated street encounters:

'The need to re-establish trust between minority ethnic communities and the police is paramount. Such distrust and loss of confidence is particularly evident in the widely held view that junior officers discriminate in practice at operational level, and that they support each other in such discrimination. We have referred (Para 45.8) to the primary problem of 'stop and search', including those stops which are unrecorded within the present statistics. The minority communities' views and perceptions are formed by their experiences of all 'stops' by the police. They do not perceive any difference between a 'stop' under the Police and Criminal Evidence Act from one under the Road Traffic Act whilst driving a vehicle. It is essential to obtain a true picture of the interactions between the police and minority ethnic communities in this context. All 'stops' need to be recorded, and related self-defined 'ethnic data' compiled.' (ibid: para. 46.31)

As a result, the report made four recommendations (60-63) in relation to stops and searches. Recommendation 60 proposed that existing powers to stop and search should remain unchanged. Recommendation 61 proposed the following changes to the recording requirements for police stops and police searches:

1. A record should be made of all police searches and all police stops.
2. The record should include the reason for, and outcome of, the stop or search, and how the person stopped describes their own ethnic background.
3. A copy of the record should be given to the person stopped or searched.

The drive of this requirement was clearly focused on enhancing police accountability for the conduct of street stops and extending this accountability to cover the full range of street stops. The production of a written record was clearly aimed at providing individual accountability.

But the aggregation of these records would also provide an enhanced set of statistics that would provide a more accurate picture of the patterning of searches across communities within a police force area. The SLI charged police forces and the Inspectorate with the responsibility for monitoring and scrutinising the picture that this produced. Broader public accountability was to be achieved through the involvement of Police Authorities in such scrutiny and in the publication of this statistical picture.

‘That these records should be monitored and analysed by Police Services and Police Authorities, and reviewed by HMIC on inspections. The information and analysis should be published.’(ibid: rec. 62)

The SLI also attended to the issue of public lack of knowledge of their legal rights, by charging Police Authorities to undertake a public legal education campaign. This 'knowledge gap' has been viewed as a contributing element to the inherent power inequality in any stop/search encounter (Dixon, 1997).

'That Police Authorities be given the duty to undertake publicity campaigns to ensure that the public is aware of 'stop and search' provisions and the right to receive a record in all circumstances.' (SLI, 1999: rec. 63)

Constraint of discriminatory practices can be taken as the implied reforming aim of this enhanced accountability, at a number of levels. The requirement to produce a written justification at the time could be seen to 'focus individual officers' decision-making but also influence their conduct of such encounters. At a macro-level, scrutiny of the 'new' picture of police-ethnic community contacts might lead to a change in the policy for their use.

Critical commentary on these recommendations has been evident from certain academic quarters (Bridges, 1999; Lea, 2000, 2003). This criticism focuses on what is perceived as a failure by the SLI to locate the roots of problems between police and ethnic-minorities 'within the structure of operational policing and the relationship between police and minority ethnic minorities' (Lea, 2000: 219). This leads, it is argued, to a misplaced 'attempt to see unwitting prejudice, thoughtlessness and deployment of racist stereotypes as located in the norms and values through which police officers define their roles and the legitimacy of their activities' (ibid: 221-222). The recommendations that flow from this

flawed analysis are dismissed as simply 'classic rule tightening' that will inevitably fail to tackle the root of the problem.

In response to the report, the Government published the Home Secretary's Action Plan (Home Office, 1999) which set out how the 70 recommendations were to be taken forward. In relation to stops and searches, recommendation 60 was accepted and the others were to be assessed through a pilot. The Policing and Reducing Crime Unit (PRC) in the Home Office's Research, Development and Statistics Directorate was commissioned to pilot the recommendations and evaluate their viability. This work was taken forward by a small team of researchers lead by the author and is the basis for this thesis.

To help understand how police use of stop and search contributes so centrally to negative perceptions of the police by ethnic minorities, I now turn to the body of research evidence that has built up over the last 20 years or so.

Stop and search: an enduring problem

Police use of powers to search members of the public on the street has long been a source of debate. Attention has focused on the frequency of searches by the police of people from ethnic minorities, particularly black people. Research around the time of the Scarman Inquiry and since has highlighted that black people in particular are disproportionately targeted by the police compared to their numbers in the general population (Willis, 1983; Smith and Gray, 1985; Young, 1994b, Bucke, 1997).

Police search statistics for England and Wales published by the Home Office since 1996, under section 95 of the Criminal Justice Act 1991, have consistently shown that the search rate per 1000 population is five times greater for black people than for white³. It should be noted that this is a measure of incidence not prevalence (see Fitzgerald et al, 2002). Debate about the reasons for this differential rate has been vigorous and has tended to focus on claims of police discrimination, differential offending and the impact of broader demographic and cultural differences (e.g. Reiner, 2000a). The effect of the terrorist bombings in London on 7 July 2005, and the further attempts a fortnight later, should also be noted. It has led to a sudden, and explicit, focus on stops and searches of people of 'arab' or 'muslim' appearance under the broad and highly discretionary powers of the Terrorism Act 2000 (BBC, 2005a).

Confidence in the Police

Analysis by the research team as part of the Home Office programme, using a logistic regression model, assessed whether searches appeared important in influencing perceptions of the police, independently of other such factors (Miller, Bland and Quinton, 2000). This confirmed that searches were indeed associated with a lower confidence in the police, even after accounting for other relevant variables. However, the experience of being stopped but not searched did not show an association. We should perhaps be a little cautious about disregarding the experience of stops, however. Certainly, qualitative research suggests that the experience of being stopped can be a negative one (Stone and Pettigrew, 2000). While this finding has clear implications for those searched across the board, it seems inevitable that people from ethnic minority backgrounds, because they are

³ Results for year 2003/4 indicate that the search rate per 1000 population was six times higher for black people than white. The use of search powers for all ethnic groups varied widely across forces (Home Office, 2004).

more often searched, will disproportionately lose confidence in the police as a direct result of their personal experiences of searches.

It is also important to look in greater detail at the factors which make up a stop and search encounter, and examine how these influence satisfaction. A large body of statistical and qualitative findings has produced a fairly clear and consistent picture. For example, Skogan (1994) explored the correlates of satisfaction in the police handling of stop encounters using the 1992 British Crime Survey (BCS). Taken together, these models suggest satisfaction is greater when:

- people feel they are fairly treated by the police;
- the police act politely;
- the police show enough interest in what people had to say;
- people are not searched or sanctioned;
- people are given a reason for the stop - and one which is acceptable;
- drivers are not asked to produce their documents.

A range of qualitative evidence such as open-ended interviews and focus groups, confirms the general picture provided by statistical evidence, and provides some important additional detail. FitzGerald (1999) carried out a range of interviews and focus groups in London with community workers and young people, as well as with police officers. Officers' behaviour and attitudes during encounters was a central focus of complaint; specifically, it was important for officers to be polite and respectful and to offer an explanation for why they had been stopped.

Interviews carried out for the Home Office research programme of people stopped by the police came to similar conclusions, but also highlighted other issues:

- some officers were seen as arrogant in their handling of stops; young officers were often seen as the most difficult
- stops could be embarrassing (counter to Waddington's (1999a) assertion they cause 'minimum intrusion')
- bad experiences of stops were the most memorable ones;
- there was less inclination to seek help from the police after a bad stop or search experience. (Stone and Pettigrew, 2000)

Overall, it is clear that the way in which the police handle stop encounters can have an important effect on the way people experience them. There is strong evidence that suggests that the quality of stop and search encounters is more negatively perceived by those from minority ethnic backgrounds (Bucke, 1997; Clancy et al, 2001). Analysis of the BCS has shown substantially lower levels of satisfaction with the way they are treated, particularly among African Caribbeans. This lower level of satisfaction is explained, at least in part, by the fact that stops of people from ethnic minorities more often have the characteristics associated with dissatisfaction for all groups, such as being searched more often and being less convinced by the explanations of stops given by officers. Similarly, an analysis by FitzGerald and Hale (unpublished) found that as well as being searched more often following a stop, black and Asian men were less likely to feel they were given a satisfactory reason for a stop, less likely to think they were treated politely or fairly and were more likely to be asked to produce their documents at a police station.

Some of this research produced proposals for various changes in stops and searches, foreshadowing much of what was to come in the SLI report:

- The provision of a copy of the search record completed at the time (NACRO, 1997).
- The recording of all searches, to include 'voluntary' searches (Young, 1994b).
- The recording of police stops was considered but rejected (Willis, 1983).
- The use of a self-defined ethnic classification; recommended in research that highlighted disproportionate levels of searches among the Irish living in north London (Mooney and Young, 1999).

Let us now look at formal reform attempts- primarily through law- to tackle the issues identified, introduced as part of the 1984 Police and Criminal Evidence Act (PACE).

Police reform

Prior to the introduction of PACE, search powers existed within a variety of local and national legislation (Willis, 1983; Brown, 1997). While there were general powers to search people for drugs and firearms, powers to search for stolen goods were only found in local legislation, for example under s66 of the Metropolitan Police Act 1839 which applied only in London.

The 1981 Royal Commission on Criminal Procedure (RCCP) recommended a consolidated power of stop and search for all of England and Wales to replace the range of local powers. In practice this was an extension of powers (Willis, 1993). The RCCP

sought to balance this extension with safeguards to protect the public from random, arbitrary and discriminatory searches⁴. But the RCCP was unable to develop precise standards to judge reasonable suspicion. Its recommendations thus also included the requirement for an officer to give the reasons for a search, to record those reasons and for that record to be made available on request. As a further check, the RCCP suggested supervising officers should have a duty to collect and scrutinise figures on searches and their results. The Scarman report (1981) explicitly endorsed the RCCP recommendations.

The provisions of PACE

The introduction of PACE followed the RCCP. It granted new powers applying to searches of persons and vehicles for stolen or prohibited articles. These were designed to be clear and to apply nationally (see Miller, Bland and Quinton, 2000 for more detail). It has been argued that in many respects PACE simply formalised pre-existing police practices (Dixon, 1997).

Three principles of fairness, openness and workability informed the development of this regulatory framework. The aim was to balance the need for adequate powers for the police with safeguards to protect the rights of the public. These included the requirement for reasonable suspicion, the provision of reasons for police actions, the completion of a written record - a copy of which was to be made available to the person stopped- and the publication of search statistics.

⁴ See Dixon (1997) for a discussion of problems with this notion of 'balance'.

Given the proposals in recommendation 61, the requirements in PACE Code of Practice A (1999) are worthy of closer attention. The following three extracts from the Code set out the requirement for an officer to make a record of the search and to inform the person searched of their rights to the record:

‘Unless it appears to the officer that it will not be practicable to make a record of the search, he must also inform the person to be searched... that he is entitled to a copy of the record of the search if he asks for it within a year. If the person wishes to have a copy and is not given one on the spot, he shall be advised to which police station he should apply’ (ibid: para. 2.6).

‘An officer who has carried out a search must make a written record unless it is not practicable to do so, on account of the numbers to be searched or for some other operational reason, e.g. in situations involving public disorder’ (ibid: para. 4.1).

‘The records must be completed as soon as practicable - on the spot unless circumstances (e.g. other immediate duties or very bad weather) make this impracticable’ (ibid: para. 4.2).

PACE did not affect officers’ existing right to carry out searches with consent. Guidance in the Code, however, highlighted that they should be carried out in a clear and transparent way:

'In these circumstances, an officer should always make it clear that he is seeking the consent of the person concerned to the search being carried out by telling the person that he need not consent and that without his consent he will not be searched' (Note for Guidance 1D (b)).

Research has pointed to the difficulty, in practice, of making a clear distinction between PACE searches and those involving consent. An early evaluation of the impact of PACE in one force (Bottomley et al, 1991) highlighted confusion about the distinction at both policy and operational level. There was evidence that some officers used consent to avoid the requirements of PACE for reasonable suspicion and that public consent was often given when ignorant of the right to refuse (see also Dixon, 1997: ch. 3).

However, it is arguably the case that there is interactional advantage for both parties in undertaking a search with the cooperation and agreement of the person. There is no interactional advantage in asserting and highlighting police coercive power, *if it is not necessary* (Muir, 1977). A cooperative and consensual search (no matter the underlying and inherent coercion) is likely to lead to a better interaction and a more satisfied (or less dissatisfied) member of the public. Police officers attend to this by initially underplaying their coercive power in encounters with the public, and tend to respond more coercively where cooperation is not given.

The conduct of police stops are an inherent part of policing by consent: the cooperation of the public in such an encounter confers a consensual character on it. There may be no exercise of coercive powers but the inherent authority of the police means that consent is ambiguous. A decision to conduct a search in a stop encounter can thus be considered as a more or less explicit move from a consensual to coercive intervention. PACE attempts to make this clear in distinguishing between the coercive legal power to *detain* for the purpose of search and the right of the police simply to stop and speak to people on the street. Indeed PACE Code A even stipulates that it is the duty of the public to speak to the police and help them. Some of the inherent tensions and ambiguities in this are explored in the following chapter.

The impact of PACE

There has been a significant body of research that has considered the impact of PACE since its introduction (for summaries see, for example, Dixon, 1997; Reiner, 2000a). This has pointed to greater success in restricting police practices in the station compared to on the street. A Home Office review of this research (Brown, 1997) pointed to a number of outstanding areas of concern with police searches:

- Doubts that police officers always carry out searches on the basis of reasonable suspicion. The inadequate completion of search records makes it difficult for supervisors to monitor whether this requirement has been met.

- Many searches are carried out with the consent of the person stopped, although it is likely that such consent is rarely informed. Searches carried out with consent are often not officially recorded.
- PACE may have had limited impact on police search practice.

Dixon et al (1989) point to the importance of police culture, the law and the socio-political climate in identifying a number of conditions that contributed to the limited impact of PACE, including:

- A lack of adequate training aimed at changing the working practices and sub-cultural norms associated with stop and search
- Unsupportive socio-political climate at the time of the introduction of PACE
- Inadequate legal sanctions for failures to follow PACE
- Inadequate public knowledge of their legal rights

The parallels to be drawn from this for the impact of the SLI recommendations will be evident in the empirical analysis presented in chapters 4 and 5.

Rationale of the thesis

The aim of the empirically-based element of this thesis is to examine whether and how the reform of police stops and searches recommended by the SLI has been successful in tackling the problems, outlined above, that their use causes for relations between the police and ethnic minority communities.

Drawing on a review of the literature on routine street-based policing, the thesis points to the centrality of discretion for an understanding of police practice, and identifies the influence of a range of factors acting as constraints and enablers. Specifically, it highlights the importance of culturally derived working codes that guide and orient police interactions with the public. This insight yields considerable analytic power when used to understand how the focus of the SLI on increased accountability impacts on police practice.

Through this substantive discussion, the thesis also provides a challenge to the charges against administrative research outlined at the end of the previous chapter.

Structure of the thesis

This thesis is divided into a total of seven chapters, including this introduction.

Chapter 3 reviews the range of analytic perspectives that have been used to explain the basis for police action and considers their relative contribution to an understanding of police reform attempts. This range covers individual, legal-bureaucratic, cultural and structural perspectives. Chapter 4 describes the process involved in setting up the pilot of the SLI recommendations and the range of methods employed to evaluate its impact.

The empirical analysis is presented first in Chapter 5. It assesses the analytic purchase of the perspectives considered in Chapter 3 in the development of a framework of explanatory factors for the use and conduct of police stops and searches. This analytic framework informs an examination of the impact of the SLI reforms on police practice in Chapter 6. Chapter 7 presents the conclusions.

Chapter 3 Literature review

In this chapter, I explore the literature on policing, primarily that focusing on routine uniformed street policing. My aim is to distinguish and elaborate the different perspectives taken within this body of work. In so doing I aim to draw out what these perspectives offer in terms of answers to the questions: How do we understand what the police do? Where do we look to understand police practice? And related to this, what do these perspectives thus propose as the ways in which change or reform to police practice might be achieved?

This will provide the conceptual basis for developing an analytic framework to examine police practice in street stops and searches in chapter 5, and the impact on that practice of the recommendations of the Stephen Lawrence Inquiry (SLI) in chapter 6.

In the name of the law

I begin by looking at what may be termed the 'traditional' view of the British police, which emphasises the police role as law enforcers and thus sees law as the major determinant of police activity. This view, described variously as the legal-bureaucratic (Dixon, 1997) or 'machine' models of policing (Grimshaw and Jefferson, 1987), is regarded as typifying the 'common sense' of traditional legal and constitutional material on the police and it also often characterises the self- presentation of the police themselves (Dixon, 1997).

The central elements identified with this perspective are that law is the major determinant of police activity and that the police organisation operates as an efficient bureaucracy where the 'orders' of senior officers simply become the practice of their subordinates, reinforced through training, policy, discipline and regulation (Dixon 1997). Thus to understand what the police do, one must look solely, or at least primarily, to the law.

Police officers are thus simply agents of an objective set of laws, which act together as a reified 'higher authority dictating appropriate police action' (Grimshaw and Jefferson, 1987: 7). The primacy accorded to law is symbolised in the ritual involved in conferring the 'office of constable'; all new police officers swearing an oath before a magistrate:

'...while I continue to hold the said office I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully *according to law*' [emphasis added] (Sampson, 2003: 25)

The public legitimacy of the police is often reaffirmed and defended in terms of their subordination to the law (Mark, 1977). This legalistic perspective is used to justify the political autonomy of the police. Accountability to the law, so it is argued, means that other forms of (political) accountability are inappropriate, unnecessary, even dangerous:

'Policing... should be left to independent and impartial people who owe their allegiance to the law rather than to a political party or some other partisan group'
(Oliver, 1987: 238)

A picture of a particular police relationship with the public is also drawn on to defend police authority and legitimacy. This emphasises that the police are drawn from, and remain members of, the very communities that they police and has its basis in the common law doctrine that law enforcement is best grounded in the community that is subject of its application. The centrality of the characterisation of the police as 'citizens in uniform' still persists (Sampson, 2003). This provides the basis for an emphasis on the inherently democratic character of the British police (Oliver, 1987), symbolised by the notion of 'policing by consent'. This has been used to robustly minimise the scale of police autonomy and power:

'The fact that the British police are answerable to the law, that we act on behalf of the community and not under the mantle of government, makes us the least powerful, the most accountable and therefore the most acceptable police in the world' (Mark, 1977: 56)

Other senior police officers have gone further, to identify the importance of public support for the effectiveness and authority of the police in enforcing the law: 'the police in using their law-enforcing powers will generally be effective with public support and less effective without it' (Alderson, 1979: 11). This requires careful attention to possible

over-use and abuse of police coercive power so as to avoid irreparably damaging the relationship with the public. So for the individual officer on patrol, 'this calls for the considerable self-control which lies at the heart of much superior police work' (ibid: 27); negotiating contacts with the public through consent and cooperation rather than the rigid use of coercive powers.

Policing is presented as an essentially straightforward matter requiring simply the law and common sense (Dixon, 1997). For police policy makers and legislators, the legalistic perspective implies that any problems with policing are products of flaws, ambiguities or gaps in the law solvable through clearer interpretation or further legislation ('more law'). With law dominating policing, so the argument goes, legal change should effect changes in policing practice. This explains continuing attempts to influence police conduct and structure police discretion through clarification and codification of police powers and criminal procedure (Dixon, 1997: 2).

Lea's (2000) criticism of the changes proposed by the SLI report in relation to the recording of police stops, discussed in the previous chapter, identified them directly with this legalistic perspective, describing the SLI reforms as merely another example of such 'classic rule tightening'. I shall explore, in the empirical chapters that follow, the extent to which this charge, and its assumed inherent weakness, is well founded.

The attraction of this view for legislators and policy makers, it is argued, is that their interventions will be efficient and effective. But is this a fair portrayal? Central

government has always made a very clear distinction between its role in setting the broad policy framework and the subsequent local implementation of that in practice. The ability of central government, primarily the Home Office in the context of the police, to impact and influence police practice is arguably to a large extent limited to legislative provision.

It is plausible to argue that the law should at least provide the broad structure of constraint and direction in respect of the police that it does in respect of other citizens. There does not exist the similar assumption that criminal laws are developed in the expectation that these acts will no longer be perpetrated. Rather it sets out what should and should not be done and the consequences for that. So, arguably, it is the case with law in relation to policing- legislators set out the boundaries- they rely on police management to enforce.

Others, however, would argue strongly that central government can, and increasingly does, exert influence over police matters (e.g. Fielding, 2005). An example of this is the National Policing Plan produced by the Home Office; this identifies national crime priorities to which all individual police forces must attend.

Related to the primacy given to the law as the 'template of policing' (Dixon, 1997:12), is the conception of police organisations as effective bureaucracies. This holds that orders and policies set out by chief officers at the top of the hierarchy unproblematically become the practice of the rank and file officer on the street.

'A police manager is responsible for motivating, directing and controlling the officers and civilians under his command to achieve results which are determined by the policy of the chief officer.' (Butler, 1984: 1 in Brogden et al, 1988: 165)

The conception of an organisation as a 'machine', and problems with the operation of its constituent parts as caused simply by 'faulty' rules, suggests that this can be remedied by changing the rules. This has been criticised as a 'very traditional and sociologically impoverished notion of organisations and how they work' (Brogden et al, 1988: 164).

Manning (1997) highlights the gap between this claim and reality: 'police are symbolised externally as a paramilitary bureaucracy, but lack of internal control, of close supervision of lower participants and their freedom of action make it more a symbol than a reality' (ibid: 101). Nonetheless, the self-presentation of the police as an effective bureaucracy has been seen as a further important plank of legitimation and a defence against external control (Dixon, 1997).

There is a danger that the picture that is painted of this perspective equates police and legal rhetoric with descriptions of a perceived reality. The ways in which government and senior police officers publicly present and describe the British police is not necessarily intended as an accurate description of what happens but more as a description of the 'model' or 'ideal type' of policing. That is, it is a presentational position, arguably necessitated by the inherent tension and ambiguity of a policing model that seeks to, indeed has to, incorporate the contradictory notions of consent and coercion to secure not only police authority but the legitimacy of that authority.

The police can choose

The 'discovery' of discretion by early police research (e.g. Banton, 1964) demonstrates that in practice police officers frequently do not enforce the law. These pioneering studies produced two important and related findings:

- police are virtually unique in that the degree of discretion in action is greatest at the lowest level of the police hierarchy- the police constable (Wilson, 1968);
- decisions by those constables in dealing with the public are of 'low visibility' (Goldstein, 1960): inaccessible by immediate superiors and effectively by any authority. This is particularly the case where officers decide not to invoke the law and make an arrest; most such situations will be not just inaccessible but unknown to supervisors.

Discretion exists where 'effective limits on a public officer leave him free to make a choice among possible courses of action and inaction' (Davis, 1971). Lustgarten (1986) illustrates the potential variety of choices open to a police officer, for example, in dealing with a minor fight between two parties: these can include issuing an informal warning, mediating between the two parties, giving a formal caution, arresting either or both parties (ibid: 10).

The point Lustgarten draws from this is that, outside of clear violations of general criminal or civil law, it is difficult to imagine a course of action that a police officer could take that would be regarded as outwith the law. As such, he concludes 'that in taking the sort of decision that is the quintessence of their work, the police are guided by virtually no legal standards at all....they act within an almost infinite range of lawful possibilities' (ibid: 10) This suggests law performs poorly as a guide to understanding policing practice, even if one might wish to temper Lustgarten's point somewhat.. Discussion of structuralist perspectives on the law (e.g. McBarnet, 1979, 1981), later in the chapter, will add to a more nuanced picture. At this stage of the discussion, however, it serves to exemplify and emphasise the broad range of potential and possible *lawful* actions open to a police officer in any encounter with a member of the public.

Police discretion is actually provided for in law through specific legal powers. The power to search conferred by section 1 of the Police and Criminal Evidence Act 1984 is one such example (Lustgarten, 1986). The use of such powers is set by specific necessary 'factual preconditions' (ibid: 13); in this case an officer's knowledge of the specifics of any situation and the behaviour of the person to whom the power may be applied. To use the power, these 'facts' must be known, or reasonably suspected to be true, by the individual officer concerned. Satisfaction of these conditions does not remove an officer's discretion: it merely gives him/her the legitimate right, but not the obligation, to use the associated power- they still choose. Technically, such discretionary powers cannot be exercised on behalf of a colleague or at the behest of a superior officer. They are regarded

as 'original' powers: inherent to the 'office of constable'¹ that every police officer holds.

This has been asserted as the defining basis for the independence of the police:

accountability for the use of such powers is only to the law that defined them. As we shall see in the later empirical chapters, however, the criteria an officer draws on to make decisions about appropriate action on the street will not necessarily coincide with the criteria s/he draws on when later formally accounting for those actions.

A constable's discretion not to enforce the law may also arise from the breadth and vagueness of the law itself. Lustgarten (1986: 15) illustrates in relation to public order offences such as breach of the peace, threatening behaviour and obstruction, which, he states, are so broad as to allow any action, depending on the context, to be plausibly labelled criminal to justify an arrest. The result he says is that the police invariably under-enforce the law. Although this might simply be seen as common sense, essential not to bring the law into disrepute, it turns the role of the police as law enforcers on its head. Particularly for most minor offences, under-enforcement is the norm; as a result enforcement can become a serious abuse of power. The 'common sense', which tempers full enforcement, can become, warns Lustgarten, a cloak for unconscious or conscious discrimination; 'under enforcement becomes selective enforcement' (ibid: 15).

The early police research, such as by Banton (1964), shows that the law is routinely under-enforced by the police: clearly 'criminal' actions are dealt with informally, or not at all, with an emphasis placed on peacekeeping rather than rigid law enforcement. Reiner

¹ A creation of the common-law on which organised police forces were developed in the 19th century.

(2000a) demonstrates that such an approach has been accepted as sensible and desirable. He highlights a central premise of the policing philosophy set out in the Scarman report: that public tranquillity should have greater priority over law enforcement if the two conflict (ibid: 725).

This starts to identify why we should worry about the freedom to choose that police officers possess- that bias creeps into their decision-making. There is plenty of evidence from research into police practice to show that 'discretion is not an equal opportunity phenomenon' (Reiner, 1994: 725). Some groups are much more likely than others to be subject to coercive police attention- powerless minorities. Such groups become 'police property when the dominant powers of society...leave the problems of social control [of such groups] to the police' (Lee, 1981: 53-4). Coercive police intervention has been shown to focus disproportionately on young men of lower social class and ethnic minorities. The organisation and mandate of policing is recognised as a primary factor in explaining this concentration. Police patrol focuses on the use of public space where those of lower social class spend proportionately more of their time (Stinchcombe, 1963). They are thus more likely to come to the attention of the police for infractions. As Reiner (1994) highlights 'people are not arrested for being drunk and disorderly in their living rooms, but they may be if their living room is the street' (ibid: 726). Policing can thus be seen to impact in ways that replicate existing power relations in society.

The aspect of this differential impact of policing that has gained greatest attention is that of racial discrimination. That police exercise their legal powers disproportionately against

ethnic minorities (but not to the same degree across ethnic groups) has been shown, for example in relation to street searches (Willis, 1983; Smith and Gray, 1983; Fitzgerald, 1999) and arrests (Stevens and Willis, 1989; Jefferson and Walker, 1992). It is not clear what are the relative roles in this of the structuring of policing described above, bias in officers' use of discretion based on widespread racial prejudice, and differential offending. This is a hotly contested issue in research and wider public debate.

Findings such as these have contributed to the consideration of discretion as primarily a source of problems in studies of the police. Positive aspects to the existence of discretion have, however, also been identified. The existence of police discretion, it has been argued, is necessary, desirable and indeed inevitable (Kinsey and Young, 1982; Lustgarten, 1986; Reiner, 1994). This is also the view of the police and is generally regarded as a core doctrine. Discretion is necessary, it is argued, because general laws cannot be mechanistically applied to every particular enforcement decision; an element of subjective interpretation of their meaning is inherently required (Reiner, 1994: 723). Discretion is considered desirable to ensure that the law is not applied 'heavy-handedly' to any and every illegal act but with due consideration for the specifics and seriousness of any particular situation. This allows for good police work 'which demands practical judgement based on past experience and accumulated knowledge' (Kinsey and Young, 1982: 121). And discretion is deemed inevitable because the police capacity to deal with the volume of incidents that technically involve an illegal act is limited; so choices must be made about what incidents are prioritised (Reiner, 1994: 723).

But what also needs to be factored into any understanding of discretion is that actually judgements are often more constrained. For some, this recognition leads them to conclude that discretion is a 'myth' (Baumgartner, 1992). Others, however, have sought to develop more nuanced conceptualisations. Dixon (1997), for example, has highlighted the role of other normative systems - not least cultural norms- to which officers must be attuned. And Campbell (2005) has sought to develop what she describes as an explicitly sociological analysis of police discretion attuned to the influence of 'law, organization and democracy'.

Within such a breadth of choices other factors will inform the specific decision made in any instance. This is the crux of the matter- identifying what those factors are and the role that they play.

Explaining police practice

Recognition of the centrality of discretion to police practice highlights the importance of understanding individual motivations for officers' decision-making. This has led some to place an emphasis on psychological explanations for police action. Research has sought to determine whether the police attract recruits with distinctive personality characteristics, especially those associated with authoritarianism, suggestive of a so-called 'police personality' (e.g. Colman and Gorman, 1982). Although it is possible to trace a set of attitudes, in which elements such as sexism and racism predominate, common in police officers, it has been concluded that, at least in this sense, the police can be regarded as

'citizens in uniform'. Police recruits are not more authoritarian than their comparable civilian compatriots (Fielding, 1988a; Brogden et al, 1988; Reiner, 1994).

Despite a rejection of such an explanation, echoes of it arguably exist in the proposition that a distinct number of officer 'types' can be identified associated with specific policing styles (e.g. Reiner, 1978). Reiner (2000a: 102) identifies a common four-fold typology drawn from across a range of studies².

- (i) The 'bobby': operating in a peace-keeping role, applying the law with discretionary common sense**
- (ii) The 'uniform carrier': an alienated cynic who seeks to avoid any kind of work**
- (iii) The 'new centurion': operating in a law-enforcement mode in a crusade against crime**
- (iv) The 'professional': displaying a balanced view of the value of all types of policing with an eye to promotion. (Reiner, 1978: chap.12)**

Although offering a broad basis for distinguishing different officer 'types, it offers little analytic purchase for an understanding of officers' practice.

² Although in so doing, two further types, the 'social worker' and the 'Federation activist', are dropped from his own list (Reiner, 1978).

Police culture

The early police research that discovered discretion focused on a close description of actual police work (Banton, 1964). The concept of police culture that developed from this work emphasised the importance of the discretionary space afforded to police officers, but also highlighted the nature of the police work itself. The apparent 'failure' of the law to provide for the realities of the police task left the space for the development of a working culture that could provide a response (a set of recipe rules) to guide police action through the demands of difficult, potentially dangerous and, above all, unpredictable police work.

From this perspective, this produced a common set of cultural values. The core characteristics of this culture have been identified as a sense of mission, a commitment to crime fighting action, cynicism, pessimism, suspiciousness, group solidarity coupled with social isolation, conservatism, machismo and racial prejudice (Reiner, 2000a: 109).

For the purposes of this thesis, it is useful to elaborate on a couple of these characteristics.

Police sense of mission is strongly held and focuses on their crime-fighting, law enforcement role. This is taken as the defining and most important aspect of their work.

This views the police as *the* agency of social control in society, without which there would be chaos and anarchy. But despite the strength of this belief, research has consistently shown not only that it forms the minority of their work but has also questioned their perceived effectiveness against crime (Reiner, 2000a).

Officers' sense of mutual solidarity and loyalty is also strong and fosters a 'them and us' mentality in relations with the general public (Waddington, 1999a; Reiner, 2000a).

Nonetheless, it should be recognised that internal conflicts do exist and persist (e.g. Reus-Ianni and Ianni) For current purposes, however, police distinctions between the general public are of greater interest. Although there is a general cynicism and suspicion of the public, a classification of sorts has also been identified (Reiner, 2000a). It consists of 'police-relevant categories' based on calculations of the power to cause police trouble, and the degree to which they share police values. Reiner distinguishes seven key groups, based on the broader distinction police perceive between 'rough' and 'respectable'- those who challenge and those who accept the police.

This typology serves to provide a broad-grained schema for illustrating how the police may distinguish relations with different public(s). Its analytic purchase for explaining (providing the motivations for) specific police practice in encounters with the public on the street appears less strong, however. For example, at least three of the types (politicians, do-gooders, challengers) appear to have more analytic relevance for police-public encounters in contexts other than on the street. Equally, none of the types matches the eponymous 'joe public' with whom the police tend to have benign, uncomplicated street contacts. Van Maanen (1974, 1978), however, has similarly posited a typology of the public, but with greater sensitivity to the contextualised process of interaction in which these identities are ascribed, focusing on 'how the various typifications carried by the police are recognized as relevant and hence utilized as guides for action by a police officer in a particular situation'(1978: 302). He notes further, 'any distinction of the

'types' of people with whom the police deal must include an explicit consideration of the ways in which the various 'types' are both immediately and conditionally identified by the police (ibid: 303).

The perspective on police culture sketched above is pitched at such a broad level that it renders it distant from the specifics of police action. Indeed, it has been argued that it paints a picture of policing counter to that actually experienced (Waddington, 1999a, 1999b) Waddington's (1999b) analysis of the views and beliefs that constitute what he terms this 'canteen culture' leads him trenchantly to conclude that it 'operates mostly as a palliative', 'it is a rhetoric that gives meaning to experience and sustains occupational self-esteem' (ibid: 295).

This conception of culture thus fails to provide the fine-grained analytic purchase necessary to provide an understanding of the contingent and contextual situational dynamics inherent in police practice. Manning's (1997) definition of culture is helpful in this regard, suggesting as it does two distinct, but clearly inter-related, aspects to a conceptualisation of culture: 'accepted practices, rules, and principles of conduct that are *situationally applied*, and *generalized* rationales and beliefs [emphasis added]'. Despite the emphasis given to the broad cultural characteristics outlined above, Reiner (2000a) also displays recognition of this distinction: 'the culture of the police- the values, norms, perspectives, and craft rules that inform their conduct' (ibid: 87).

These definitions point to two distinct aspects of a conceptualisation of culture- one more practically oriented, a set of working codes that inform and orient police practice; the other, more abstracted as a generalised set of beliefs. So, following Waddington's exhortation that 'if we wish to *explain*... police behaviour on the streets, then we should look not in the remote recesses of what officers say in the canteen or privately to researchers, but in the circumstances in which they act' (1999b: 302), I turn now to consider the insights from work that has taken an analytic focus on the cultural rules and codes that inform police practice in their interactions with the public on the streets.

Interactional codes

The existence of discretion means that police officers have the interactional space to deal flexibly with the specifics of any situation that they encounter. The situationally-contingent nature of police work has always been emphasised (Chatterton, 1978). Further, many observationally based studies of police have demonstrated the breadth of type of encounters that police officers must deal with (e.g. Southgate and Ekblom, 1984). A police officer's skill can be judged by their ability to 'use their discretion' and choose to act in the best way that 'the situation demands'. In this way police work is better understood as a 'craft' (Skolnick, 1966), 'the policeman as a craftsman rather than as a civil servant obliged to subscribe to the rule of law' (ibid: 231).

The adaptation to the impact of the nature of police work is highlighted in Skolnick's (1966) notion of the 'working personality': a common set of police values and attitudes

developed as a form of collective adjustment to the conditions faced in doing police work³. The two elements of police work given emphasis by Skolnick are danger and authority. Danger (or more precisely the threat of danger) was considered an essential feature of the police role (authority) to intervene in situations. The authority to intervene is importantly founded on the right of the police to use coercion if necessary, as the 'monopolists of force in society' (Bittner, 1970, 1974).

It is important to note the interactional significance of Skolnick's emphasis on danger and authority. Chatterton (1978), for example, draws on Skolnick's notion of 'danger' in his discussion of 'trouble'. Chatterton argues that the nature of police work means that in any interaction officers are concerned with the potential for both 'on-the-job' trouble (Skolnick's danger) and 'within-the-job' trouble, that deriving from the relationship with their superiors. As we saw above, discretion allows a breadth of possible ways for any officer to deal with a particular situation, which can allow an officer to tailor their approach to the exigencies of the situation. The less positive corollary of this is that an officer 'can never be absolutely certain that the action taken in a particular situation will *later* [my emphasis] prove to be the most effective way of dealing with the situation' (Chatterton, 1978: 49). That is, the criteria that (necessarily) guide action 'in the moment' may not be the same criteria that will be formally recognised as appropriate in the inevitably decontextualised paper account the officer may need to provide after the event.

³ Despite Skolnick's use of the term 'personality', his focus on a collective reaction by the police has been

Police organisational rules operate in an almost entirely negative way as inhibitory rules and they are enforced almost entirely retrospectively through paperwork or account of action rather than action itself (Norris, 1989: 92). Norris (1989) argues that the most important aspect of uncertainty facing officer stems not from outside environment but from internal organisation. This uncertainty is increased by the contradiction between the rhetoric and reality of law and operational police guidelines. This uncertainty faced by lower ranks results in their need to control as much information as possible. Freedom from direct supervision makes information management possible; by selectively filtering and laundering information patrol officers can reduce the risk of in-the-job trouble.

Other work, taking what might be termed an interactionist perspective, identifies a common set of interactional goals to which officers will attend, to varying degrees, in encounters with the public (Fielding, 1988b; Bayley and Bittner, 1984). Central to this is a focus on maintaining control over an encounter and leading it to a satisfactory conclusion.

Police officers attend carefully, throughout any encounter, to their control of the situation. In so doing, they attend to a range of related aspects. Personal safety is a key one of these which plays into the importance of maintaining a cooperative and outwardly consensual character. As Fielding (1988b) notes, although police officers possess coercive power, that power tends to remain implicit in encounters. The imposition of explicit coercion may be seen as a last resort and as a response to potential or actual conflict.

read by subsequent scholars as culture. (Reiner, 1994).

Officers must also attend to the possibility that 'unnecessary' coercive intervention may be read as an inability to maintain control through authority alone. Officers also attend to their self-presentation in encounters; they need to maintain their own personal authority and that of the institution their uniform symbolises. This entails taking and maintaining control of an encounter and directing the way it proceeds. This also points to the importance of the explicit display of 'professional' competence. This includes displaying competence to the person stopped but also importantly to fellow officers. As Bayley and Bittner note, 'police officers make judgements about the strengths and weaknesses of officers all the time' (1984: 51).

What may be judged unnecessary depends on the audience and officers must attend to the demands of a variety of audiences.

Officers' management of any encounter will also be directed to its resolution:

- Resolving the situation or reproducing order (Bayley and Bittner, 1984). Officers will attend to the successful achievement of their professionally defined and determined closure of the situation.
- Avoiding negative repercussions, 'after the fact'.

These goals are attended to by officers and achieved through access to a common set of *interactional tactics*. Reflecting their desire to avoid unnecessary recourse to coercive means, officers seek to manage encounters through negotiation. Negotiation is understood

as 'a compendium of procedures and techniques' (Fielding, 1988b: 56) that includes bargaining, impression management, ingratiation, bluff and manipulation. Importantly, 'the forms of negotiation are intrinsically consensual; the implication for social control is that, once embarked on, their dynamic favours cohesion' (ibid: 56). But this is not a negotiation between equal parties, the implicit coercive power remains in the background.

But officers' use of tactics will vary as the course of an encounter progresses. The evolution of encounters has implications for the use of tactics: 'An exploration of the tactics police use must distinguish at least three different stages: contact, processing and exit. Each stage offers distinctly different choices to patrol officers' (Bayley and Bittner, 1984: 44).

There are a number of interactional resources on which officers also draw to manage encounters successfully. The police place emphasis on the importance of a developed local knowledge. Such knowledge will inevitably always be limited and partial but it provides 'a step towards building a powerful scheme of interpretation' (Fielding, 1988b: 52). Encounters with the public are uncertain and unpredictable so officers need to draw on interpretative resources that allow them to delimit interactional possibilities to a more manageable set. A related aspect of this is officers' abilities to quickly assign any person stopped to an 'identity type'. A set of typifications exist but these are situationally applied on the basis of the interaction (Van Maanen, 1974).

It is worth turning now to an example of an attempt which, at face-value, seeks not only to reconceptualise culture but to incorporate the influence of wider structuring factors. Agreeing with the criticisms of existing conceptions of police culture, Chan (1996, 1997) has sought to reconceptualise police culture to form the basis for an understanding of attempts to reform racist police practice in New South Wales. Her reconceptualisation adopts Sackmann's (1991) cognitive model of cultural knowledge in organisations but also seeks to recognise and incorporate the influence of the social and political context of police work, using Bourdieu's notions of 'field' and 'habitus'.

Chan (1996) articulates her application of Bourdieu to policing thus:

'In terms of police work on the streets, for example, the field may consist of the historical relations between certain social groups and the police, anchored in the legal powers and discretion police are authorised to exercise and the distribution of power and material resources within the community. Habitus, on the other hand, is closer to what has earlier been described as cultural knowledge' (ibid: 115)

Chan (1997) clearly associates the field with the structural conditions of policing and the habitus with cultural knowledge. They are distinct elements that form an 'interactive model of the production of police practice' which places police 'actors' at the centre. 'Structural conditions do not completely determine cultural knowledge and cultural knowledge does not totally dictate practice...the relationships between the elements are neither uni-directional nor deterministic' (ibid: 73-74). This is suggestive of a nuanced

analytic framework that provides for the influence of a range of inter-related factors. This is confused, however, when Chan goes on to describe 'elements of the habitus and field which constitute the culture of policing' (ibid: 75-76). Rather than distinct analytic factors explaining practice, habitus and field are combined to provide an explanation of culture. In fact in Chan's empirical analysis, little attention is given to the field. Sackman's model of cultural knowledge is used to elaborate the habitus of policing and this predominates in the analysis.

Additionally, Chan continuously and confusingly alternates between the terms 'police practice' and 'cultural practice' which suggests some, although inconsistent, binding of police practice to culture. Culture remains, thus, at the heart of this reconceptualisation and this limits its analytic purchase for an understanding of police practice. So, in the end, I argue that Chan offers less a developed understanding of the *various* influences on police practice than an attempt at an (over) elaborated conception of police culture.

A critique of the role of law

There is a danger that the acknowledged existence and importance of discretion, and the importance of an informal organisation of police work, leads one to assume that there is little influence on policing by the law. A consideration of contributions to what has been broadly termed a structural perspective (Dixon, 1997) helps to highlight the part played not only by the law, but also the police organisation and the wider social and political structure for an understanding of police practice.

A notable contribution to this perspective has come from McBarnet (1979, 1981). This work supplements the insights developed by an emphasis on police culture by 'focusing not so much on the interaction of the people who enforce the law but on the structure, substance and procedure of the law itself' (1981: 1). In her critique of the limits of an emphasis on culture, she argues that despite a focus on 'the active nature of human beings, on the interactive processes by which the working of any institution is accomplished, on the personal and social variables which intervene between how institutions should work and how they do... some vague notion of 'the law' is usually there as a background assumption, as a vague standard from which the law enforcers under study are assumed to deviate' (Ibid:4). Her work directly challenges the assumption that police practice necessitates deviation from law.

Drawing on observations of court cases and analysis of legal documents, she argues that a significant gap can be found between what might be termed the rhetoric or ideology of the

law (which emphasises the centrality of due process and other rights) and the reality of legal rules and procedures (which routinely deny them). A great deal of latitude and permissiveness can be found built into the law itself. The vagueness and broad scope of much substantive law and the wide procedural powers given to the police mean, she argues, that it is wrong, in many cases, to consider police discretionary action as deviation from the law.

‘Police...need not abuse the law to subvert the principles of justice; they need only use it. Deviation from the rhetoric of legality and justice is institutionalised in the law itself’ (1981: 156)

McBarnet exemplifies her argument by identifying inconsistencies and contradictions between legal ‘theory and practice’ in the case of arrest (1979, 1981). She concludes, ‘it becomes rather difficult to see how someone can avoid being arrested if the police have a mind to arrest him’ (1981: 37). These insights can similarly be applied to an analysis of police powers to search and ‘detain for the purpose of a search’.

The exercise of statutory powers of stop and search are governed by PACE Code of Practice A (2004). The Code makes very clear that there is ‘no power to stop or detain a person *in order to* find grounds for a search [emphasis added]’ (para. 2.11). This is necessary to prevent the use of one coercive power (detention) to provide officers with the legal ability to develop the material justification for the use of another (search). The

following discussion highlights two different ways in which inherent contradictions and inconsistencies in the Code directly negate this provision.

First, the provision in para 2.11 relies on a fusing together of the extra-legal consensual 'stop' with the coercive legal 'detention'. The Code goes on to note, however, that 'officers have many encounters with members of the public which do not involve detaining people against their will'. So the distinction between stop and detention is immediately revived. But, 'if reasonable grounds for suspicion emerge during such an encounter, the officer may search the person, even though no grounds existed when the encounter began' (para. 2.11).

Further to this, para. 2.9 states: 'An officer who has reasonable grounds for suspicion may detain the person concerned in order to carry out a search. Before carrying out a search the officer may ask questions about the persons behaviour or presence which gave rise to suspicion'. This enforced questioning will either confirm or eliminate the original reasonable grounds that prompted the initial detention. If the grounds are eliminated, no search may take place. However, 'questioning may also reveal reasonable grounds to suspect the possession of a different kind of unlawful article from that originally suspected' (para.2.9).

So, although the Code expressly prevents an officer from (consensually) stopping or (coercively) detaining someone with the intention to develop the necessary suspicions to then conduct a search, it goes on to outline precisely how both situations can legally

occur. It may well lead one to conclude that it is rather difficult to see how someone can avoid being searched if the police have a mind to search him. As McBarnet (1981) notes, '[legal] rules may be facilitative as well as prohibitive' (ibid: 7).

McBarnet's work was explicitly a sociology of law but she argued that her analysis had implications for a politics of law too. The gap between the rhetoric of law and its application is regarded not as contingent but rather 'crucial to the operation of criminal justice in maintaining law's ideological power while serving other instrumental ends' (Dixon, 1997: 29). This points to the necessity of locating such an analysis within an account of the state as a whole. Brogden and Brogden (1984) provide an example of the application of such a political analysis, proposing the 'historical unity' of formal search powers, and their use as an inquisitorial tool of social control on the streets. Taking a similar perspective, Lea (2003) argues that the SLI reforms to stop and search display a failure to appreciate the historical and structural elements to the police relationship with ethnic minorities.

Others from within this broad structural perspective have challenged McBarnet's 'essentialist' characterisation of the law as permissive (Baldwin and Kinsey, 1982). This questions the assumption that simply because the courts fail to sanction police 'bending the rules', the police will therefore assume a legal right to extend their powers. Rather, the law is still regarded as an important constraint on police practice, even if a limited and variable one (Dixon, 1997). This prompts an analytic focus on 'the interplay between legal rules and police practice' (Reiner, 1997: 730).

Legal controls, it is argued, should not be understood as simply symbolic or ideological; they are not homogeneous but can take different forms and can have differential impact and influence on policing. Rules have to be distinguished 'according to such factors as status, sanctions, degree of specificity, procedure and enforcement practice' (Baldwin, 1989: 166 in Dixon, 1997: 22). Evaluations of PACE, for example, identify the differential impact of legal reforms on police practices within and outside police stations (Brown, 1997).

One 'much-quoted' attempt at a classification which distinguishes forms of legal rule, and their differential relation to police practice, arose from the Policy Studies Institute (PSI) study of policing in London (Smith and Gray, 1983):

- *Working rules* are internalised and effective in guiding police practice
- *Inhibitory rules* are non-internalised and are only 'taken account of' in police decision-making
- *Presentational rules* are used simply to justify and legitimate police actions

The influence and effect of legal rules may also depend on the context of their application, varying, for example, according to geography and socio-political environment (Dixon, 1997).

A notable attempt to reconceptualise the role of law in policing is presented by Grimshaw and Jefferson (1987). Explicitly adapting structuralist ideas (primarily from Althusser), they propose a sophisticated conceptual framework in which police practice is the product of three inter-relating 'structures': the law, work and democracy. I will begin by outlining how they define these three elements.

Their conception of law, they argue, seeks to avoid idealistic or essentialist conceptualisations, and rejects dichotomies such as law in the books versus law in action. Rather they propose an understanding of law as a 'composite and differentiated conception...a contemporary process rather than...a unitary essence' (ibid: 271). Thus, legal constraint on police work in general cannot be assumed but must be examined in the concrete specifics and particularities of the legal powers officers possess, the legal offences they deal with and the legal checks within the criminal justice system to which they may be held (ibid: 17). In each of these aspects, the law will thus be more or less constraining.

In developing their conception of the structure of 'work', Grimshaw and Jefferson (1987) are critical of what they regard as an over emphasis on the study of the organisational culture of the 'rank and file' and a failure to give equal attention to the culture of the senior ranks, but also policy. They also reject the view (as they see it, assumed, rather than demonstrated) that the formal organisation and the informal occupational culture are necessarily to be understood in opposition. They thus propose a definition of a work structure that incorporates both dimensions: formal organisational rules, policies and

procedures, management and supervision and the informal occupational cultural norms and practices of 'colleague groups' (ibid: 19).

Their conceptualisation of a democratic structural influence on policing emphasises the need to consider the range of mechanisms through which the public may be able to influence police policy or practice. In so doing they differentiate the range of contacts the public has with the police, and the related 'roles' in which the public will have these contacts. The level of public influence on policing will thus vary depending on the type of contact, the situation in which it takes place, and the role of the person. Each of these elements will contribute, in any specific situation, to whether a member of the public can exert more or less influence on the police.

These three structural elements provide the basis for a conceptual framework that can be used to analyse specific instances of police work:

"To understand the nature of organised policework is to understand the relationship between its structural determinants- law, work, democracy- under different conditions. It is, moreover, to understand that the structure which assigns the others their place, the fundamentally determining structure, is law." (Grimshaw and Jefferson, 1987: 290)

They assert that law is the determining structure; that is, in any situation it will determine which structure dominates. This is informed by their Marxist conviction that law operates

as superstructure and must predominate as central to the (ultimately repressive) state apparatus. More specifically, they assert law's determining position on the basis that: it provides a central discursive framework for police activity; it defines the central elements of the police task; distinguishes it from other state institutions; and produces the forms of police accountability (ibid: 274). They give primacy to legal accountability in this:

'Each structure we have identified is reflected in elements of the accountability system...In this system, then- a system fundamentally of *legal* accountability- the three structures converge and combine, but the relationship between them is structured by law' (ibid: 24)

It should be obvious from the above that Grimshaw and Jefferson's conceptualisation includes a highly contextualised element. Although their conceptualisation emphasises the structuring influence of the three factors, they explicitly seek to avoid a reductionist analysis by recognising, and allowing for, differentiation and diversity (ibid: 271). They recognise that the degree of influence of each of the three structures and the way in which they inter-relate will vary according to the specific situation, although law will always play the fundamentally determining role. They emphasise the need to examine (through a 'material analysis') how the structures operate in such concrete situations.

Nonetheless, despite this emphasis, the evident discretion that officers apply (seen in their analysis of 'resident beat patrol') is explained by the legal independence enshrined in the 'office of constable' (Jefferson and Grimshaw, 1984; Grimshaw and Jefferson, 1987).

Discretion is thus regarded not as deviation from the law but rather inherent within the legal 'set-up' of policing. The practicalities of policing mean that the use of police powers and the enforcement of laws are inevitably selective, as we saw earlier in the chapter. It is here that the police culture plays in for Grimshaw and Jefferson; 'legalised' discretion 'enables occupational common sense to provide the principles of selection' (ibid: 291). The problems that this can bring for relations with particular sections of the public have already been noted. Policy by senior police managers, they argue, cannot affect this:

'[...] effective operational policy (authoritative statements signifying settled practices of law enforcement) cannot exist. The universality of constabulary independence makes operational policy effectively redundant' (1987: 291).

Their prescriptions for reform focus on strengthening the democratic structure through democratic scrutiny and control.

This view has come under challenge. It has been seen to 'amplify an anachronistic historical legal legacy' that ignores the reality of contemporary policing (Lustgarten, 1986; Dixon, 1997). Modern police organisation and command involves the direct tasking of officers, including on the exercise of powers (Dixon, 1997: 76). The huge differences in the use of police search powers across police forces, for example, demonstrates that force policy can and does influence officers' street practices (Miller, Bland and Quinton, 2000; Lustgarten, 2002). It is difficult not to conclude that, in this aspect, Grimshaw and Jefferson to a degree fall back on the kind of essentialist, idealistic and reductionist conception, they were so keen to avoid.

Conclusions

It should be clear from the above review that no single prime factor can be identified that offers an overarching explanation of the practice of street policing. Academic understanding of police practice has evolved from a state where law, culture or structure were given analytic primacy, to one where the focus has turned to developing situated conceptualisations which put individual officer discretion at the centre of any analysis and considers these factors *alongside* each other, as having 'more or less' influence and inter-relating.

From this, I argue that an understanding of any specific aspect or element of police practice requires a situated analysis that explores empirically the role and relation of each factor. This review has also highlighted that analysis of the influence of any factor on police practice must attend to its potential as both rule and resource. The discretion afforded officers provides for their ability to draw, as informed by the particular situated context, on legal, cultural or organisational resources. Equally, however, this discretion is not unfettered, the factors that can act as resources can also act as a constraint: legal, cultural and organisational norms cannot be ignored wholesale. It is for a situated analysis to examine whether and how factors influence as constraint or enabler in any given situation. Such an analysis will be pursued in the empirical chapters of this thesis. Prior to this, I now turn to a consideration of the methodologies employed in this study.

Chapter 4 Methodology

The core of the empirical analysis for this thesis is based on qualitative and quantitative data drawn from observational fieldwork of routine police patrol and face-to-face interviews with police officers over the period November 1999 to April 2000. This chapter explains why this mixed-method approach was selected, describes how it was carried out, and discusses how it serves the analytic aims of the thesis.

The chapter begins by describing the design and development of the pilot, highlighting issues of analytic relevance picked up in later empirical chapters; specifically the development of a definition of a police 'stop' and the training received by officers in preparation for the pilot. It then considers the specific research elements of the mixed-method approach, how they were designed and conducted, and highlights the practical and methodological implications of the Home Office status of the researchers.

Piloting the SLI reforms

In early 1999, I was beginning to develop plans for a programme of research on police-community relations that aimed to follow on from a number of previous studies of police and the public for which I had been responsible. This included work I had conducted (Bland, 1997; Bland et al, 1999) and externally commissioned work I had managed (Chatterton et al, 1997; Bradley, 1998). It was clear from the report of the SLI (1999), then just published, that stop and search remained a key issue in relations between the police and ethnic minority community. I therefore included it as a possible topic within the programme. In subsequent discussions with policy colleagues about the research programme, the possibility of piloting and evaluating the SLI recommendations on stops and searches fell naturally within the scope of this work. This proposal formed a part of the draft Home Office response to the SLI put to ministers by policy colleagues.

Ministers readily accepted the conclusion of the Stephen Lawrence Inquiry (SLI) that the power to stop and search was necessary for the purposes of preventing and detecting crime. But they agreed that the SLI recommendations to extend the recording requirement for stops should be piloted and evaluated. I therefore took on responsibility for that work.

A small study was undertaken first to identify initiatives within forces aimed at improving the management and practice of stops and searches (Quinton and Bland, 1999). This helped inform aspects of the pilot design.

I led a small research team which took forward the design and development of the pilot, working initially with Home Office policy colleagues, a representative of Her Majesty's Inspectorate of Constabulary (HMIC) and a representative of the Association of Chief Police Officers (ACPO) Race and Community Relations Committee.

The pilot sites

A mix of practical, political and methodological concerns informed the selection of suitable sites for the pilot. I was clear that the range of sites needed to be diverse to ensure that the recommendations were tested across a range of policing contexts. This would provide the basis for some degree of comparison between areas but also added reliability where findings were consistent, by restricting the possibility that they were simply the local artefacts of a particular policing environment (cf Patton's (1990) maximal variation sample).

The dimensions of this environment considered of primary analytic importance were:

The ethnic mix of the population: given the differential experience of police stops and searches by ethnic minorities and the consequential impact on their relations with the police, it was important that the pilot covered a spread of ethnic populations. It also offered the possibility of drawing comparisons between areas along this dimension. The pilot sites were thus selected to provide populations of different ethnic mix.

The ecology of the policing environment: different policing environments (e.g. inner city versus rural policing) present differential mixes of policing issues and problems. Different styles of policing are associated with this and the role and use of stops and searches can vary accordingly.

Given the focus on policing in London resulting from the SLI, and its high level of use of stops and searches, it was regarded as crucial that the pilot covered the capital. The Metropolitan Police Service (MPS) had already instituted a Programme of Action to pilot reforms to its use of stop and search (Fitzgerald, 1999) and there were clear sensitivities to this issue. Bilateral negotiations between the Home Office (research and policy) and senior MPS officers took some time and initial decisions about which areas would be involved changed. Stop and search was considered to be too sensitive an issue for police-community relations in some areas; there was thus a reluctance to use them to 'test' the SLI recommendations. The MPS finally agreed to the involvement of two areas that were also part of its own pilot work on searches.

As a national pilot, it was also perceived in some quarters to be important that the selection of sites provided an obvious geographical spread. Strong personal relationships between senior police officers in different forces were also a factor in decisions about which forces to approach to be involved. The ACPO representative for the pilot played an important facilitative role in this regard acting as a gatekeeper to other forces (Hammersley and Atkinson, 1983). So although formal approaches were made through the Home Office by the author, this was achieved through the 'good offices' of the ACPO contact and his informal network. As a result, none of the forces approached to be involved refused.

Self-defined ethnicity

The final selection thus covered both metropolitan and county forces, in the north and south of England, covering urban, suburban and rural areas and different mixes of ethnic population. Table 4.1 summarises the characteristics of the specific areas within the forces chosen for the pilot.

Table 4.1: Summary characteristics of pilot sites	
Area A, southern county force	covers large town and surrounding rural area predominantly white population
Area B, southern metropolitan force	predominantly urban area mixed population
Area C, northern metropolitan force	mix of deprived inner city outwards to affluent rural area inner city has a high minority ethnic population, including a well-established black community. rural area is predominantly white
Area D, midlands county force	covers city centre and two residential areas (east and west of city centre) west end near to university, so largely mixed student population; east has high Asian and smaller black population
Area E, southern metropolitan force	majority white population but significant minority ethnic, specifically Indian comprising almost a fifth of the population

The design of the pilot

The pilot comprised two elements:

- trialling the viability of implementing the recommendations; and
- trialling alternative methods of implementing specific elements, namely:
 - two different methods of obtaining the self-defined ethnicity of the person stopped; and
 - two different designs of stop/search form.

Self-defined ethnicity

The alternative methods were:

1. The use of an open question to the person stopped, recorded as free-text on the stop/search form. Based on advice from the Commission for Racial Equality, officers were advised to word the question: *How would you describe your ethnic background?*
2. The use of a fixed-response card based on the 2001 census ethnic origin categories. Any person stopped would be asked to choose the category which best described their racial origin, which would be so recorded on the stop/search form.

The primary aim of the test was to discover whether one of these methods was significantly easier for officers to administer. Officers were also asked to make their own ethnic classification using the existing police identity codes (based on the six-point classification used in the Police National Computer (PNC)). This allowed comparisons to be drawn on how well the self-classification fits the police classification. This was important because of the possible implications of any change for ethnic monitoring of stops and/or searches; specifically that currently published under section 95 of the 1991 Criminal Justice Act.

Stop/search form design

Police officers' aversion to forms and the completion of 'paperwork' more generally has been cited in a number of research studies (e.g. Fielding, 1988a; Chatterton, 1989; McConville et al, 1991). The Home Office had identified the reduction of bureaucracy as a key aim in its police reform programme. Force managers were also clearly attentive to officers' concerns about too many different forms covering street interventions with the public. We were aware that some forces had begun to use, or were considering, an integrated form that combined the search record with two other traffic 'process' forms (Quinton and Bland, 1999). These were the HO/RT1 form¹ and the VDRS form². The pilot offered an opportunity to assess the practicality of such a move. Two designs of form were trialled:

1. A form to record stops and all searches; and
2. A form that included the above but also integrated HO/RT1 and VDRS.

The two elements to be trialled were spread across the five areas as follows:

	Self-defined ethnicity	Form design
Area A	fixed response	stop form with integrated HO/RT1 & VDRS
Area B	open question	stop form
Area C	fixed response	stop form
Area D	open question	stop form with integrated HO/RT1 & VDRS
Area E	open question	stop form

¹ Home Office/Road Transport 1, known colloquially as a 'producer'. In any vehicle stop, a police officer can ask to see proof of a driver's license, MOT and insurance. If the driver is not able to show any of these documents at the time, an officer can issue this form requiring the person to present them at a police station within seven days of the stop.

² The Vehicle Defect Rectification Scheme form (VDRS) can be used by officers during a vehicle stop. It is used to record illegal defects on a vehicle and requires the driver of the vehicle to have them mended and to present proof of this at a police station.

The primary aim of this trial was to allow evaluation of how easy the forms were to use, whether their design led to any confusion and subsequent inaccurate recording. It would also test whether the integration of HO/RT1 on one form led to a substantial increase or decrease in the total number issued by officers, and as a proportion of all stops. Attitudes to the new form will be discussed in Chapter 6.

This initiative required all the pilot forces to re-design their current search forms. The biggest change involved moving from a small 'pad' of search forms to a much larger individual search record (approximately twice the length). Key changes to this included a much-enlarged section for the recording of the legal grounds for search and the inclusion of an outer cover which summarised the search powers available to the police, and people's rights in relation to stops and searches.

For the pilot in Areas B, C and E the design was refined to record both stops and searches, and included a carbonated 'counterfoil' copy of the record. Areas A and D worked together to design the combined form. It too included an outer cover describing people's rights and police powers, but included three counterfoil copies. The extra two were for HO/RT1 and VDRS elements that a person stopped would need to show at a police station. All the forms included open text fields to record the reason and outcome of the stop and the self-defined ethnicity as required under recommendation 61 of the SLI. Using this format the police officer would tear out and keep the carbonated copy of the record and give the rest of it to the member of the public at the time of the stop or search.

Defining a police stop

PACE gives officers with 'grounds for reasonable suspicion' the right 'to *detain* for the purposes of search [emphasis added]'. There is no related coercive power for stops by the police outside the provisions of PACE, which rely on the consent and co-operation of the person stopped, although the general public are highly unlikely to be aware of this distinction³. There is thus no existing formalised definition of what a police stop is. An important element in the design of the pilot was the development of such a definition.

The MPS had independently planned to pilot the Inquiry's recommendations as an additional element of its Programme of Action on searches (see Fitzgerald, 1999) and had already developed a definition by the time the Home Office pilot was being set up. In consultation with the MPS and based on advice from HMIC, the following definition was agreed for the pilot:

When a police officer requests a person to account for their actions, behaviour or possession of anything the encounter will be regarded as a 'stop' for the purposes of this pilot. This will apply if the person is on foot, driving or riding any vehicle, or is a passenger in or on such a vehicle.

The following was produced as associated guidance:

It therefore does not include general conversations, giving directions or when seeking witnesses to an incident or an offence. Where, however, a person submits to a voluntary search or to the voluntary search of a vehicle in his or her charge, this must be appropriately recorded.

³ PACE Code A states: 'This code does not affect the ability of an officer to speak to or question a person in the ordinary course of his duties (and in the absence of reasonable suspicion) without detaining him or exercising any element of compulsion. It is not the purpose of this code to prohibit such encounters between the police and the community with the co-operation of the person concerned and neither does it affect the principle that all citizens have a duty to help police officers to prevent crime and discover offenders' Note for Guidance 1 (2004).

The particular emphasis placed on the recording of voluntary searches in this definition was a reflection of existing concerns about their status among some senior officers in forces and HMIC. These officers attended to issues identified in evaluations of PACE and discussed in the introduction to this thesis. Specifically they related to doubts over the validity of the notion of 'consent' and with regard to the way in which voluntary searches were used by officers to circumvent the legal requirements of PACE (Brown, 1997; Dixon, 1997).

It is evident from these definitions that a legalistic perspective was taken to the problem. PACE codes of practice were used as an explicit template for the development of the definition. The mismatch between legal definitions and the realities of policing have already been noted (Dixon, 1997). The implications of this legalistic approach will be considered later in the chapter, with regard to the character of the training received by officers in preparation for the pilot, and will also be explored empirically in the later analytic chapters.

The definition was trialled first in Area E. As part of this process, a research colleague and I conducted some early exploratory interviews with officers in Area E, specifically to examine the workability of the definition. It was clear from these interviews that the definition, on its own, provided too little guidance to officers about which of the broad range of encounters with the public should be regarded as 'recordable stops'.

Community beat officers voiced particular concerns about the impact of recording on frequent informal 'low-level' stops they conducted to gain community intelligence and also to monitor known prolific offenders. They emphasised that the success of such encounters relied on officers maintaining an informal interactional style. They were concerned that recording such encounters would formalise them and so change their character and thus (to the officers) their utility. This 'formalising' impact of the form on interactional dynamics will be explored in greater depth in the second empirical chapter.

As a result of this early feedback, I developed a set of 'rules of engagement' as further guidance. This guidance worked from the agreed definition and aimed to delineate a set of types of encounter which should be recorded as 'stops' for the purpose of the pilot. It was developed in close consultation with Home Office policy colleagues, representatives from the Association of Chief Police Officers (ACPO), and the pilot forces.

The process proved to be difficult and required negotiation to develop rules which fulfilled the requirements of recommendation 61 but which were considered as operationally workable for the pilot. The Lawrence Steering Group subsequently endorsed the guidance. This group was set up, by the then Home Secretary Jack Straw, to oversee the Government's response to all the Stephen Lawrence Inquiry recommendations.

I also developed, with a research colleague, some associated guidance to be used by the pilot sites in preparing training for their officers. This guidance drew heavily from insights gained in Area E and highlighted measures to minimise any problematic public reactions to the new forms, such as giving clear explanations of the pilot and the reason for asking people to describe their own ethnic origin.

Preparations for the pilot

The conduct of the pilot and evaluation was overseen by a steering group chaired by Policing and Reducing Crime Unit (PRCU). The group included representatives from the pilot forces, ACPO, the Association of Police Authorities (APA), HMIC and Home Office policy and research colleagues.

Training

In preparation for the beginning of the pilot, all the sites provided training to their front-line operational officers. The scheduling of this training was difficult for the forces. A significant number of officers needed to be trained and this had to be fitted in around the shift rota patterns worked by these officers. Another member of the research team and the author each observed a training session in a different pilot area.

Written documentation for the training was collected from each pilot area. The format and content of officer training was broadly similar across each of the sites. In most cases, training was delivered to shift groups of about 10-20 officers, and consisted of a presentation followed by an opportunity for questions. The content of the presentation tended to cover four main areas, namely:

- the background to the pilot, including the relevant findings and recommendations of the Stephen Lawrence Inquiry;
- refresher training on formal PACE search powers (with the exception of Area D where future training was already planned);

- the specific recording requirements of the pilot, (e.g. the recording of stops in addition to searches); and
- introduction of the new form and explanations of how to fill it in.

There was some variation in terms of who delivered the training. In Area C, for example, the inspector with overall responsibility for implementing the pilot provided an input on the pilot itself, and an area trainer covered officers' formal search powers. In contrast, the area trainer in Area D delivered the entire training package. There were clear differences in the express commitment of the trainers to the content of the training. At the training session observed by the author, the trainer distanced himself from the training programme, and sought to collude with the audience by implying a shared acceptance of the 'inevitability' of deviations from strict adherence to PACE codes for searches. In the next section on 'The research' I discuss how the team considered the ethical aspect of witnessing serious deviation from expected practice by police.

It was also clear that there were differences in the way the pilot was presented or 'sold' to officers. In one pilot site, for example, considerable emphasis was placed on communicating to officers the potential benefits of the pilot in terms of rationalising paperwork and how the form might provide a useful safeguard against vexatious complaints.

Previous research has highlighted the emphasis that officers give to what might be termed 'experiential learning' over formal training (Fielding, 1988a). This emphasis is deemed to have a general resonance in the occupational sub-culture. The guidance developed by the author and a colleague for the pilot training sought, in a small way, to mediate this orientation by drawing explicitly on the early experiences of officers in Area E. The guidance highlighted that some officers had experienced that use of the form could produce interactional difficulties. It suggested, again drawing on the experiences of officers, ways to mediate and avoid such difficulties. The following extracts from the training guidance provide an illustration of this:

4.2 Research has shown that members of the public are more satisfied after a stop/search if the police officers involved explain why they were stopped. Officers should, therefore, be advised to explain to the person verbally why they have been stopped. Early findings from one pilot site indicate that most stops and stop/searches are relatively 'easy' if the person is given full information by officers. Officers are also advised to refer to the national pilots when carrying out a stop.

4.4 When recording stops under the pilot project, members of the public might raise concerns about the recording of their details. To alleviate public concerns, officers might explain that the person is not being 'issued a ticket' and that details are being recorded to comply with the recommendations of the Stephen Lawrence Inquiry.

4.9 Early findings show that most people do not have a problem with answering the [self-defined ethnicity] question. In cases where public concerns are raised, officers are advised to explain to the person stopped that the information is being recorded to comply with the recommendations of the Stephen Lawrence Inquiry. If the person still refuses to provide the information, officers are advised to note that the information was not provided. If the person gives an 'incorrect' answer (e.g. a white person states they are black), the officer should record the response as that has been given. It is important that an accurate record of an encounter is made based on the information provided by the person stopped.

4.10 If the person stopped does not understand the question, officers are advised to re-phrase it (e.g. "what is your cultural background?", "what is your heritage/parentage?" or "describe your racial origin?") or to use appropriate examples to help the person.

Yet, despite the emphasis placed on managing the interactional dynamics of encounters, the training that we observed paid little attention to interactional skills and competences. Rather, it took a far more legalistic and procedural focus, emphasising the recording 'rules' that officers needed to follow. These issues are returned to in the empirical analysis of the impact of the new form on police practice, presented in Chapter 7.

Public awareness

Recommendation 63 of the SLI proposes that Police Authorities should have a duty to run publicity campaigns with regard to the recording requirements set out in recommendation 61. The limits of public legal knowledge and the implications of this for any consideration of 'informed consent' in police stops was noted in the introduction (see Dixon, 1997).

All the sites took measures to raise local public awareness of the purpose of the pilot. This tended to be through standard consultative channels, which varied according to local circumstances. They typically involved contacts with at least some of the following local groups:

- Police Community Consultative Groups;
- the Police Authority;
- Crime and Disorder partnerships
- Commission for Race Equality;
- Race Equality Council;
- various community fora;
- Neighbourhood Watch groups.

The limitations of standard channels for reaching communities themselves have been noted (e.g. Morgan, 1989). There was also wider media publicity of the pilots in certain sites. Press coverage was given to the pilot in Areas A, C and E. The latter two sites also received local radio and television publicity respectively.

Timing

It had been planned that the pilot would begin in all the other pilot sites in October 1999. However, difficulties in scheduling officer training and in printing the new stop and search forms meant that there was a staggered start across the sites. All the sites had begun the pilot by the end of November 1999. The pilot ran for six months until the end of May 2000. All the research data were collected over that period.

The research

I begin this section with a consideration of the implications of the writer's status, and that of the rest of the research team, as Home Office researchers, for the conduct of the research. A fourfold typology has been developed that usefully delineates the possible permutations of the relationship between researchers and the police; based on an insider/outsider dichotomy (Reiner, 2000b):

- *Inside Insiders*: serving police officers conducting research in an official capacity. This may ease initial access but their status may then inhibit or constrain relationships in the field.

- ***Outside Insiders***: these are police officers that conduct research in an unofficial capacity, often covertly, having decided to leave the force and pursue a research career. This role can range from the sympathetic police ‘propagandist’ to the disenchanted ‘spy’ (Reiner, 2000b: 221).
- ***Inside Outsiders***: ‘civilian’ researchers who have official roles in police forces or government organisations with responsibilities for policing, such as the Home Office. As with inside insiders, initial formal access may be easy but trust and cooperation from research subjects may be constrained by their ‘official’ status.
- ***Outside Outsiders***: researchers with no official ties with the police. They can suffer greatest barriers to access due to the lack of any official mandate for their work and distrust of a possible ‘critical’ motivation to the research.

It is worth noting that finer distinctions can be drawn within this typology. Within the Outside Outsider category, for example, some academics can be described as having closer relations than others with the police; those working at the Jill Dando Crime Institute, University College London would be one such example.

The status of the research team as Inside Outsiders delivered a number of clear benefits for the set-up of the research but this status also presented a number of difficulties. The primary gain from this status was in the ease of access it afforded the research team. This has already been noted with regard to securing forces' agreement to involvement in the pilot but extended to the organisation of interviews and the conduct of observations. This is discussed below.

The research involved the following:

- interviews with operational police officers and senior managers;
- direct observation of stops and searches in practice;
- interviews and discussion groups with people stopped under the pilot; and
- statistics derived from the police records of stops and searches.

For the purposes of this thesis, data is drawn primarily from the observations and interviews. I thus attend to the methodological concerns and considerations associated with the interviews and observations in what follows.

Observational fieldwork

In recent years, there has been some recognition of the lack of contemporary ethnographic work on the police, particularly on routine patrol work (Reiner, 2000b; Holdaway's introduction). This situation means, it is argued, that knowledge of the 'low visibility practices of everyday policing' in the UK is based on 'increasingly out-of-date... classic observational studies' conducted around 20 years ago (Reiner, 2000b: 226).

This situation has been associated, at least in part, with the growth, over this same period, of policy and practice-focused research *for* the police, conducted by police researchers working within individual police forces or, like the author, working for the Home Office. The 'necessarily quicker and more focused assessments of specific problems and attempted solutions' (Reiner, 2000b: 226) taken to characterise such research prevents, it is argued, the time and resource commitment for in-depth ethnographic work regarded as necessary to provide an understanding of basic police practices.

I would challenge the picture of UK police research that this view portrays, as it replicates many of the weaknesses of the similar argument about the role, character and impact of administrative criminology more generally, discussed in the first chapter of this thesis. It fails to recognise the existence of examples of administrative police research over this period that precisely do provide for a contemporary insight into such basic police practices. The use of observational methods in the research on which this thesis is based, is one such example.

The observations were carried out after the pilot had been running for about four months and covered 40 complete operational shifts, totalling over 340 hours. Eight shifts were observed in each site: four late turns (generally, 2-10pm) and four night shifts (generally, 10pm-6am) running from Wednesday to Saturday in a single week. The days and shifts were purposely selected to maximise the number of stops and searches likely to be observed. Extracts from the observations that follow identify the specific observational period from which they are drawn using a coding system (e.g. B/L1) that refers to the force area (A-D), type of shift (L-late, N-night) and the shift number (1-4). Interview extracts are identified using a similar coding system that identifies the force area and the interview number (e.g. B9).

Two researchers attended any site, each completing a 'turn' of four shifts. This pairing replicated the interview pairings for the interviews; so the researchers carried out observations in the sites in which they had also undertaken interviews. In this way individual researchers developed a more nuanced understanding of the operation of the pilot within particular sites. The author directed and coordinated the organisation of this data collection and undertook half of the observational fieldwork in two of the pilot sites (Areas A and B) and half of the interviews in three of the pilot sites (Areas A, B and E).

The period of observational fieldwork conducted was not insignificant, but might still be regarded by some as an example of 'smash and grab' ethnography (Holdaway, 1983). Yet a close comparative look at the descriptions of fieldwork in a selection of 'classic' ethnographies yields a lack of transparency about exactly how long it is (e.g. Holdaway, 1983; Manning, 1997). The period of time over which fieldwork takes place does often run to a number of years, but this is more reflective of the requirement to juggle the competing demands of the academic role, noted in Chapter 1, than necessarily a demonstration of extensive fieldwork. For the research in this thesis, the team spent a period of over six months engaged almost full-time in observational and interview fieldwork which is clearly conducive to 'immersion' (Lofland and Lofland, 1984).

Given the focus of the research was to understand how the SLI recommendations worked in practice, the focus for the fieldwork was to maximise the number of observed 'stops in action'. This meant greater emphasis was given to observing officers' on-street work. On occasion a researcher became 'stuck' at the police station, because the officers they were accompanying were processing an arrest or attending to other station-based tasks. In such instances, they sought to be reassigned to officers continuing on street patrol.

A temptation to stay 'where the action is' has been noted in previous police ethnography (Chatterton, 1989: 108). In this case, however, it was a deliberate strategy to ensure observation of a sufficient number of stops for subsequent quantitative analysis. However, this did result in less attention being given to the completion of stop records by officers after an encounter, frequently back at the station. This meant that this 'retrospective' recording practice went largely, but not entirely, unexamined. Given the analytic focus on the impact of the use of the form on police practice in encounters with the public, this was of subsidiary importance.

Following Silverman (2001), the aims of this observational element can be identified as:

- Allowing the research team to get a more direct understanding of officers' experience of conducting street stops and searches; 'seeing through their eyes'
- Producing data that could accurately *describe* the interactional processes involved and locate them in the *contextual* circumstances unique to that situation
- Providing first-hand access to the *processes* involved within any interaction and how the use of the SLI form influenced those processes

Gaining access

Reiner (2000b) has highlighted that the negotiation of access is not a one-off event but rather a continuing process throughout fieldwork. This proved to be the case this research. Although access to pilot forces had been secured at senior officer level, access at local stations required further negotiation. This involved, not least, sometimes explaining again the reason for the pilot and the research. Securing this access sometimes involved ceding a little control over the fieldwork. Inevitable, for example, at the beginning of each

observational shift, decisions about which officers the researcher was to accompany tended to be made by the Inspector on duty. Reallocations to other officers during shifts had to be re-negotiated with the same Inspectors.

The briefing lasted until approximately 2:30, after which I was allocated to two PCs Adam⁴ (probationer – 14 months) and Tom (“one of my best men” – 15 years). B/L1

Fieldwork identity

The fieldwork team comprised the ‘core’ research team of the author and two male colleagues (Joel Miller and Paul Quinton), supplemented by another male colleague (Gareth Harper) and a female colleague (Karen Bullock).

Our status as Outside Insiders had implications for our fieldwork identity. Prior to the beginning of fieldwork, a protocol was developed which provided a set of common ‘lines’ to which all of the research team were meant to orient in the way in which they presented and conducted themselves during the fieldwork period. It covered issues such as: dress, how to explain one’s role and the purpose of the research, managing interactions with officers on patrol, responding to public queries about our status, how to deal with ethical dilemmas arising from observations of any serious malpractice.

⁴ All the names in data extracts used throughout the thesis have been anonymised.

This protocol implicitly attended to our Outsider Insider status and suggested various means to modulate and mediate the tensions inherent within it. Dress, for example, was to be 'smart/casual'- this contrasted with the standard dress suit and tie for the formal meetings held with senior officers during the pilot. The formality of our 'official' position and status could not be denied, yet still there was a need to try and downplay this, particularly with the officers we would then spend time with. We (at least the males in the team) were conscious not to present ourselves as the archetypal civil servants in suits.

Four issues have been identified with the management of a fieldwork identity (Atkinson and Hammersley, 1994 in Silverman, 2001: 58):

1. Who knows you are a researcher
2. Who knows how much and what, about the research
3. What activities does the researcher do/not do in the field and how this locates us
4. What orientation the researcher takes; how consciously we orient towards insider or outsider

Introductions

At the beginning of a new observational period at a pilot site, researchers had to introduce themselves to the patrol inspector on duty at that time. An emphasis on the occupational sub-cultural values of police suspiciousness and solidarity might lead one to suspect a 'conspiracy of silence' in place to protect officers from the researcher's gaze (Reiner, 2000a). Such a conception might anticipate that Inspectors would already have been 'primed' by their superiors prior to our arrival. Although our arrival tended to be expected, the variety of responses we received provided no evidence of a pre-prepared agenda or 'party line' being given to us. Some Inspectors had a good understanding of the research, others did not, and others were not expecting us at all:

The Inspector came into the front office at about 1:40, but he had no idea who I was, what I was doing there and what was expected of him and his team. After a brief explanation of my position he took me through to his office. We had a brief chat about what I wanted to do, and he told me about his relief and the area they policed. Sgt. Gavin Dart came in at about 1:50, and together we went to the parade room, where the computerised briefing took place. The shift of approx. 14 officers (2 Sgts. 12 PCs – there were a number off sick.) After the briefing, Sgt. Dart introduced me and invited to say a few words about what I was doing there – from the initial facial reactions, this seemed O.K. The briefing lasted until approximately 2:30, after which I was allocated to two PCs Arthur (probationer – 14 months) and Tim ("one of my best men" – 15 years). B/L1

None of the patrol officers who the researchers were to accompany on patrol appeared to know anything about us prior to our introduction at the briefing. This situation had been anticipated; the observation protocol advised the researchers to downplay their official status and importance and minimise the significance of stops and searches for the aims of the research. The following is an extract from the protocol:

- *downplay your status as a Home Office researcher to avoid putting officers on their guard - e.g. 'I've been asked to help out with some work'.*
- *explain you want to get a general sense of normal patrol duties*
- *emphasise you are not here to judge or assess officers*

And if the issue of stop/search is raised, you should emphasise:

- *you are interested in how it fits in to police duties as a whole*
- *you are not interested in just observing stop/searches*

The following extracts from the observations, however, illustrate the rather limited success of this attempt at 'impression management' (Lofland and Lofland, 1984):

Arrived 2.30 met Sgt. Jones. Introduced to Sgt. Tom Smith. Went through security procedures- basically 'do what you are told.' 3.00 – 3.20 sat in on parade, was introduced as an 'assessor' from the Home Office. Lots of jokes from the officers about the whereabouts of my hidden cameras and so on. D/L1

Ran through a few items on briefing - nothing of note. I was introduced by Sgt Stewart - he said I was here about the stop-check forms but that I wasn't spying. He said that the officers should be PC [politically correct]. D/N2

14:00 Attended briefing. Not as well organised as the previous day's briefings. A new shift started today, with an Inspector who was not actually based at Plumstead. I did not actually get to meet the Inspector, and didn't speak a lot to the Sergeant. The new Sgt. introduced me as someone who was "monitoring stop and searches". B/ L4

The focus of our research- on the stop and search pilot- was thus evident. The conversations these introductions prompted, however, helped as officers displayed a general openness and willingness to talk about the pilot and their views of its success. It also helped make clear that we were not interested in the personal appraisal of individual officers, which might have led to a more closed response.

Police/researcher interaction

There was an attempt to build rapport with the officers one accompanied. It was useful to draw on the knowledge and experience of policework gained as Home Office researchers to establish some credibility. This helped to emphasise our insider status. Arguably, it was also helpful that every member of the research team was aged between the mid twenties

and 30 years old. This meant they we tended to be of a similar age to the officers we accompanied, again facilitating the building of a degree of rapport.

It was clear that a number of other factors played into police/researcher interactions; the researchers themselves possessed different levels of interactional skill which influenced how quickly and easily they developed rapport with officers they accompanied on patrol, their personality and gender were also influencing factors (see also example, below, in the section on public/researcher interaction).

I decided to take a detached observer role, talking little about the pilot or the aim of my work, asking few questions, to try and get a more naturalistic picture. In contrast, others in the research team were more explicit about their interest in officers' stop practice and asked a lot of questions. This latter approach seemed, in retrospect, to yield analytic insights into some of the issues to which officers attended in giving accounts of their stops and searches (Hammersley and Atkinson, 1993).

Public/researcher interaction

The inherent authority of the police to intervene with members of the public means that people who are stopped rarely challenge this or seek justification for it. And, as will be seen in the next chapter, officers deploy a range of interactional devices to deal with any such challenge. The benefits of this inherent authority tended to extend to the accompanying researcher as well so that it was rare for any of the team to have their presence challenged. To cope with such an eventuality, the strategy was to respond initially by simply saying 'I am with the officer today'. If further explanation was sought

then each researcher carried copies of an explanatory letter that confirmed our status as Home Office researchers, described the purpose of the research and provided a contact 'helpline' number for any further queries.

On the rare occasion when the researcher's identity was challenged sometimes officers intervened, on other occasions they did not. The following example relates to an encounter experienced by the author. It is perhaps not accidental that the person stopped and who challenged the presence of the researcher drew on official aspect of their identity to explain it.

Call about a fight in the town centre. 0230ish. we arrive at the scene, another car is already there. Very young looking officer comes over as we approach. I don't recognise the officers. A young black man is saying 'He's got a knife, he's got a knife. He was chasing me down the road with a knife'. Steve and Matt take the bloody man to one side. 'Are you alright' says Steve 'you are bleeding from a cut in your head'. Steve asks the man's name. The man looks at me and tells me to "go away". I say 'I am with the officers. I am from the Home Office'. 'Got any ID' he asks. I give him a letter. He looks at it and gives it back. "I'm armed forces" he says. A/L3

A few minutes later - they both arrive with a kid in handcuffs. He is quite mouthy - but friendly. Bragging about being caught. He tells me I'm a nosey parker and a 'fucking 4 eyed twat'. He is told to shut up by one of the officers. C/N1

The following example is notable because the character of the interaction is clearly affected by the status and gender of the researcher. The encounter resulted from a call to attend a suspected incident of domestic assault; the researcher accompanies two (male) police officers. Their attention, at least initially, focuses on the suspected male aggressor. The female victim of the assault orients quickly to the researcher, and seeks the opportunity for a sympathetic ear. The initiation and subsequent tone of the encounter is clearly closely related to the fact that the researcher was a young woman.

12.50 call for back up. Go initially to the wrong address. Find the right address. Meet two other officers who have been called to domestic dispute. Explains that they have been here a number of times before and that the man has been violent to the police before. Go to flat, find woman outside bleeding from head, crying and with no shoes on. Boyfriend has locked her out after hitting her over the head with a bottle following St. Patrick's day drinking. Officers knock on door, the man starts shouting from inside and kicking door. Police get their CS gas spray stuff out but when he answers the door he calms down a lot. Officers go into the lounge to talk to him. There is glass all over the place. Bleeding woman wants me to go to the bathroom with her. Explain that I am not a policewoman but she doesn't care so we sit in the bathroom and she shows me her bruises and tells me that he had been kicking her. She says that she has been living with him for two years and that he has been violent all that time. Says that he has convictions for being violent to other girl friends and an ex-wife. Says she isn't going to put up with it any more. Asks me who I am if not a police officer. I explain that I am a Home Office observer. 'Just a girl like me', she says. D/L3

Recording observational data

Qualitative and quantitative data from the observations were recorded after each shift:

- a structured observational schedule was completed for every individual 'recordable' encounter between a police officer and a member of the public;
- a quantitative summary sheet recorded the number and type of every police-public contact; and
- a narrative account of the whole shift was also written.

The design of the structured schedule was informed by the design of a similar instrument used in research by Norris et al (1992). It covered five primary dimensions of a police-public encounter:

- Person description: gender, age, manner, appearance
- Contact: reason for stop, type of contact, officer manner
- Processing: vehicle/pedestrian stop/search, procedures followed

- Recording the encounter: whether form used; ethnicity question asked; reaction of person stopped
- Exit: outcome of stop, completion of form

A schedule was completed for 149 individual encounters, of which 138 were coded as stops that were 'recordable' under the rules of the pilot. The types of encounter observed are broken down in Table 4.2.

Type of encounter	Proportion (%)
Pedestrian stop	42
Pedestrian search	12
Driver stop (recordable)	30
Driver stop (non-recordable) ⁶	6
Driver/vehicle search	1
Passenger stop	8
Passenger search	1
Unclear	1
All	100 (149)

Lengthy fieldwork notes were not made during the periods of observation as it was felt that this might influence the behaviour of police officers. The structured schedules and the narrative accounts were written up as soon as possible after the completion of fieldwork, to aid accurate recall. The narrative descriptions placed particular emphasis on the production of qualitative descriptions of stop and search encounters. Every encounter designated as 'recordable' under the pilot was also coded within the observational narratives. This code was attached to the quantitative dataset produced from the observational schedule. This allowed for analytic interaction between the qualitative and quantitative data.

⁵ Throughout the thesis, tables may total over 100% due to rounding.

⁶ Certain vehicle stops were excluded from the pilot recording requirement. These were recorded for the purposes of the observations.

Interviews with police officers

The focus of the interviews was to explore the attitudes and experiences of officers to the changes in recording of stops and searches that were being piloted. The majority of officers interviewed were those that therefore made greatest use of stops and searches as part of their routine working practices - uniformed officers working on patrol teams. Clearly police stops and searches also form part of the work of community beat officers, so some were also interviewed to explore any differential impacts arising from this difference in role. The sample was further structured to cover a range of experience from probationers to those with over 10 years policing and to include patrol sergeants as well as constables.

These dimensions were considered to be the most important with regard to differences in attitude and experience that might arise. The strategy followed a maximal variation approach (Patton, 1990). This would allow for identifying variation in orientations or stances to the recommendations that might then be associated with differences in role or experience or policing environment. Where consistent findings emerged, it could more confidently be inferred that these reflected a consistent experience or consistent set of attitudes, reflective of the occupational sub-culture.

A desired sample structure, along the above dimensions, for 20 interviews was sent to a coordinating officer in each pilot site. Decisions about which officers were put forward to interview were left to the pilot sites. It could be argued that this level of local control over the sample selection risks an inherent degree of bias. It was clear from what some officers themselves told the author and other members of the research team, that they had not volunteered to take part in the interviews but had been instructed to by a more senior officer.

Such an arrangement also raises some ethical considerations. It could be argued that this arrangement meant that the research team could not be fully confident that every officer who participated in the interviews did so free from any degree of compulsion. This possibility had not been considered in advance by the research team and so no explicit instruction had been given to the pilot sites that participation must be voluntary. Even had we done so, however, we still could not have prevented (or indeed known about) coordinating officers making participation more or less compulsory for the officers they identified.

Nonetheless, it was not obvious during interviews that officers actively objected to their involvement. Further, at the beginning of every interview, the participating officer was assured of the confidentiality of their responses and that all interviews would be anonymised. On this basis, we encouraged interviewees to be frank and open in their responses but they were free to answer, or not, as they wished.

It is worth noting further with regard to ethical considerations, that at the time of the research there was no formal process for any kind of ethical review for research undertaken, or commissioned by, Home Office researchers. This can be contrasted with the situation in academia in which researchers must put research proposals through a formal ethical review process (generally through submission to a university ethics committee).

Interviews were achieved with a total of 90 operational police constables and sergeants working primarily on shift but also on community teams. Table 4.3 provides a breakdown of the sample across the pilot sites⁷.

Pilot site	Constables	Sergeants	Total
Area A	15	3	18
Area B	17	4	21
Area C	15	4	19
Area D	15	5	20
Area E	12	2	14
Total	74	18	92

The first interviews took place after the pilot had been running for about three or four weeks during visits to the pilot site areas of 2-3 days. Interviews were conducted during normal working hours and so the officers who attended tended to be those who were rostered to work over that time, covering both early and late shifts. There were a couple of occurrences of officers returning from leave to take part in the interviews.

⁷ The sample reported here differs very slightly from that reported in Bland et al (2000). A re-check of the achieved sample identified two PC interviews that had not been accounted for in the overall sample size.

The *data collection tool* employed in the interviews was a semi-standardised interview schedule. The interview began with a scripted introduction which explained the purposes of the research and the role of the interviews. Interviewees were given the standard assurances about the confidentiality and anonymity of their responses.

The interview lasted for about an hour and explored officers' early views and experiences of how the changes worked in practice in the first few weeks of the pilot. They focused primarily on officers' recording practices, whether and how the practice of stops and searches had changed and officers' experiences with the public.

- Officer biography
- Experience of, attitudes towards, the pilot training and any other recent race/community relations/post SLI training
- Knowledge and understanding of the new recording requirements
- General experiences of stops and searches
- Attitudes to, and experiences of, using the new form and public reactions to it
- Proactive decision-making/ external prompts in stops and searches
- Definitions of competence and good practice in the use and conduct of stops and searches

There was a concern that officers might tend to give generalised responses to questions about their experiences which might tend towards a more rationalised account that ignored conflicting or contradictory experiences. As an attempt to counteract this risk, officers were asked in addition to provide a detailed description of the conduct of their last stop and last search. This provided specific and contextualised material that could be used to check against the more general picture presented elsewhere in the interview.

In the final month of the pilot, we returned to the pilot sites to re-interview the same sample of officers. Primarily, we explored whether and how officers' views and experiences had changed over the course of the pilot. Forty-six officers were re-interviewed. The others were unavailable for a variety of reasons: their shift pattern precluded it, they had transferred to other duties or to another force, or they were on rest days or sick leave. In addition, we also interviewed a sample of 14 inspectors and more senior managers from across the pilot sites to explore further issues of accountability and supervision, the practice of stops and searches and their general views on the impact of the pilot.

Methodological triangulation: implications for analysis

The analytic focus of this thesis is directed towards situated and contextualised police practice as the primary analytic site for an understanding of the impact of the SLI reforms. But the review of the literature has highlighted the importance of attending to the influence of a range of higher level factors, acting (and interacting) as both resources for and constraints on, that practice. These factors were identified as cultural, organisational, legal and socio-political.

The methodological design of the research thus deliberately employed a 'mixed-method' triangulation approach to collect a range of data that could illuminate (to a greater or lesser extent) the influence of this range of factors. The relative weight of different data items and the degree of their contribution to an understanding of the influence of different factors will be assessed in the context of the empirical discussion of the following chapters.

Analysis of the qualitative observational data provides the basis for identifying not only the key interactional ends to which officers attended during police stops, but the means (the resources) by which they seek to achieve this.

Some have argued that while a reliance on observational data provides a good understanding of *how* officers carry out their work (the 'profane reality') it less satisfactorily helps to understand *why* (Brogden at al, 1988). This means, it is argued, that the role of the wider influencing factors identified above remain 'assumptive categories: essentially unexamined" (Grimshaw and Jefferson, 1987: 8). Clearly some criticisms can

be levelled at any methodology; each shines a different, yet still partial, light on the subject under study. But I would also argue that there is a danger of underplaying the analytic possibilities of observational data analysis. Within-method comparative analysis, where differences in a particular external factor are known, can provide an insight into its influence. For example, differences in officer practice in the conduct of searches formally under PACE compared to those under more permissive legislation (section 60 Criminal Justice Act) are suggestive of the (differential) constraining effect of the law. This will be considered in more detail in the following empirical chapters.

The possibility for between-method comparison is a key strength in this mixed method approach. It allows comparisons to be drawn between the accounts presented by officers in interviews and what was observed directly. At its simplest, for example, the veracity of accounts of compliance with the stop recording requirements was checked by analysis of the quantitative observational data. But also, the working arrangements of policing actually provide more space for individualisation- community officers working on their own and patrol officers in pairs. On the street, officers' decisions to stop and search are made more or less in isolation and so with greater freedom from the normative influence of the occupational culture. Comparison of data from the observations and interviews allows exploration of this by identifying differences in what we *saw*, from what we heard *expressed*.

Further to this, the role and influence of values and attitudes in the occupational sub-culture may be detected in the degree to which they provide a common set of explanatory resources across officers' interview accounts. There is a danger, however, that reliance simply on these accounts overplays the influence of these cultural resources to the

detriment of a consideration of the impact of individual officer influences. Officers are not 'cultural dopes' and culturally-resourced accounts of their actions should not be read simplistically to action (Waddington, 1999b). The observational data provides the opportunity to identify areas of discrepancy between action and account to which situational and individual explanations might play.

Chapter 5 Officer discretion in the conduct of stops and searches

The review of the literature in Chapter 3 demonstrated the importance of discretion for an understanding of the actions of police officers on routine street patrol. The centrality of discretion means that in any given situation a range of factors are potentially at play, acting as either rule or resource for an officer's action.

In this chapter, I seek to apply this general understanding to examine and consider the specific range of factors that enable and constrain the actions of officers in the particular context of their conduct of street stops and searches. In so doing my aim is to identify a 'framework of factors' (Fielding, 2002: 159) that provides an analytic basis for an explanation and understanding of the practice of stops and searches. In this way I look to step beyond a 'notion that "everything is relevant"...[to establish] in what way what things are relevant' (ibid: 159). In developing such a framework for understanding the relevance of these factors, it is important to recognise that police practice is not 'an "either/or" but a "more or less" thing' (Fielding 1988a: 204) i.e. it is less what than how factors influence.

In so doing, the chapter:

- Examines how consent and coercion operate in delicate balance in stops and searches
- Explores for what purposes police officers make use of stops and searches
- Analyses the factors that influence the different uses to which the powers are put and the role of discretion within this

I begin the chapter by examining the utility of notions of consent and coercion for an understanding of police stops and searches, with particular attention to their relevance in the context of the recommendations of the SLI.

Consent and coercion in police stops

The broad range of encounters that take place between the police and the public has been clearly documented. Some of these encounters are initiated by the public, others by the police.

‘Duties of patrolmen are of mind boggling variety...[but more than this] no problem exists, or is imaginable, about which it could be said with finality that this certainly could not become the business of the police’ (Bittner, 1974: 30).

At one end of this broad range, a police officer on duty at a street carnival, for example, or outside a football match, may simply engage in conversation with people present at that event. Such contacts, it is argued, are an essential part of fostering and maintaining good police-community relations; to ensure that police and public contacts are not restricted only to conflictual, coercive instances of law enforcement. This forms part of the argument that any increased ‘specialisation’ of the police- focused more narrowly on law enforcement- would lead to a critical fracture in relations between the police and the communities in which they work.

The following extract from the observational narratives provides a good example of what might be termed a consensual ‘social’ stop:

8.50pm We are driving around an estate... 2 boys and 2 girls in their mid teens are walking in the road - we just miss a cat in the road.

Officer Dave: "Is that your cat?...It wasn't ginger and white - that's a relief. We almost squished it. What are you up to? ...Having a good time? ..."

[Dave notices the boy's scarf]. "So you're a Chelsea supporter - I'm going to be policing at the semi-final - are you going?"

They chat for a few seconds - it is a very social chat - not about intelligence. Dave says afterwards that they don't do that much. I ask what value it has and whether it's good for information.

Dave: "Not just stopping them to find out information. But you do sometimes find out something. He had quite open body language and so there's no reason to think he's up to anything. Sometimes people become a little rigid and avoid answering the questions. But the good thing about talking to people like that is it shows kids that we can be quite normal and decent to them and that we don't only speak to them when they've done something wrong."

E/L2

In this example, the researcher's question about the value of the stop ('I ask what value it has and whether it's good for information') anticipates a response that attends to its utility for law enforcement ends. Despite this prompt, the officer articulates the value of the encounter in terms of its benefit for broad police-community relations. Equally, he displays recognition of the importance of its consensual character for achieving this: 'it shows kids...that we don't only speak to them when they have done something wrong'. Good police-community relations rely on the police not restricting their engagement to coercive law enforcement encounters. Cooperative encounters such as that above encapsulate 'policing by consent' in practice.

Nonetheless, it is also interesting to note that the officer's description of the interaction still displays an attention to, and appraisal of, the boy as a possible 'suspect': 'He had quite open body language and so there's no reason to think he's up to anything'. Under the surface, but still present, there is thus a clear orientation to the possible requirement for coercive enforcement work. A cooperative, consensual stop is an interactional achievement but one in which there is an asymmetry of power between the two parties. The underlying coercive power available to the police officer means that freely given 'consent' on the part of the boy

cannot be assumed. This illustrates that despite the consensual character of the encounter, this status is ambiguous and fragile.

Academic study of police-public encounters has tended to focus on the opposite end of this range, to the explicit application of police coercive power: stop and search (e.g. Young, 1994b), arrests (e.g. Stevens and Willis, 1979), cautions (e.g. Campbell, 2000) and its role and function as the entry point into the wider criminal justice system (McConville et al, 1991). But there is a danger that discussions of, and concerns with, such encounters give primacy to the role of legal powers that permit and enable (are a resource for) such coercion.

Arguably, as a result, less attention has been given to the contextual, contingent and negotiated character of police-public interactions (Fielding, 1988b). A focus on these aspects highlights how the 'success' of any such contact is an interactional achievement that requires subtle and nuanced management on behalf of the police officer. It involves the officer in an attention to and sensitivity to how their actions will be received, and responded to, by the member of the public. The character of the encounter is not simply imposed by the police officer, and the member of the public is not simply a passive player. Indeed, the majority of police-public encounters are resolved without the explicit application of coercive (legal) power (Ekblom and Heal, 1982). Officers in some instances will regard the use of such coercive power as a display of their failure to manage a situation successfully (Fielding, 1988b).

It is the discretionary space afforded to police officers in this street-based work with the public that allows for, and necessitates, this contextual and contingent way of working.

There is a further point crucial for the focus of this thesis. Recommendation 61 of the SLI extends the requirement of officers to make a formal record of police-public encounters beyond those instances where coercive police power is explicitly applied to include stops of a more consensual and cooperative character, but in which the person stopped is still 'called to account'. Although no legal power is invoked in so doing, this clearly adds a more coercive tone to the encounter. The following observational extract illustrates the ambiguous character of such a 'stop', in which consent and coercion are in a fragile balance:

12.15 The shift is quiet - there are no calls. Then aren't that many people walking around. Not many cars on the road either. We drive into the city centre - down Grandby Street. There are 2 white lads standing next to a shop front. I thought they looked scruffy as we passed - Steve says that they were eye-balling us. We drive around the block - but on our return the two men are gone. We drive around the city looking for them. Steve makes a comment about them probably being inside a shop burgling it. He says that he wants to stop them because they took an interest in and find out what they were up to - 'it's obvious, it's not rocket science'. We drive around and see 2 white men walking down the same road - Mark says it's the same ones. One is tall in a dark woolly hat, the other is short- both mid-twenties. We pull up and they are asked to come over here for a few minutes - put head in car window. Steve speaks with them. 'What you been doing lads?' The tall man speaks: 'We've been out boozing.' 'What have you been up to?' 'Not much really.' 'How much did you have to drink?' 'Just enough to keep me happy.' There is a comment about the cold. 'Where did you go?' 'In town [or something].' 'Where did you go when we drove round - you weren't here a second ago' 'Just over there and then we came back - we saw you driving around earlier down Conduit Street.' [That's where we had been]. 'Where do you live?' 'In the YMCA.' Mark thinks that he knows him and asks. The man says that he does a lot of ID parades - almost a part-time job. 'Are you wanted for anything? On bail?' They say no and we drove off.. Steve asks me what I think - I say that I'm naïve and not very suspicious - they checked out okay. He agreed - but said that the fact that they were co-operative made him suspicious - thought something was up. 'Most people would say fuck off you pig - and that would be fine, but because they were so co-operative makes me wonder'. Unprompted, Steve said that he didn't have anything for a stop search. D/N1

In this example, no coercive power is explicitly applied by the officer (indeed at the end he rejects his ability to use such power,) yet the two men are still subject to close questioning about their actions and whereabouts.

The difference between a stop like this and a 'purely' consensual one had been recognised by some of the pilot forces: the term 'stop-check' was widely used across certain forces to distinguish such 'intermediate' encounters. This was not the case in London, however. Senior

officers in the Metropolitan Police Service (MPS) expressly rejected use of the term as they felt it suggested a spurious legality for such encounters (there is no legal power to 'check'). They were critical of what was seen as the semi-formalisation of the practice in 'the provinces'. MPS had sought to maintain a very clear distinction between consensual stops and coercive stops undertaken with the explicit use of a legal power.

The recommendations of the SLI, however, necessitated the development of a definition that did distinguish a category of stop with this 'intermediate' status. The MPS recognised the need to try and provide some kind of label to describe the intermediate status that such encounters possessed. So it introduced a new term, 'stop and talk', to describe these encounters which was used in the course of the pilot. Efforts were also made by senior officers to explain publicly the status of this 'new' category of stop (e.g. O'Connor, 2000).

Over the fieldwork period 138 encounters were observed that satisfied the stop definition developed for the pilot: comprising 20 searches and 118 stops. Data on each of these encounters was recorded using the structured observational schedule. Analysis of the narrative accounts of these encounters highlighted the range of activities that take place in the process of such encounters. It was thus evident that finer distinctions needed to be drawn among these stops. This involved reading the narrative account of each encounter to inform the attachment of a new descriptive code. The coding focused on the primary purpose of the encounter and aimed to make clear distinctions in terms of the recording rules that had been developed for the pilot.

This approach was taken to allow examination of how recording practices varied between:

- **'typical' stops-** prompted by police suspicion and where people are called directly to account for their behaviour or presence; and
- **stops in the 'grey area'-** where an officer's activity is focused elsewhere and calling to account is a secondary or more minor aspect of the encounter.

The analysis focused on differences in recording practice is presented in the following chapter.

Nine codes were developed as follows:

- ***Search:*** any search.
- ***Suspicion based:*** the 'typical' stop where an officer is suspicious about a person's actions and calls them directly to account e.g. person parked in a deserted car park known for drugs.
- ***Suspected drink drive:*** stop of a vehicle where driver is suspected driving under the influence of alcohol.
- ***Road traffic advice or warning:*** vehicle stop prompted by observed or suspected motoring offence e.g. failure to display tax disc.
- ***Monitoring or check-up:*** checking names, whether wanted on warrant, e.g. 'routine' stops of prostitutes.
- ***Establishing background or involvement:*** finding out what has happened, getting sides of stories, general incidents but not sure what has happened e.g. man and woman arguing in street over custody of child. The officer tries to find out who has done what.

- *Reprimand*: order maintenance intervention with informal censure or warning.
- *Peacekeeping*: very similar to reprimand but with no informal censure e.g. stopping fights, moving people on.
- *Don't know/other*: remaining encounters.

Table 5.1 presents data on the number of observed stops and searches, broken down by these codes.

Encounter type	Total
Search	20
Suspicion based stop	26
Suspected drink/drive	14
Road traffic advice or warning	24
Monitoring or check-up	11
Establishing background or involvement	13
Reprimand	16
Peace-keeping	9
Other	5
All	138

Police use of stops and searches

In this section I examine how police use their formal stop and search powers in encounters with the public; specifically, how the inherent discretion officers possess allows them to use these powers to achieve a range of varied ends.

The police possess a broad range of legal powers to search provided by an eclectic mix of legislation (see Appendix A). The operational application of the majority of these powers is covered by the 1984 Police and Criminal Evidence Act (PACE) Code of Practice A. The

ability that these powers confer on the police to stop and search people on the street is highly valued by officers and considered an inherent and essential element of police work:

'Need stop and search as part of our job.' C/L4

The value of stops and searches tends to be described in terms of their role in tackling crime.

This is, to a degree, a rhetorical stance for presentational purposes, attending to the formal mandate of the police. Nonetheless, it is based on an almost universal and strongly held belief in their effectiveness against crime¹.

'I am all for stop and search and if we lose it, it would be chaos. Crime would go through the roof.' E9

**'We are so busy we don't have time to do stop and searches anymore'.
I ask what impact this has on crime... 'Crime has gone up - people aren't stupid. If they aren't getting turned over as often then they are going to do more crime'. E/L2**

'Stop and search is an excellent tactic, very effective. Has an impact if you target it and use it the right way....if you target the right area at the right time, it is effective in preventing crime. A good example is high visibility days, 'beat sweeps'. Those days are brilliant.' B3

Indeed, some officers argued that they require further 'power':

'But we need more power – to stop anyone and search without grounds. Prevention/detection would increase.' D3

The role of stops and searches against crime is not simply conceptualised by police officers in crime detection terms. They also articulate its importance for crime prevention and its deterrent effect.

'You're seen around... a visible presence, stop and search is part and parcel.' D1

'Stop/search very valuable in resulting in arrests. Good in terms of prevention.' D13

The following fieldwork extract provides an example of a crime-focused search. The search is initiated by the officer having observed the activity of a man leaving a known drug dealer's house.

¹ This belief was expressed to the research team many times, both formally and informally, in the development of the pilots by officers at every level of the hierarchy

8.00pm [Officers have just arrested someone wanted on warrant from a second floor flat] I go back upstairs to see Steve who is waiting on the walkway. He points out a flat of a known drug dealer. As we talk a figure comes out of the flat says goodbye to someone within and then scurries along the walkway and down the stairs. There is a pause, Steve says something about having just done a deal and then he heads off down the stairs. I run after him. Outside I can see a figure in a snorkel jacket running away from the flats and Steve gives chase. He catches hold of him on a patch of grass across the road. I cannot hear his first words as I catch them up. It is a man of about 50ish. Steve says to the man he saw him coming out of the drug dealing flat and wants to search him. He asks if the man has anything on him and the man gets out two lumps of wrapped cannabis. He explains that one is for his own use and the other he has bought for a friend. He gives his name and says he lives somewhere beyond the grassy area. Steve takes him back to the car, telling him he is under arrest. We drive back to the station. The man says he takes it to help with a medical condition. A/L3

These attitudes suggest that officers attend closely to the formal mandate of the police, the emphasis placed on law enforcement work by the occupational culture and the legal basis for searches. However, we shall see that in practice these putative influences fade away, suggesting that they act primarily as rhetorical accounting devices to justify the existence of the tactic at all and its specific use in any particular instant.

The above discussion serves to illustrate the cultural value and importance attached to the powers to stop and search. But this does not mean that this status is held in equal regard by every police officer. The following interview extracts illustrate less positive orientations: a more ambivalent view of its efficacy, and a less enthusiastic attitude to undertaking searches.

'Stop and search doesn't take any magic powers-nothing clever about it.' B15

'I am not a prolific stopper.' B1

'Don't do many – try to avoid, don't like them. Don't self-initiate. Don't like putting my hands in other people's pockets.' D10

The officer in the last extract orients to the potential dangers inherent in stop and search activity. Officers in general displayed a sensitivity to their safety in encounters with the public; for example, mindful of the possible presence of uncovered drug needles, officers would ask suspected drug users whether they were in possession of any such 'sharps', prior to instigating a search.

Other research provides confirmation that such differences in attitude play out in broad variations in the levels of use of stops and searches between patrol officers, even within shift teams (Fitzgerald, 2000; Qureshi and Farrell, forthcoming)

Some stops also had a clear crime focus. Section 163 of the 1988 Road Traffic Act allows a uniformed officer to stop any vehicle; there is no requirement for suspicion of an offence.

Vehicle stops were nonetheless prompted in general by the observation of some kind of moving traffic offence.

For some officers, who displayed a clear interest in and orientation to 'traffic process', this was in itself the reason for the stop. But for others it seemed clear that this was often just the way in, a justification for the stop that allowed them a closer inspection and interrogation for the purposes of identifying, to them, more significant issues. For example, it was evident during late shifts that most, if not all, officers demonstrated an orientation to the issue of drink-driving; drivers were invariably asked when stopped whether they had drunk any alcohol.

11.50pm we are driving along a section of dual carriageway. Des spots something and he takes the car round the roundabout to follow a car. There is a mention of no tax. The car moves to the lhs then moves back. Mark makes some comment on this manoeuvre I think along the lines of 'oh yeah maybe had a drink'. The car draws up at traffic lights behind another car. It indicates left. We follow it left, it goes left again into a narrow residential street, cars parked either side. The car pulls in left to park in a tight space. There are three Asian looking men who get out of the car. We pull up alongside and get out. The driver is asked to come and stand on the pavement. Des explains what he had seen. The man is questioned about what they are doing and about the car. The man's English is not good and so the conversation is stilted. Des and mark have to repeat themselves. The man explains that he has just bought it and was taking it home. Asked about insurance, the man says he was going to get some tomorrow. He is asked if he has had a drink He says he has had just a couple of Heineken. He speaks to one of the other men in a foreign language. Mark explains the breath test procedure and gets the man to blow. It goes red. Mark explains that he is under arrest and must come with us. The man starts to speak to the others. There appears to be some confusion. Des says, you'll have to leave the car here. Des goes and parks the car down the road out of the way. B/N2

Despite the explicit emphasis given to the importance of stops and searches against crime, it was clear, both from what officers said in interviews and in what was observed during fieldwork, that stops and searches were frequently used to perform other activities, regarded by officers as key elements of 'the job'. These activities included:

- surveillance/ monitoring
- order maintenance
- 'intelligence' gathering
- maintenance of authority.

Surveillance/monitoring

Stops and searches were used by officers to perform surveillance and monitoring. This seemed to operate at two levels: first, general low-level monitoring related to specific situations that seem 'odd' or 'out of place' to officers; second, more overt, even explicit, surveillance of specific individuals known to police officers as convicted offenders or identified by current intelligence as suspected active offenders (termed prominent nominals). Many of these encounters were short and fleeting encounters (indeed over 50% of all the encounters observed lasted less than five minutes (73/136))

The use of stops for low-level monitoring allows the police to monitor what is going on 'on their patch'. The following two fieldwork extracts demonstrate such low-level stops. The purpose of the encounter is expressed in the same way in both cases, as 'just checking'.

Saw man walking down side of industrial unit behind fence – dark. Circled back into car park. Pulled up by unit. Man appeared behind shutter (20-30s, white, jeans and sweatshirt) – 'we're just checking to make sure everything's alright – what are you up to? Don't get people walking around here after dark' 'I work here – I've got the keys to the place'. 'Are you the watch/foreman?' 'No –it's a chocolate éclair factory, but I wouldn't eat them they're chuffing

awful.' Man said he now parks his car near the unit as it was stolen/broken into before on the street. Told him that we were just checking – drove off. C/L3

[Between 10 and 11 at night driving around in a housing estate] We drive into a car parking area behind some flats. Two black men are sitting in a car, parked but not in a space. Martin drives up and stops next to the car opposite the driver's side. He winds down his window. The driver does likewise. Everything alright? asks Bob. Yeah says the man in a strong caribbean accent "we're just (chilling? I can't hear)" He gives a big smile. Do you live here? asks Bob. The man says his friend does. No problem. Okay just checking says Bob. Okay says the man. Bob smiles at the man and we move off to turn around and go back past the men. The passenger is now out of the car and stooped speaking to the driver through the open passenger door. Love that accent says Ted to Bob as we drive off. A/L1

In the following two interview extracts, officers describe how this kind of use of stops and searches helps them to build up their local knowledge; getting to know who the 'criminals' are in their policing area. But they also serve to impose the officers' presence and authority; ensuring that offenders know who the officers are too. The officer's use of the phrase 'get into people's faces' to describe the purpose of the stop evokes that sense of authoritative imposition; reminiscent of a 'new centurion' policing style (Reiner, 2000a).

'Knowing which criminals are active in area. Getting to know their faces and names.' D2

An officer who conducts mostly self-generated searches... 'I like to get into people's faces so I know them and they know me.' E9

The following fieldwork extract shows a search being used as a form of overt surveillance of a known offender. The comment of the officer at the end of the encounter makes explicit the purpose of the search, 'The more and more you bother them - they might eventually get the message and decide to give up'. The aim is not to gather information about the person or their activity but to demonstrate direct and continuing police attention on that person, with the expressed desire that this continuing 'bother' will deter them from further criminal activity.

4.50pm. As we drive along a relatively main road, Dan says that he thinks he sees David Smith walking down the road. The lad is quite distinct looking - he is tall for his age, quite big built and has very blonde hair - almost platinum blonde, it looks like it might be bleached. He is wearing track bottoms and a sports top. We pull up next to him and Dan gets out: 'What have you been up to David?'. Dan is being quite short with David - more direct than impolite. 'Nothing - just going to see a mate down here'. Dan points to the front of David's jacket: 'What's that Dean? Is it oil? Have you been fiddling around with cars?' 'No - it's been on there ages' 'And what's in there - got any screwdrivers or whatever?' Dan points to the front pocket which is visibly bulging. 'No - just my mobile phone and some change' He pulls his phone up so it is visible. Dan: 'I'm going to search you for going equipped' 'What for?' Lee rather forcefully: 'Oh come on David - we know what you get up - or used to. We know what your history's like - let him search you'. Dean says that he is being harassed. Dan starts looking through Dean pocket - he then pats down his jacket and trousers. Nothing is found. ... Dan: 'I'm going to make a record of this search and you are entitled to a copy - do you want a copy now?' 'No' 'Well, if you do you can collect from the station'. We then get in the car and drive off. David carries on down the road - 4.57pm. In the car I ask what the value of the search was. Lee: 'The more and more you bother them - they might eventually get the message and decide to give up'. E/L4

Order maintenance

Stops were often initiated as a response not to obvious criminality but to instances of some kind of disorder. In such situations, officers would intervene authoritatively from the beginning with the aim of imposing order quickly on the situation. When achieved, officers would then tend to modulate their interactional style to a more consensual approach, to reflect and reinforce the calmer atmosphere. The following observational extract illustrates this:

At one point, we go to the taxi rank area which is still busy with people. One of the officers spots the beginnings of a confrontation as, amongst a crowd of people, two lads are squaring up to one another. Simon drives the van onto the curb right up to where the fight is happening, and both Mark and Simon leap out the van. Mark grabs one of the lads - a black guy, whilst Simon starts talking to the other boy (white) - there are several hangers on all getting involved. I follow Simon, and he appears to be asking the boy what has happened, and generally trying to calm the boy down. After a couple of minutes, things have calmed down a bit and other members of two parties of people involved are intervening to calm people down. Both the lads appear to be going home on separate mini-buses, and eventually, they move off. A/N4

Searches were also employed as a method of authoritatively imposing order. In the following example, the officer invokes a highly discretionary legal power to search. Section 60 of the Crime and Justice Act relates specifically to searches for weapons, but there is no necessary condition for reasonable suspicion. The officer uses this discretion to apply the power to respond to a drunk person who starts to cause some trouble.

[Drive to nightclub and park after call about a possible fight] 1.20am. Up ahead there is a man in a white shirt staggering around - and is being pulled by someone. This might be the fight on the radio. I think there might have been a description of a man in a white shirt. [The police officers] say that it doesn't look like a fight and that the man is just drunk - so they won't pull him. Then the man kicks security barrier of a shop - 'Right we'll have him for drunk and disorderly'. They pull up and we jump out - the man is being pulled up by 3 friends. They say that he's just had an argument with a girlfriend and that they don't care whether he's nicked. Neil gets him into the back of the van - they tell him he's going to be searched because he kicked the door. The friends ask whether he's being nicked - Pete says no but they're going to search him. Neil 'Empty your pockets' 'I can't' 'What's your full name?' [Neil fills in the form]. 'I want it all back.' 'You'll get it back - don't knock your head - wait here, you're going to be searched. Stand up.' [I think Pete starts to search him - but he slumps back in the chair - I am in the front and can't see very well]. 'What's your first name - get him out he's going to be sick in the van.'... Pete and Neil explain to his three friends that that were going to search him and that they had the power under section 60. D/N4

Intelligence gathering

The following observational extracts illustrate the use of stops to gather specific intelligence from 'known faces' on current crime problems, in this case with regard to drug dealers active in the area.

C/L4 8.50pm. Drive down Spencer Place. PCs take careful note of the prostitutes who are working - they say that they try to get to know new faces but that things change quickly depending on who is wanted and where. They say that they are worth stopping to find out who's dealing heroin and who's running the girls. Pat spots a prostitute who is in breach of bail. He jumps out of the van and we drive down next road and pull up. He asks whether she is on bail conditions - she says they start at 10pm. He thinks it's 9.50. She seems a bit annoyed and says she can work for another hour. She walks off down road.

C/L3 Drove around Spencer Place to see which prostitutes were about. Simon wanted to see Jill - she was good for 'touting'. That meant that she was good for information - not in [area A], but for people in [area B]. In terms of who was dealing heroin and who was running the girls. She was a user so would never say who was supplying or running her - but her sister had been destroyed by it and would give information on others. Jill wasn't there. Went passed two young looking girls - Steve didn't recognise them and wasn't sure if they were working or whether they were meeting someone. He wanted to find out who they were if they were still there in 5 minutes. Recognised one of the other girls further down road. Drove down back street - turned out lights. Pulled next to lone tired looking white girl. Really short leather skirt. Short black coat. Simon knew her by name: 'I bet you're cold' 'Doesn't matter - what's it got to do with you' Girl not bothered or interested - looking out for punters. I think he asked whether she was still living at an address. Also said 'Are you wanted for anything?' 'You're always arresting me - I haven't even done anything yet'. Laughter. We drove off and Steve says to look after herself.

Maintaining authority

Arguably, the conduct of any stop or search may serve the 'latent function of asserting police authority' (Waddington 1999: 55; see also Warburton et al, 2005). But it was evident from the observational fieldwork that searches were used by officers to respond *directly* to specific challenges to their authority during street encounters. This was also articulated explicitly by officers to members of the research team.

I ask how they decide who to search because they could search anyone. Mark: 'You just don't search anyone - there's always something to go on - it's the people who kick off a bit, are a bit mouthy'. D/N3

The importance of maintaining police authority has been identified as a core element in their occupational culture (Reiner, 2000). The following extract from an observational narrative (observed by the author) provides a case study of this process of challenge to, and reassertion of, authority.

Directed to attend at a house by a call for service, the police officer, Paul, encounters two teenage boys on the scene. They are immediately cheeky and directly challenge the officer. It is notable that Paul knows one of the boys. The power to search is used in an attempt to reassert that authority.

Another call comes in about people trying to gain entry to a house. When Paul and I arrive, two white boys (late teens at a guess) are hanging about on the pavement outside the house, one on crutches. Paul knows the one on crutches who is quite 'lippy' and loud. The other refuses to give his name to Paul- 'you don't need to know'. Mike (another officer) turns up too. Paul goes and talks to the people inside. I wait outside. The boy says something about the people in the house having a stolen motorbike. About five minutes later Paul returns and I think we are going to leave. But Paul says to the boys he is going to search them both in relation to trying to get into the house. Paul takes the crutches boy and directs the other to Mike. Paul gives reason for search- suspect trying to break into house, looking for objects to break in. He gives his name 'I'm PC Harvey'. "I don't want a form I know about this it's a London thing" says the boy. 'Well you're getting one' says Paul. Paul fills out the form. Asked to describe his ethnicity, the boy says 'what shall I be...Chinese today'.....

The boy goes over to his friend for whom Mike is also completing a form. "What are you going to be... say African". The boy says 'white' to Mike. Nothing is found on either boy. As we drive away, Paul talks about always stopping lads like that, he says *it is good to do a search rather than just do nothing*. [added emphasis] A/L3

Note that at no time is the authority of the officer respected by the two boys: the challenge begins from the start when they refuse to cooperate fully with initial enquiries about the situation. It continues through the process of search, declining a record of the search (which is their right) and giving a deliberately false answer to the question on ethnic identity.

The grounds for the search *as Paul articulates it* do fit legally: the encounter was initiated following a call about attempts to break into a house and the object of the search was for articles used in the commission of a crime, known as 'going equipped'). Nonetheless, it is questionable whether the specific context, and the behaviour of the boys, provides a reasonable basis for that suspicion. Note also that the search found nothing. The explanatory comment provided by the officer unprompted as we leave the scene articulates a belief that for boys 'like that' (cheeky, uncooperative) it is preferable practice not to leave having done 'nothing'. The decision to search can be seen to be motivated by a desire to respond to their challenge with a symbolic, yet also real, demonstration of police coercive 'power' over the boys.

As a further display of this coercive power, Paul forces the boy to take the formal record of the search ('well, you're getting one') despite the boy's explicit rejection of it. Although the record of the search serves as a formal method for legal accountability, it is appropriated by the officer as a further means to formalise and reinforce the authority of his position. This can be viewed as an (perhaps in this case rather futile and unsuccessful) example of what has been termed the 'coercion of deference' (Waddington, 1999: 154).

It was evident in interviews with officers that decisions about to complete the necessary 'paperwork' following a stop or search was often sensitive to the need (or otherwise) to impose authority over the person stopped. In the extracts below, officers describe how whether someone is 'cooperative' or 'reasonable' will have a bearing on whether or not they issue further traffic paperwork. The use of this paperwork can be seen as a way of increasing the formality and coerciveness of the stop: through the time taken to fill the form out, the need to record personal information about the person stopped, and the resultant requirement on the person stopped to take further action (for example, by attending a police station to provide evidence of the mending of vehicle damage, or to prove the possession of valid driving license and insurance).

Ten minutes later, we are on our way, and the encounter has passed off in a friendly way. I ask why they have not given her a VDRS [vehicle defect rectification form]. Phil explains that, because she has seemed to have put some thought into mending it before, and she was co-operative, he did not issue her with one. A/N2

Questioned about the use of the HO/RT1 form- the driving documents 'producer'- in traffic stops. 'I wouldn't always do driver and is down to discretion. If driver is reasonable, [there is] no reason to suspect [anything] then might not do.' D8

We shall see in the next chapter how this orientation to the use and function of paperwork had important implications for the way in which the new form required by the SLI recommendations was used by officers.

It could be argued that the use of search in response to challenge may simply be an individual reaction. Certainly, the psychological literature on a 'police personality' discussed in Chapter 3 might identify this as an illustration of authoritarian tendencies (e.g. Colman and Gorman, 1982). Nonetheless, a shared cultural understanding of the importance of maintaining the public authority of the police was evident. The extract below is of interest because a specific link between a challenge and the decision to search is made separately, and at different times, by two officers: the sergeant and officer 'Dave'. This is more suggestive of a shared implicit understanding of the importance of police authority, and the use of the power to search as a method of reasserting it.

D/N4 Call for service about a fight - we attend but it is three young black men being searched. There are about 7 officers there. Forms are being completed - one officer asks one of them their name. His friend says 'Don't tell him your name - you only have to give details if you've been nicked'. He is friendly and asks me who I am - I say I'm a researcher - he laughs because I think that I'm there to search them - he says he means no disrespect. PC Jean tells the sergeant that she recognises him from some photos in the chute (holding cell in custody). The sergeant later turns to me and says they were being searched because they were looking for trouble.

[A bit later on the same shift...] Dave, a keen probationer talks about the search of the 3 black men: 'They were staring me out so I decided to search them'.

The requirement to maintain police authority, and defend against its challenge, thus has a strong resonance within the police culture. But this does not entail a deterministic relation to police practice. Obvious displays of restraint and sensitivity by officers, in the face of clear and explicit challenge, were also present during the fieldwork, reflective of differences in individual adaptations to the police role (Fielding, 1988a). The key point to draw at this stage is that the above examples illustrate how an officer can, at his discretion, draw on the coercive power to search as a resource to meet imperatives in the occupational culture.

The above categorisations are useful analytically in allowing a distinction to be drawn in the different purposes to which stops and searches can be put. Discretion provides the decisional space for police officers to employ this variety. But this discussion should not obscure an

understanding that this is a fluid process in which what begins as a crime stop can conclude as a reassertion of authority; or a stop initiated to maintain order might escalate into a crime-focused search). Dixon et al (1989) have highlighted that stop and search should be understood as a social process rather than an event. It is a failure to draw this understanding that they argue is a large factor in the failure of legislative attempts to control or regulate the way in which these encounters are 'run' by police officers.

It is the fluid nature of stops that limits the utility of any simple classification of police work as either 'crime' or 'service'- related (Reiner, 1994). Stops will often involve both coercive and consensual elements and so the defined character of any stop will be a matter of police definitional work when attending, and also of recording practices.

Police patrol involves ongoing and constant checking or testing of low-level suspicion (Rubinstein, 1973). Decisions to stop a car or a pedestrian flow through as part of that process when a police officer sees something that registers with them as 'suspicious' and as worthy of some further attention. It is highly unlikely that a decision is made at that initial point to 'search'. Rather the police officer wishes to gather further information to confirm or disprove (but not in any legal sense of the word) these initial suspicions. The interaction with the member of the public, the way that it develops, what the officer sees, hears, will determine 'on the spot' decisions by the officer about how the encounter develops; and so whether in the end, it turns into a search.

Police intuition

The discretion (the freedom) available to officers in deciding to stop and search was evident when they described how they decided who and what to stop. Very little reference was made to law; it was clear that the legal rules did not drive decisions (see Lustgarten, 1986). A uniformed police sergeant explains:

'The problem is - most officers can't tell the difference between a stop and search – they don't know what reasonable suspicion is. You can tell them time and again but they still don't know what their grounds should be.' C/L4

More often, officers articulated the basis on which they make decisions whether to stop someone in very intuitive terms. They referred to having a 'gut feeling' or responding to the 'jangly bell' or their 'sixth sense', using their 'common sense' or 'judgement'.

'some reduction in searches... has been some done on the 'jangly bell'- something not quite right but where technically not really something.' E4

'I won't stop/search anyone now until I've got 150% grounds...previously not illegal but you've got policeman's hunch.' B5

'I can't tell you what it is and you can't teach it. It's just something you pick up. Need to look and keep your eyes open.' C/L4

'You have to use your judgement ...it's a personal call.' E/L1

Note the last quote indicating that it is a personal call; this highlights the inherent subjectiveness of decision-making taken on this basis. The emphasis placed by officers on instinctive decision-making with regard to stops, searches and also arrests has been noted previously (e.g. McConville et al, 1991).

Further evidence of this subjectivity can be seen where officers disagree about whether to stop someone or not. And it is not just context specific; officers can take different views of the same situation.

16.45 out in van with Fred and Tim. Call to St. Matthew's estate to look for 4 Asian men suspected of assaulting member of staff in Comet. Tim says that we'll never find them because the descriptions are too vague. See a group of 4 young men that matches the description as we have heard it. Tim wants to go and stop them but Fred won't let him. Says we need to wait for a better description. Get better description from the CCTV at Comet. Does not match the men that we saw. Tim still wants to stop them but Fred won't let him. D/L2

There's a sense that the police are drawing on a set of craft skills when making decisions to stop and search that they develop through experience and their experiences.

Officers found it generally easier to specify what prompted traffic stops. This may simply reflect that it is easier to identify specific things that can be drawn on as a reason. But it was also noticeable that officers tended to want to have a good reason for a car stop prior to initiating it. This marked contrastingly with foot stops that were simply initiated with a question about what the person was doing.

In the following interview extract the officer cannot articulate reasons for self-generated searches but is able to provide some specific markers:

'Some get lots of results, some get lots of self-generated. I don't know how they do it. Probably a good eye – can spot things. Seeing tax discs from a distance, spotting other defects, having a keener eye. But some people just stumble across things.' L9

Nonetheless, there were still examples of intuitive traffic stops. The following account recorded during fieldwork is used by the officer as an opportunity to promote the successful application of this intuition. Examples like this serve to justify and strengthen the value attached to the professional crafts skills within the occupational culture.

Bill gave example of a good stop – said that pulled up at traffic lights. Silver BMW with two Asian lads in late 20s – looked fine. But on green the car paused for two seconds – convinced something was up – pulled them over and found 3 bags of cannabis. C/L3

But officers also gave examples of the use of intuitive markers of suspicion that were not only inconsistent, but sometimes directly contradictory. But the inconsistency comes from the

vagueness of this cultural intuition not from discretion itself. If cultural or organisational knowledge was more specific then this may well inform a consistent approach. But it should not be assumed that consistent use of markers of suspicion is necessarily a good thing. For example, a racist culture that promoted the intuitive 'knowledge' that blacks are criminals could lead to consistent stopping of blacks.

'It's also the way they look at you. There are 2 types of people who look at the police - off duty bobbies or people up to no good. Most ordinary people are too self-conscious to look.' E/L2

I asked what a suspicious car looked like. Steve said that suspicious drivers didn't look at you. He said that most respectable people get nervous about the police. People who have something to hide will look away or scratch their nose. C/L3

Observations such as these might arguably serve as homilies of the occupational culture, as a kind of 'folk wisdom' on which cultural members can draw.

'I used to work in traffic – and there are things you notice. Someone sitting in a car keeps wiping their nose or scratching their head. That means something's up. Or if they sitting just look straight ahead when you pull up. Most people will look when a police car pulls up.' C/L4

But it is also important to consider that some of these explanations may just be justifications officers feel they have to articulate to an outsider. There is a sense that they have the 'right' (indeed, they might argue, the obligation) to check on people and do not have to have a good reason for stopping people. Officers regard it as part of 'the job' is to check and monitor and can only do that by stopping and talking to people.

This intuitive 'feel' for what and who is worth a stop was informed by a commonly held working knowledge and set of understandings. The discussion that follows examines the interactional working codes that officers attended to in the management of encounters and the interactional resources that were key to the alignment with those codes.

Managing encounters: working codes

The preceding discussion has identified that officers attend to a number of working codes during encounters; these relate to considerations of authority and personal safety. In the following, I examine officers' orientation to the level of formality in an encounter, and the importance of two key resources – experience and knowledge.

Officers expressed clear desire to minimise the level of formality of a stop. This attended in part to minimising the intrusion for the person stopped but more importantly played to priorities of the job, namely: keeping the tone of the encounter low key was often beneficial to its success. It also attended to safety concerns, minimising the risk of conflict. A more formal coercive approach could be drawn upon, if the need arose.

Close attention to the legal requirements was associated with formality and rigidity while discretion was associated with informality and flexibility. This could be seen to operate in two ways: first, an informal approach can be used by officers deliberately to circumvent legal restrictions and constrictions; secondly, allowing officers to give a bespoke, contextualised response.

The importance of the ability to manage encounters 'informally' was given particular emphasis by Community Beat Officers. These differences are the result of a range of 'factors' including differences in the conception of the community police role- greater emphasis on their relationship with members of the community they police- and their conditions of work, specifically operating on foot rather on car, with safety more of a concern. The following two interview accounts, from community officers, illustrate this:

[Discussion of a stop of some kids playing on motorbikes, there had been previous complaints] 'I was having a friendly chit-chat-didn't want to formalise it.' B15

'You do less than a GDO [General Duties Officer-routine patrol]. I deal with people on foot, no comparison... All PBOs [Permanent Beat Officers- community police] have the gift of the gab. Drivers don't have those skills. Don't want enemies on foot. Need to persuade people to be searched. Need to be comfortable' D1

There was a general orientation by officers to minimise the formality, and associated intrusion, of encounters, particularly with 'respectables'. But community officers displayed a broader orientation beyond specific interactions to how they were viewed by the community as a whole, and the nature of that relationship. The following two interview extracts illustrate this distinction. The first officer works on a community beat, the second is a general patrol officer.

'When you're a community policeman, need to build bridges with community. You want to obtain information without being intrusive.' A10

'Why would I ever want to stop and talk to someone unless I suspected them of a crime matter - and if I was going to I'd be looking to search or arrest them. There is no point in stopping people to ask them what they are doing. I don't have the power to make them stop. They don't have to tell me anything and they don't have to give their details - how can I make them want to talk to me. ...'

He does say that this might be because of the style of policing – 'community policing is very different to what we do - public order policing. You have a community - you get to know the faces. But we get our fair share of all the waste? that comes in from the estate. Everyone comes into the city centre - there are a lot of people passing through.' D/N4

Thus, those officers who have to attune to citizen acceptance see informality as necessary, it is an occupational skill and thus varies between officers.

Two further elements acted as crucial interactional resources for the successful achievement of encounters: experience and knowledge. These are discussed below.

The importance of experience and knowledge

The role and importance of experience for guiding decisions to stop and search, was highlighted by officers in both formal interviews and in discussions during fieldwork. Experience was seen to help build the confidence and (even more strongly) the 'guts' necessary, particularly so for searches.

'Generally experienced officers better at stop search. Some people shy away from it. Need confidence/communication skills and guts to do it. Will make this go more smoothly and lead to higher arrests. More likely to search people if have confidence to do so and this leads to arrests.' D5

'I'd be more likely to search than a probationer straight from Hendon - they're too nervous.' [Why?]. 'Because it's drummed into them at [training school]. They are scared of making a wrongful arrest and they want to have water-tight grounds. It's about confidence.' E/L1

Such views suggest that stopping and searching, or perhaps interactions with the public more broadly, can be an intimidating experience for inexperienced officers still developing their range of occupational competencies (Fielding, 1984). It is perhaps easy to presume that the authority a police officer displays is inherent to the uniform, but this highlights that it is also in part a situationally contingent interactional achievement, reliant on skills that must be developed.

Officers also associated greater experience with recognition of the benefits of a more 'informal' approach to the conduct of stops and searches.

'Officers with more experience will not go through this formal process.' B15

The following brief account is used by the officer to illustrate the link between inexperience and a more formal and officious interactional style, and to demonstrate the gains derived when a more informal approach is applied.

'Stop of 3 youths, known as car thieves: they were a bit wary of my colleague-a probationer-was a bit by the book. I was very chatty with them and they were fine.' E1

Officers also made a strong link between experience and the development of a (working) knowledge they identified as an important resource in decisions to stop and search:

Asked him how to spot a dodgy car – said he wasn't very good at it. He said you can tell if something is full of shit. Traffic police are better at seeing things – they can spot more things, it's down to experience. C/L3

Some of that knowledge, as expressed by officers, seemed more grounded in an empirically based, and individually experienced, knowledge of the area that they police and the crime problems that exist- that is they made specific and concrete references (although we must recognize that there will be a structural influence to that) to the problems 'on their patch'. This knowledge was directly linked to time spent in an area.

Goes looking in high crime areas for possible searches... 'I know what the high crime areas are if I see someone.' E9

'Aim to vehicle crime at the moment and stop search focus tends to follow aims. This is identified through intelligence.' D4

'To be honest, my beat is quite quiet; I'm lucky it's got quite a low crime rate...only got one problem estate, so to call it.' E5

One would expect that this more empirically based knowledge- drawn from the experience of policing an area- would be shared across officers to a broad degree, and this was certainly true. However, it was also clear that officers' policing experience could still differ within an area. This was largely due to differences in role between community beat officers and response drivers. Response drivers covered a broader area, were driven primarily by calls for service whereas community beat officers were responsible for a specific area which they got to know much better.

I ask whether they can tell which cars are stolen when they are driving about - and which ones they would stop. "Posh cars don't really get stolen - apart from some of the high powered cars that they use for ram raids... You used to be able to tell if a car was stolen because the driver was wearing gloves - because people don't wear gloves anymore to drive - they stand out - so you'd stop them. That doesn't happen very often - people have cottoned on. People now drive

like this [with clenched fists] - so it's harder for us to see. It's mainly old car - and dodgy ones which are stolen. Mainly Metros – they're easy to get into and they are small so the young kids can see over the bonnet. We always get Metros stolen - and we have had 2 spats of Astras being stolen. When they get older they learn how to break into other cars - they might learn when they are in prison, they might know someone who's a mechanic, or one of their mates stands on a street corner and learns by trial and error. So any old car with young people in it at night - a definite stop." E/L2

However, it was also evident from widely and commonly expressed views that there was also a set of knowledge that seemed less directly grounded in concrete experience, despite some officers' assertions to the contrary. This seemed to draw on what might be seen as generalizations and to a greater or lesser degree in some cases stereotypes.

'If you can't stereotype to an extent, you can't do your job – you tend to stereotype a little bit about people.' C4

Peter says that there has been a large increase in public disorder and violence in the city centre and that it's why they have put the section 60 authority on. He says that they don't get any direction on who to stop. Peter says that there are a lot of extra officers on to cover Operation Sandstorm - he says that crime tends to go down when there is high visibility policing (he didn't mention the power of search specifically). I ask how they decide who to search given that they can't search everybody. Peter 'That's when your stereotypes come into play. People say that we don't use stereotypes, but we do. And they're built up through experience. We look for the people who are likely to be carrying knives and offensive weapons.' D/L3

This illustrates a tension between police practice and experience and the legal requirements of individualised suspicion under PACE (Lustgarten, 2002). Young (1994b) argues convincingly that police officers inevitably have to operate with some generalised sense of suspicion, but that this will fall unevenly. As he highlights, the notion that the police should operate with a default level of suspicion applied equally ('democratic suspicion') across the population is unworkable. The same behaviour exhibited by different people inevitably prompts different levels of suspicion; Young compares a young man nervously carrying a bag at night with an old lady in a similar situation. The former is understandably more likely to be considered a potential offender, the latter a victim. Police experience will show this to be true; despite the fact that in the majority of cases this suspicion will be unfounded. Such

stereotypical justifications also serve an important psychological function, allowing officers to filter the complex social stimuli that constitutes their daily patrol experience.

Stereotyping the 'criminal class'

13.30 drive around city centre for a bit. Aim to stop two cyclists. Ian explains that a lot of car crime is carried out by young men on bikes in the city centre. Turn round to follow them but lose them. D/L3

23.45 almost stop blue Metro because Ian and Chris don't like Metros or blue cars more generally 'all the rubbish round here drive metros' says Chris in way of explanation. Also because driver had baseball cap, 'not being stereotypical' jokes Ian. See woman in back seat and decide not to stop it. D/L4

'Experience teaches you these things. - vehicle crime is a problem in this area and nearly always committed by men 15-25 [years old].' D5

'Know local areas and stop to speak to local 'hoods' when have crap car and lots of people in the car – driving aimlessly and not going anywhere – would pull them and have a word.' D4

Changes in editions of PACE Code of Practice A have continued to seek nuanced ways of balancing this, by maintaining a focus on individualised suspicion while legitimating the use of some more generalised markers of suspicion. A particular example is associated with a desire to allow officers to respond to the problems of violence by criminal 'gangs'. Particular items that were known markers of gang identity could, the Code permitted, provide the basis for reasonable grounds for a search.

'Other means of identification might include jewellery insignias, tattoos or other features which are known to identify members of the particular gang or group' (2000, note 9).

Young (1994b) also articulates the potential danger of such stereotypical generalisations, where they are drawn from a set of experiences that in themselves represent a warp of reality. He illustrates with regard to police stereotypes of black men as offenders. Given the police role, most of their experience and contact with black men will be in the context of crime and criminality. The danger is that this can lead to a belief that all black men are associated with

crime with the associated deployment of a generalised suspicion of this group. The data extracts that follow illustrate the presence of such stereotypes of ethnic minorities which make explicit links to such groups involvement in crime.

Criminal stereotyping: links with ethnicity

Steve says that they have a couple of red light areas, he says that arresting and fining prostitutes is just a vicious circle. He says that when it is quiet he likes to harass the punters by following them around in the car so that they get worried. He says that a lot of them are Asian men with families. D/N1

00.30 We go to a garage where we buy some coffee and sit in the car for about half an hour whilst we drink it, and they smoke cigarettes. During this time, Phil and Annie start to tell me about local Gypsies, who are responsible for all the armed robberies in the area. They say that they are very much involved in crime locally, and that there is a Gypsy site nearby which has been laid on by the local authority A/N2

12.20 call for service - a domestic incident on the St Matthew's. We get to the address – the officers recognise it as being owned by 'Irish gypos - who are drunk and always at it'. An Irish woman answers the door - she is drunk and she is quite agitated. She says that she has had enough and wants her husband out. He smashed a bottle on the floor and had pushed her. D/N4

But also more 'positive' stereotypes are at play...

We see a BMW going fast with a young Asian driver - we follow it for a bit. They comment that the person wouldn't be drinking because they are Asian, but that it was driving at excess speed. D/N1

Officers were asked directly in interviews whether they thought that there were differences in offending behaviour between ethnic groups.

'Young blacks do more violent robberies in my experience- seems to be in-built thing they understand violence will get things...white kids more yobbism, harassment and threats...that's a massive generalisation...Asians seem to be very adept at deception-inflate claims after robbery. Get an awful lot of asian deceptions here.' **Uniformed Inspector, E2**

'Without a doubt- afro-caribbean youth commit street robbery...up town most Nigerians commit fraud- it's a corrupt country. Lots of indecency from Kosovans- they think they're the dog's bollocks when it comes to looks. Somalians come from the most violent country in the world. Shouldn't be surprised when violent when over here.' **Uniformed Inspector, B1**

These views were not held by all officers. Many did not think that there were any ethnic differences in offending.

Following Waddington (1999a), however, care should be taken not to simply causally link prejudiced attitudes to prejudiced behaviour. Decisions to search are not made on a simply racist basis (a desire to hassle and intimidate an ethnic group) but rather because particular criminal characteristics are ascribed to a whole ethnic group which then heightens the likelihood that anyone of that ethnicity is stopped (Young, 1994b).

In the following extract from fieldwork narratives, an officer explicitly describes how stereotypes of criminals are drawn from the experience of policing an area.

I ask how they [PCs Kate and Alf] decide on which people to stop because they can't search everybody. Alf says: ' Things that don't look right. You look for stereotypes - not stereotypes in a racist way - types of people'. I ask what types of people. He says 'You build the stereotypes up through experience - the people you see are involved in crime. In this area it's people in sports gear; most people we're involved with wear baseball caps around here.' Kate: 'We get cars with blacked out windows. You might see a car with 4 up in a car - 4 Asian lads in baseball caps. If you stop them you are likely to find a spliff'. I ask whether an arrest like that for cannabis is good. She says that it is if it is for a nominal. D/N2

This provides an illustration of the interpretive chain that can take specific experiences and lead to vague generalisations: criminals wear sports gear, including baseball caps; Asian lads wear sports gear; so Asians in sports gear are likely criminals. It operates as a poor justification for a link between asian youth and drug use.

But other officers displayed a more nuanced view; they related the ethnic mix of their target criminal population to the ethnic composition of their area. So if they are policing a predominantly ethnic minority area then the criminals that they will be targeting will tend to be from an ethnic minority. This view does not ascribe particular criminal characteristics to particular ethnic groups.

We drive around the area - Steve says that he will show me the limits of the area. Steve says that the area is deprived - high unemployment. It is ethnically mixed - about 60% ethnic minorities: "the whites are the ethnic minority here". The area is mainly Muslim, but that there were a few Hindus and Sikhs. He said that there was also a high proportion of blacks in the area. We started speaking about the local problems - he said that there was a lot of burglary, but not much car crime. He said that street robbery was quite high. He said that it get worse in the summer because people are out till 3 in the morning on the streets drinking. Drugs were also common - lots of class A, he mentioned crack as a particular problem. D/N1

It is perhaps that the working arrangements of policing actually provide more space for individualization- CBOs working on their own and patrol officers in pairs. Out on the street officers' decisions to stop and search are made more or less in isolation and so with greater freedom from the normative influence of the working culture. This would help explain the differences we *observed* from those we heard *expressed*.

The previous discussion has illustrated how officer discretion provides for the influence of broad cultural norms and values, but has also highlighted the importance of interactional working codes for the way officers manage encounters with the public. The knowledge and experience that officers build up in policing an area act as key resources in the application of these codes.

Following the insights from Chapter 3, it would be wrong to focus simply on these for an understanding of police decisions to stop and search. In the following section I examine the influence of broader factors acting as either resource and constraint to police action, and how they inter-relate and mediate.

The impact of organisational factors

'Operational' influences

The structuring of operational work also has a constraining influence on police discretion. FitzGerald (1999) makes a distinction between high and low discretion searches- searches undertaken proactively by individual officers (at their own volition) can be seen to be high discretion, whereas 'reactive' searches more closely driven by external prompts are of low discretion. These prompts include:

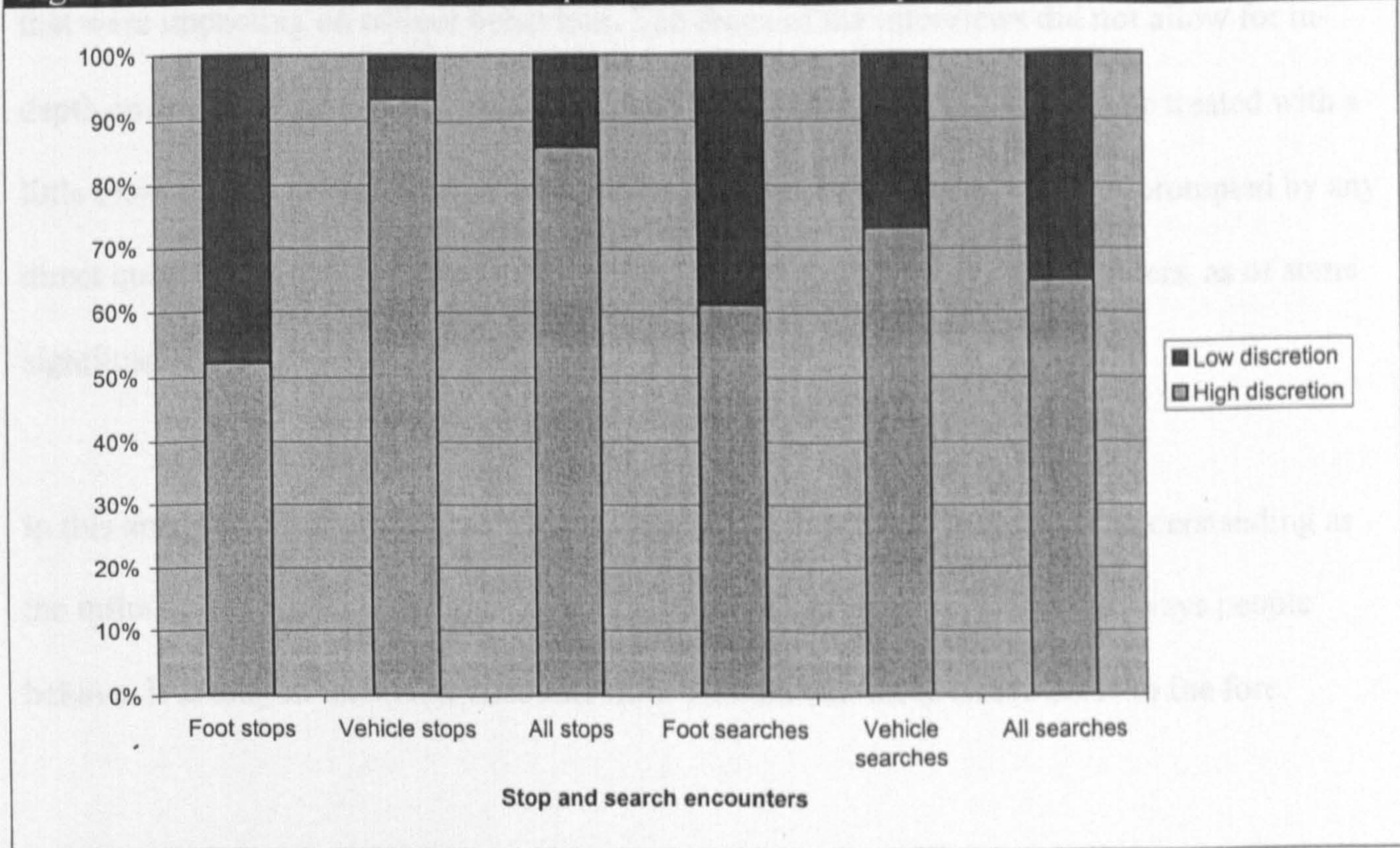
- being called to a specific incident;
- specific information received from a non-police source;
- information about an earlier incident providing suspect description(s); and
- activity in relation to specific targeted operations.

This demonstrates that there is a structuring function on discretion resulting from the very nature of the way police reactive patrol work is undertaken and organised. Fitzgerald's analysis applied to searches, and the same logic can be applied to stops in general. However, it is important to note that discretion will also influence stops and searches which are seemingly based on low discretion. For example, during calls for service, officers still interpret information and make judgements about who to stop or search.

Figure 5.1, below, presents data on stops and searches from one of the pilot sites. Overall, discretion plays a larger role in stops compared to searches; 86% of all stops were based on high discretion as opposed to 65% of all searches. It is also clear that discretion is a larger

feature of vehicle stops (93%) and, to a lesser extent, vehicle searches (73%) compared to stops and searches of people on foot (52% and 61% respectively).

Figure 5.1: Discretion in recorded stops and searches in one pilot site



Note: Low discretion refers to encounters based on incident logs, calls for service or planned policing events. [Source: data from a single pilot site]

Personal judgements of officers about whether to carry out a stop or search take on most significance in high discretion situations. Certainly, in these encounters we might expect stops and searches to follow more selectively from the kind of evidence which might render someone suspicious. Furthermore, where levels of discretion are highest, we might expect that generalisations and negative stereotypes about likely offenders play a role. While in many cases, generalisations may be based on good quality intelligence and information about likely offenders, it does not follow that this will be the case and negative stereotypes may result.

Organisational influences

There were hints from some interviews that there were other broader organisational elements that were impacting on officer behaviour. The focus of the interviews did not allow for in-depth coverage of the wider organisational climate so findings here need to be treated with a little more tentativeness. But the issues that were raised by officers were not prompted by any direct questions. This suggests that they were regarded, at least by some officers, as of some significance.

In this area, the observational narratives can offer little to complement our understanding as the influence of broader organisational factors tends not to be explicit in the ways people behave. It is only in interview accounts from officers that these issues came to the fore.

In the past, stop and searches have been used as a formal performance indicator for the appraisal of officers' performance (Dixon, 1997). Although this no longer formally existed in any of the forces or areas included in the research, fieldwork in two police areas suggested there was still a performance culture that attached value and importance to the number of stops and searches officers did.

In one area, this culture seemed simply to operate informally at the 'canteen' level, and served simply as a vehicle for competitive banter between officers on a shift.

We go to get some food at the all night garage. 3.45am meal break. There is some bragging about who got arrests and how many P1s [stops] had been done. Steve boasted that he did 12. The bragging was like yesterday - people who didn't do any said they were busy doing other stuff (arrests, ferrying prisoners). D/N4

But in another area, an officer linked the demonstration of 'activity' in the numbers of stops and searches with access to further career opportunities.

Chat to Sarah during a break. She says that culture is very different here in Area A to Area B. There [Area B] crime is all over – not in particular areas. Also complete performance culture – officers compared in terms of numbers after shift de-brief for arrests, searches, stop-checks. Get jobs as a result of performance. Area A is quality not quantity. People used to do 30 searches per night – couldn't have had grounds. C/L3

This created tension and difficulties for some officers and was recognised as creating a pressure for numbers that militated against pursuit of a strictly legally driven approach to searches. In the extract above, a direct comparison is made between the quality and quantity of searches. In other research as part of the Home Office programme we demonstrated that higher levels of search were associated with lower levels of arrest (Miller, Bland and Quinton, 2000).

It was clear that officers felt under increased scrutiny both internally, by senior management, and externally, with regard to complaints from the public. The use of integrity testing by senior managers was mentioned particularly as a 'threat' to officers. In the following account, the officer makes a clear link between this and self-imposed constraints on the use of discretion.

On route I ask about the policing of cannabis. J "I always arrest them." R: "Even if it's a small amount you never know whether they have a few bags down their front - then they could be a dealer". J: "Also you never know whether they are doing an integrity test. It might be a really small amount or they might say they are a copper - but I'm not going to lose my job and pension over a bit of grass - I'll arrest them, it's not worth disposing of it. There was one bobby who found some on a prisoner in custody and he put it in the bin. The prisoner made a complaint, CIB came in a seized the bin and he hasn't been around much since - he must have left the job'. E/L1

Perceived external threats manifested themselves in accounts of the risk of public complaint about officers' actions. Again, senior management were regarded negatively, as failing to provide the necessary 'protection'.

'Living in a complaint happy environment'. More claims for unlawful arrest, assault. 'Police don't feel protected'. B17

Together, these issues operated in accounts to provide a picture of officers as 'embattled', under attack from both senior officers and the public. Although it may be argued that this reflects a long-standing attitude to the job among officers (Manning, 1997; Reiner, 2000a), there were clear links to the general climate of policing following the SLI. These are explored in the following section.

The influence of socio-political climate

Throughout the period of the research, there were clear differences in the socio-political climate of policing between areas. The single biggest cause of this difference was the publication of the SLI report and its subsequent aftermath. Many of its findings naturally related to the performance of the Metropolitan Police, specifically with regard to its investigation of the murder of Stephen Lawrence, and so it came under particularly intense scrutiny in the media in the year or so following its publication.

Stop and search was frequently the focus of this scrutiny. To some degree, this is not unexpected. The MPS has consistently over time been the force making by far the highest use of searches. Home Office Figures show 228,000 searches recorded in 2003/4, 32% of the total for forces in England and Wales. MPS is also one of seven forces with the highest rate of searches in proportion to the population- over 1501 searches per 100,000 population (compare this with West Midlands Police with a rate in the band 601-1000 searches per 100,000 population) (Murray and Fiti, 2004). Unsurprisingly then, although many police forces had started to look again at the practice of stop and search around the time of the

Stephen Lawrence Inquiry, the largest programme of work, significantly resourced, was undertaken within the MPS (see Fitzgerald, 1999).

Notwithstanding the above, the identification of the MPS with these issues is still interesting given that the findings of the Inquiry with regard to stop and search drew on views gathered at public meetings in a number of major cities in England, and its subsequent recommendations were directed at the police service as a whole. Nonetheless, the issue of disproportionate stopping of black people (identified annually in Home Office national statistics) and the SLI reforms were very clearly identified as a 'London thing' both by officers and the public.

Police morale was identified as suffering the biggest change of this climate (Fitzgerald, 1999) and associated with a clear, though temporary, fall in the number of searches conducted in the force (Miller, Bland and Quinton, 2000). Low morale was mentioned by a number of officers in different pilot areas, frequently linked to the climate post- SLI. However, it was most noticeable, raised more often and with greater force, in the two London boroughs. Here, there were indications of a greater degree of disenchantment and cynicism (see also Fitzgerald, 1999).

Simon and Pete discuss the low morale in police service since the Macpherson report, the reduction in stop and search, how they are no longer proud to be a police and would leave if they could. D/L1

Stuart gave me a 20 minute rant as to what was wrong with policing, the Met and stop and search in particular. He blamed the tenure policy, the paperwork, the incompetence of the management and the inability of the organisation to work together for a common goal. B/L2

Arguably, these extracts illustrate consistently held attitudes to the job common among police officers. Manning (1997) argues that such attitudes are better understood as displays of a cynical outlook inherent to the occupational culture.

Nonetheless, many officers made explicit links between the socio-political climate of policing after the SLI and reduced police morale. They also made direct reference to what they saw as different experiences on the street in the post SLI climate. This had clearly led to what might be termed a more 'racialised' sensitivity among officers to the conduct of searches with different ethnic groups.

'I haven't stopped an ethnic minority since the pilot has started... won't do stop-search on ethnic minority with 9 and 10 on ladder – virtually have to know they will have things.' B18

'Black stops... more grief on the street.' B13

'Few home beat officers have given up the ghost ... unless they're forced, no one chases power.... the easy way is not to exercise their powers.' B13

The officer noted bad press post-Lawrence and the impact that has had on how public react to being stopped: 'The charge of "Only stopped me because I'm black" [from black people] has given way to "Only stopped me 'cos I'm white because don't stop black people" [from white people].'" B21

An example of the experience reported in this last interview extract was observed by the author in a conduct of a search of a white man involved in a fight with a black man (outside London).

Stu says he is going to search him because of the claim about a knife. The man is compliant. Nothing is found. Stu mentions that he will make a record later. "Do you want to press charges? Are you sure?" asks Stu" You can come down the station tomorrow morning." says Don. Man makes a suggestion that he is being searched simply because the man who accused him of having a knife is black. "Is this the way it is now?" he asks. "Come on I've treated you alright haven't I?" says Stu. The man nods. "I'd do the same to anyone" says Stu. We give the man a lift until he sees his friends and we let him out. A/L3

These data extracts suggest how the wider socio-political climate can have an impact (transmit itself) within the police organisation itself (in this case in the form of officer morale) but also, and perhaps more importantly, on the experiences of officers on the street. These experiences can have an influence on whether and how officers conduct stops and searches.

Parallels can be drawn from this to the current 'climate of fear' about the threat of terrorism after the recent bomb attacks in London on 7 July 2005. This climate has led to a huge increase since then in the number of searches conducted under the highly discretionary powers of the 2000 Terrorism Act and, relatedly, increases in searches of people of Asian background (BBC, 2005a, 2005b).

The influence of law

It is clear from the discussion earlier in this chapter, on how the police use stops and searches, that legal rules, and the law enforcement mandate, are available as a resource for officers in making decisions to stop and to search. But, it may be drawn from this that law has very little part to play in constraining or structuring the discretionary practice of officers. In the following, I look specifically this issue through an analysis of the operation of a more permissive legal power to search. This allows an exploration of how law can and does 'bite' into discretion.

Section 60 (s.60) of the 1994 Criminal Justice and Public Order Act provides the authority for a senior officer to designate a geographical area and limited time period (24 hours in first instance) in which police officers have the power to search for knives and other weapons. The test of 'reasonable suspicion' (necessary for searches under PACE) is not required for this power to be exercised.

The following data extracts demonstrate the impact of this greater discretionary freedom on officers' attitudes to and use of such searches. The way officers react to the freedom offered

under s.60 contrasts with that under PACE and suggests the requirements of PACE do actually play a (less obvious, more hidden) part in constraining whether and how officers conduct stops and searches. The officers' attitudes suggest that where there is little broader legal framing or constraining then negative aspects of discretion appear to come to the fore, such as arbitrariness, and subjectivity.

'Also have s.60 – a brilliant one – can stop whoever if you think they have a knife, particularly effective.' D9

He referred to operation Sandstorm which was a s.60 authority operation which they held last week in the city centre. He said that they searched everyone and that the cells were full purely through stops. They found loads of drugs and some 'really nasty knives'. D/N1

The following examples indicate that although s.60 searches are similarly discussed in crime terms and with an orientation to its crime effectiveness, this is drawn in a broader way to PACE searches and serves to make any justification for its effectiveness possible.

After Mark confirms that the s.60 lasts from 5pm to 5am, I ask whether the s.60 will have an impact on crime. Mark 'Hopefully it will - not so much with the people we search but word of mouth gets around that we're coming down on knives and weapons. On the forms that can see what our powers are and they will show their friend - and word eventually gets out and that might have the effect of putting them off. It might also put off people carrying drugs.' D/N3

10pm Attend briefing; there are quite a lot of officers: 1 shift inspector, 2 sergeants, maybe 12 officers. They run through a quick briefing - the inspector mentioned sandstorm but didn't think it necessary to go through details again - he did say that out of the 50 (?) s.60 searches they had 1 positive result (a lock knife). They also found one other weapon as a result of another search. This was seen to be a success. D/N4

This following account encapsulates much of what might be of concern about the broader discretion permitted by s.60. Despite the formal focus of the power on possession of dangerous weapons, the officer's description of its use makes no mention of crime generally or knives/weapons more specifically. The rationale for search is articulated in order maintenance or authority maintenance terms; with the rather vague use of 'kind of your stereotypical people really- people causing trouble'.

I ask how they decide to search someone (I asked in ref to s60 as they could search anyone they liked - although probably relevant to all searches).

Pete: 'You don't search everyday people - you don't want to cause them any bother. So what are my personal criteria? Three things - it's body language, their behaviour and what they say. You don't want to wind people up - so you're going to search people out for a spot of bother - people who are shouting out "fucking wanker".'

Neil: 'It's kind of your stereotypical people really - people causing trouble. It doesn't matter whether they are white, black, Asian, pink, blue, whatever. At the end of the day we're policing by consent and so you don't pick on people. You don't want to wind people up.' D/N4

The following fieldwork extract suggests that more senior officers recognise the permissiveness of the section 60 authorisation, and know how officers react to that. At a briefing prior to the beginning of a shift, the Inspector explains the operation and the section 60 but also highlights to officers the need to exercise some 'common sense'.

Sit in on parade. Inspector explains about Operation Sandstorm, which is a section 60 operation running in the town that weekend. Most of the officers had worked one before so he doesn't go into too much detail. He explains that section 60 gives them the power to stop anyone on the basis that they might be carrying offensive weapons, without the normal grounds for suspicion [applicable under PACE]. But he warns that the officers should use some common sense. D/L3

The following fieldwork extract illustrates the conduct of a s.60 search. The inherent discretion in the power allows the officer to apply it simply as a response to a drunken challenge from a teenage boy. The officer makes no attempt to link the boy's behaviour to any kind of suspicion that might legitimately prompt a search for weapons, and under the s.60 power has no need to. This is a clear example of the use of a (highly discretionary) search to maintain police authority in the face of challenge (arguably in this case, no more than some minor drunken cheekiness).

2am We drive around [the nightclubs]. There are lots of drunk people around, people dressed up for clubbing, quite a lot of police on foot. One officer approaches the van and she passes details of a car that is worth a pull. As we drive around a group of five people stand in front of the van - three girls and two lads - late teens. One lad shouts out 'I'm going to bust you' to the van. Steve jumps out and says 'Right your nicked - in the van'. 'What? Are you arresting me? What for?' Darren: 'We could arrest you for s5 public order with what you shouted but we're not - you were just being really stupid. We can't have people ruining our night - we're here to make sure everyone is here having a few drinks and a good time - we're just doing our job - we don't want people causing trouble'. One of the other lads keeps trying to come in for his taxi money 'We're not arresting him - he'll be out in a minute'. 'Look I'm really sorry officer - I was really out of order - I'm sorry - I don't want to ruin anyone's night'. 'Well I'm going to have to search you for offensive weapons under s60 of the CJ and PO Act. What this means is that under section 60 my Superintendent has given me the authority to search anyone on Friday and Saturday for knives - alright? [Darren also introduced himself] So can you empty out your pockets for me. Can you stand up, my colleague is just going to use a metal detectors to check you don't have any knives

or anything.' 'Fair enough - I'm really sorry. I know it was stupid - it's ruined my night.' Nothing is found. Darren says 'Can I take your details?' He fills in the form ... Darren hands him the form and the lad gets out of the van. D/N3

It is notable that arrest rates from searches under s.60 are significantly lower than those for searches under PACE (Miller, Bland and Quinton, 2000).

Conclusions

It has been clear from the discussion to this point in the thesis that stop and search has long been a source of controversy with regard to relations between the police and ethnic minority communities. Debate has centred primarily on the contribution of stops and searches to the experience of ethnic minorities as 'over-policed', evident in a statistical picture that demonstrates that ethnic minorities - particular those of Afro-Caribbean origin- are stopped in numbers that are vastly disproportionate to their numbers in the general population. But this has led, I would contend, to a quantitative focus on the issue, both in public and policy debate. Less attention has been given to the qualitative experiences of police treatment in individual encounters, despite evidence of its importance from research. Although its importance was identified by the SLI, its proposed reforms still took a quantitative turn – focused on extending the statistical picture to encompass a broader range of stops.

The focus of the analysis in this chapter has therefore deliberately aimed at contributing to a better understanding of what the police do in stops and searches. This provides the necessary explanatory context to an examination, in the following chapter, of the impact of the SLI reforms on police practice.

In this chapter, I have thus taken an overview of police practice in the use of stops and searches. Following the review of the literature in Chapter 3, I have examined how a framework of factors is relevant to understanding the actions of officers. The analysis has demonstrated how individual, cultural, legal, organisational and socio-political factors can all play a role in influencing police practice as either rule or resource. But the influence of each factor is not uniform, rather it will vary according to the particular situation. The centrality of the discretion available to officers is central to this. Such an understanding thus points to the importance of an analysis that is sensitive to the interactional specifics of any encounter between the police and the public.

In taking this approach, I was able to demonstrate that the discretion available to officers meant that stops and searches were used to achieve a variety of different purposes. But the utility of their use was still expressed by officers in crime terms. This served as an expression of their law enforcement mandate but also as a necessary legal justification.

Finally, it is useful to highlight particular issues raised in this chapter that will play specifically in the analysis that follows on the impact of the SLI reforms:

- officers' sensitivity to the importance of discretion, allowing them to modulate within encounters between informal, consensual approaches and more formal, coercive methods;
- officers' tactical use of paperwork as a method of imposing formality and coercion on an encounter, for example as a response to challenge;
- officers' concern with complaints and perceived lack of support from management; and
- a generally negative attitude towards the SLI.

Chapter 6 The impact of the SLI reforms on police practice

In this chapter I look at how the SLI reforms played out over the period of the pilot, exploring how the extension of the recording requirement for stops and searches impacts on police practice. I begin by examining officers' attitudes to the recording requirement and, despite the presence of a clear rejectionist stance, also identify a number of more appreciative functional orientations to its use. Quantitative analysis of stops and searches recorded using the structured observational schedule provide a picture of the level of recording, and identify differences in recording across different types of police-public encounter.

The SLI recommendations were squarely, and explicitly, aimed at developing an enhanced statistical picture that covered the full range of police-public encounters regarded by the inquiry as problematic for relations between the police and ethnic minorities. But the inquiry's recommendation that recording should occur at the time a stop or search occurs clearly attends to the potential for 'on-the-spot' accountability. I thus draw on the observational narratives to examine empirical examples of the use of the form during street-based encounters and analyse its impact on the interactional dynamics of these encounters. This provides an insight into the possibilities and pitfalls of 'delivering' accountability on the street.

But the recording extension also has potential implications at an organisational level. I explore how supervisors have used the form as a mechanism for greater scrutiny of officers' operational work, and the factors that influence that use.

In so doing the chapter covers:

- Police attitudes to the new form
- Level of recording of stops during the pilot, and explanations of it
- The impact of use of the form on interactions with the public
- Supervisory influences on use of the form

Police attitudes to the reforms

Police officers' enduring antipathy towards paperwork has been documented over a range of studies (Manning, 1997; Chatterton, Fielding, 1988; McConville et al, 1991). The filling of forms has been derided as the antithesis of the action-oriented, crime-focused, street-based (and mythologised) 'real police work', and perceived as feminised work (Hunt 1984 in Foster, 2003). But such studies have also highlighted that police views are inconsistent and contrary because actually the production of 'good' paperwork is a core police skill to provide demonstration of the sanctified 'crime busting' role and to achieve successful charge and prosecution (McConville et al, 1991)

So it might be anticipated that the requirement of recommendation 61 to extend the range of police-public encounters liable to formal recording might face a similarly negative

response. Indeed, given that most of these encounters do not have a crime focus and that the recording requirement aims towards accountability rather than crime-fighting, greater antipathy might be expected. But, perhaps surprisingly, this was not the case.

Nevertheless, orientations to an explicitly rejectionist stance could be detected. The anticipated aversion to the form simply as an addition to the bureaucracy was certainly expressed- 'any extra form is a pain'- but was not given particular emphasis in justifying or explaining rejection. Rather, the requirement was denigrated as 'unnecessary' and a 'waste of time', because officers 'should be able to stop anyone without justifying it'. This interpretation of the recording requirement as simply an intrusion for the police to justify was central to this rejectionist perspective, 'another stick in our spokes, just to justify our existence'. Part of this perspective was certainly fuelled by a view that the operation of the police and the practices of its officers should not have to be explained or justified to outsiders. The need for such a justification was taken as an attack on officers' professionalism and integrity. This sense of 'attack' was perhaps part of a broader reaction to the findings of the SLI, focused most strongly on its charge of institutional racism within the police. This was (mis) understood by many police officers as a charge of individual racism.

Research since that conducted by the author has identified the development of a distinctly critical police stance to the SLI as a response to this sense of an attack on police integrity (Foster, Newburn and Souhami, 2005).

Alongside this rejectionist stance, however, three more positive or sympathetic orientations could be identified. They commonly identified a functional purpose and relevance to the recording requirement, but directed at different benefits.

- Justifying police action and demonstrating police rectitude and fairness
- Enhancing and expanding police information and intelligence
- Safeguarding officers against (malicious) trouble

Many officers were extremely positive about the benefits of giving more information to the public. For some, there seemed to be an 'in principle' improvement.

'I think whatever information we can give to general public for reasons what we do is good.'
A3

'To fill in search at the time is a good idea for someone to know why they've been stopped.'
A2

'Good for the public to know why they have been stopped.' D12

In relation to searches, officers felt that the information on powers would allow the person to see that they had been searched legitimately, with legal grounds. There was an appreciation of the need to have a record to take away or look away from the actual encounter.

'People know the reason, must be good thing... probably didn't appreciate the reason as things happened so quickly. Now they have paper with powers.' C9

'It's written on the form that you have grounds, that's positive- [they] can check that within powers, more accountable, encouraging people to check they have been dealt with properly.' A7

'More details recorded the better for all concerned. I'm a great believer in telling people everything, prevents complication. I take lots of notes.' B14

More generally, the making of a written record was "more professional" and would lead to "higher standards" of search. Some officers felt that explaining reasons for stops was a way of demonstrating that the specific stop (and the police more generally) was fair.

'Giving information is good, word will spread that we're acting fairly.' D4

For others, the changes were a vehicle for demonstrating to the public that things had changed. This would benefit police-community relations more generally.

'Very useful information on the front in terms of public understanding the new system... shows police are serious about sorting themselves.' D3

'Will be putting across to the community why we stop people, not just because we are police. I think it will aid relations with us and the community' B6

The information on powers of search was also seen as beneficial to officers themselves in reminding them what powers they had.

'Reminds me of powers.' C9

'Explanation of powers useful as a reminder.' D11

'Information on powers is a good prompt for officers.' D2

We could not tell whether this meant that officers were more likely to think in legal terms when considering whether to search. Experience from other research probably makes this doubtful. It has pointed to difficulties in regulating officer practice, particularly in relation to making decisions to search, precisely because officers' decision-making process is not legalistic.

A safeguard against trouble

In contrast, a more defensive orientation to this recording requirement was also evident, attending to the potential application of legal accountability to officers' actions. Emphasis was given to the inherent danger of public complaint about the reasons for or circumstances surrounding a stop. A desire for 'protection' was evident.

'Living in a complaint happy environment... police don't feel protected.' B9

According to this stance, the provision of information about police powers served a preventative function to potential complaint, by demonstrating the rectitude of police action. The record itself served a beneficial function more for the officer than the person stopped. It served as a "safeguard" in case of complaint from the public.

'New amount of info can assist in protecting officers from complaints.' D6

'Good if have complaint because there is a record.' C1

'It's a backup for me.' B13

From this perspective, officers will likely pay increased care and attention to articulating the legal justification for any stop; the appeal to law providing a canopy of protection for them. It is likely to make completion on the spot less likely, the officer wishing to have the time and space back at the station to consider the appropriate criteria on which to draw for this version of the event.

The discussion of decision-making then of course officers are not going to be keen to fill in a form that requires them to articulate their reasons. But if they cannot articulate those reasons then dissatisfaction with the stop is much more likely. But some of the resistance to the form is perhaps a resistance to the requirement to justify themselves- a feeling that as the police they should have/do have the right to stop anyone for any reason.

Gathering intelligence

The third identifiable orientation to the recording requirement focused on its contribution to law enforcement gains by emphasising the information and intelligence that could be recorded on the form. From this perspective, the completion of a record focused on the gathering of information about identities, current residential addresses, clothing, and other information gleaned from the encounter: all seen as significant intelligence gains.

'Gain so much more intelligence about who's out there....build a better picture'
D2/2

But inherent in this stance are motivational criteria that differentiate and distinguish a particular target population for the completion of records. There is little information gain

to be had from a routine stop of 'joe bloggs' about whom an officer knows little, and cares even less. The focus of attention is squarely on those in whom the police are already interested, the population of 'known-faces' with whom encounters are frequent and regular.

'If they are known criminals I'll fill one in, that's good information to have, but Joe Bloggs, a good bloke, wouldn't bother' E8

Key information items to be recorded are thus identified by their intelligence value, 'we've nearly got their whole wardrobe on the system now' and those that provide explanation and justification for the stop become redundant. But more than this, the people that deserve such 'intelligence-focused' attention are also those that do not deserve explanation and justification. The encounter is a one-way information exchange from the person stopped to the police; any reciprocation from the officer regarded simply as providing potential ammunition to be used against them. So it is that the form acts not as a mechanism of accountability but as an instrument of the surveillance ends to which stops and searches are directed, as described in the previous chapter.

It is evident from the above discussion that the recording requirement introduced in the pilot was re-interpreted and conceptualised through a police lens. All of the various stances to the recording requirement form give emphasis to police-defined purposes rather than any sense of legal or public accountability.

Levels of recording in the pilot

The above discussion has identified motivational orientations to which officers will variably attend. Quantitative data generated from the structured observational schedule was used to test how this translated into compliance with the recording requirements of the pilot.

Over the fieldwork period 138 encounters, classed by the research team as 'recordable' according to the stop definition, were observed. Table 6.1 sets out the levels of recording for these 138 encounters, broken down between searches and stops. It shows that a form was not completed in a very high proportion of encounters (70%).

Form-filling activity	Searches (No.)	Stops (%)	Total (%)
Completed at the time	9	19	23
Started, finished later	4	2	4
Started, not finished later	1	0	1
Completed later	4	1	4
No evidence of completion	2	79	69
All (N)	20	100% (118)	100% (138)

Looking first at the overall recording level, we can see that a form was completed fully at the time of the stop (full compliance with the requirements of rec.61) in under a quarter of all cases (23%). A further 8% of encounters were also recorded, half started at the time and finished later and the other half were simply completed later.

The level of recording across stops and searches was not consistent, however; forms were completed for searches proportionately more often than stops. The number of searches observed was small (n=20) compared to stops (n=118); nonetheless, over half of the searches were recorded compared to only a fifth (22%) of the stops. It is striking that the pattern of recording also varied across stops and searches. Half of the recorded searches were completed (either fully or partially) later. For stops, however, recording tended to occur at the time (22/25 cases), or not at all.

It was possible that some forms may have been completed by officers out of the view of the research team or after the particular period of observation. A later check of all the observed encounters against the aggregated returns sent by pilot sites to the Home Office records a likely match for only five of these stops observed as unrecorded. This would reduce the level of under recording by no more than 4%.

These results show that the delivery of direct accountability to people on the streets was severely restricted. Under a quarter of those stopped had the opportunity to leave the encounter with a written record of it. Although based on small numbers, the picture of better recording of searches is not surprising, given that this is already a legal requirement under PACE. As discussed in Chapter 2, the existing PACE Code A requirement is that a search is 'recorded on the spot unless circumstances make this impracticable'. A person is entitled to a copy of the record if s/he asks for it within a year of the search. In practice, however, it is likely that most records of searches are completed later by officers. Anecdotal evidence from some of the pilot sites confirmed this; it was routine practice not to record searches at the time. Only a 'handful' of people had applied in the last year for a copy of their search record, prior to the pilot.

Nonetheless, there were still some searches not recorded during the pilot. The persistent problems with under-recording of searches have long been documented (e.g. Brown, 1997; Fitzgerald, 1999), which suggests that full recording is unachievable.

Explanations for under-recording

Types of encounter

I begin to explore the reasons for the levels of under-recording by examining the types of encounters observed between the police and the public. This breakdown was discussed in the previous chapter; here, I examine how levels of recording varied across the different types of encounter, presented in Table 6.2.

Encounter type	Recorded (number)	Unrecorded (number)	Total
Search	12	8	20
Suspicion based	6	20	26
Suspected drink/drive	6	8	14
Road traffic advice or warning	6	18	24
Monitoring or check-up	1	10	11
Establishing background or involvement	0	13	13
Reprimand	2	14	16
Peace-keeping	0	9	9
Other	1	4	5
All	34	104	138

This shows some very clear differences in recording levels. Some types of encounter were very infrequently recorded. None of the stops where an officer was trying to establish someone's background or the nature of their involvement in an incident were recorded. These were often very complicated encounters with officers involved in long discussions with various parties to an incident. Stops primarily for peace-keeping or reprimand were also rarely recorded. In many such cases, officers seemed not to consider it might be a recordable stop. This seems likely to be because these stops were furthest

removed from the 'typical' suspicion-based stop. Calling to account was more a minor, but routine, part of the process rather than being the primary, or driving, purpose of the stop.

Other encounters, such as vehicle stops based on a drink/drive suspicion and searches, were much more likely to be recorded. Still, under a third of the 'typical' suspicion-led stops observed (for which calling to account is the primary purpose) were recorded.

These differences suggest that encounters of a more formal and quasi-coercive character, particularly full searches and those stops where the person stopped is questioned by the police and asked to justify and explain their actions, are more likely to be recorded.

Table 6.3 presents further analysis of the observed encounters, looking at levels of recording against a number of other factors which might be associated with the level of formality of an encounter. These are: the length of an encounter, whether the officer provided an explanation of the stop, and whether the officer checked the person's identity on the Police National Computer (PNC).

Table 6.3: Factors associated with recording		
Variable	Recording rate (%)	Number of cases
Duration of encounter (adjusted)	***	
5 minutes or less	11	(84)
more than 5 minutes	48	(52)
Did officer explain reason for stop?	**	
Yes	29	(89)
No	13	(39)
PNC check	**	
not carried out	19	(98)
carried out	38	(40)

Notes:

1. Adjusted time taken involves subtracting 5 minutes for encounters where a form was filled in/attempted.
2. Significance levels of $p < 0.01$ are marked ***; significance levels of $p < 0.05$ are marked **, significance levels $p < 0.1$ are marked *
3. Excludes don't knows.

The analysis shows that there are some interesting associations between the characteristics of an encounter and whether officers make a record. The strongest association is with the length of the encounter. 'Fleeting' encounters of less than five minutes were significantly less likely to be recorded than those of more than five minutes (even when the duration for these are adjusted downwards by five minutes to take account of time taken filling the form). Encounters where the officer explained the reason for the stop were also associated with recording, though less strongly. If a check on the PNC (on a person's name or vehicle registration) was carried out it was also more likely that a record was subsequently made. The use of a PNC check is likely to reflect a higher level of police suspicion and the stop is thus likely to be of a more formalised and possibly coercive character.

The finding on PNC checks is of particular interest because some pilot sites actively sought to measure recording compliance rates. This involved following up any encounter where a PNC 'name-check' had been put in by an officer (on the basis that the use of such a check signalled that the stop was likely to be one that should be recorded). The above result from our observations suggests that, across the sites as a whole, less than half of those encounters were recorded.

Both the interviews and the observations show that officers also drew on other criteria related to the nature and character of the stop in decisions whether to make a record. The following types of stops were identified as less likely to be recorded, for example:

- 'routine' vehicle stops (e.g. giving advice);
- regular and routine contacts, with 'known faces';
- brief stops where suspicions are quickly allayed (e.g. looking for described suspects immediately after an incident);
- if there was no intelligence or evidential value in stop; and
- to avoid further delay to the person stopped.

Clearly there is a justificatory element to these explanations. Nonetheless, they point consistently to officers' sensitivity to the character of an encounter, particularly its level of formality. To explore this further, I focus in the following section on analysis of the observational narratives, and police interview accounts.

The impact on interactional work

Analysis in the last chapter highlighted the importance of analytic attention to the contextualised and contingent character of police-public encounters. We saw this in the ways officers displayed (in talk and action) a sensitivity to a range of interactional elements, namely: their personal safety, maintaining authority, cooperation over coercion, police-community relations, and a preference for informality. Similar attention to these elements in the use of the new form yields significant analytic insights.

Of the officers interviewed, only a minority reported having completed a record at the time for all the stops or all the searches they had conducted in the fortnight prior to interview. The attitude of one such officer was:

‘[It’s] common sense to complete at the time, will get forgotten about otherwise, that’s the reason for the format-get it done there and then.’ B5

Other officers thought similarly; explaining that they felt it was as easy to do ‘there and then’ and actually saved work, ‘saves duplicating work, just as easy to fill out there and then.’

Another officer, though saying the form took longer to complete, was supportive and regarded the change as a positive development:

‘Takes a bit longer, but fill in properly at the time then that will help in the long term. I like it.’ E9

We asked officers at return interview whether they regarded it as important to complete a record at the time. Most, across all sites, did not think it was.

Officers were most sensitive to how use of the form would impact on the formality of encounters. As in the previous chapter, this was associated with the successful achievement of consensual encounters and for broader relations with the community.

'[Form] doesn't lend itself to flow of conversation... helps to talk naturally... booklet has to go away sometimes.' C2

'When [you are] a community policeman, need to build bridges with community. I want to obtain information without being intrusive... form makes encounter intrusive.' A10

'Officers with more experience will not go through this formal process.' B6

But there were also some examples of officers seeking to avoid formalising encounters for more dubious ends.

'Some informal searches not included- checking 'scallywags' - what's in their pockets. If arrest will do form.' B9

Officers accounts also displayed a sensitivity to how the use of the form might more seriously disrupt the interactional flow of an encounter, by prompting conflict and challenge.

6.15 meal ends. On route to our first call we talk about the new form. R: 'I think it ups the ante a bit. People don't like giving you their name and address.' E/L3

Driving around I ask about the new forms: K: 'I haven't been here for 2 months - but when I used them before they were ok.'

P: 'You've probably heard this before - but most people get funny when you ask them to take their details - 'why do you want my name when you haven't even searched me?'. E/L3

'If it's cool, calm and collected they can have it- not a problem.' E7/2

For some officers, these concerns were an unwanted source of further interactional stress and pressure. The requirement to articulate the criteria that prompted a stop was a particular focus of attention. As noted in Chapter 3, officers' practical criteria may often differ from those they would wish to be held formally to account for.

'The new forms take about 5-10 minutes to fill in and they make you feel very pressurised - you have to fill in the grounds at the time, and you want to write all the grounds down, and not just the main ones. And that and doing it on the streets with just a street lamp for light - very pressurised.' E/L2

Although officers were concerned that use of the form introduced unwanted formality to encounters, it could also be used precisely for this purpose, as an interactional resource. Thus, the use of the forms was often contingent on the attitude and behaviour of the person stopped. Officers were prepared to make use of paperwork as a device/mechanism for formalising an encounter and imposing their authority.

3.30pm Saw a taxi (Cavalier) in front pull out in front of a car, driving using a mobile. Speeded up to meet driver – followed him a few minutes. The man was still using the phone and Pat could see that he wasn't wearing a seatbelt. Followed off at the next junction and flashed lights at the driver...

A nervous Asian man gets out of the car. Martin: 'Do you know why we stopped you?' 'I had just got a call on the mobile phone. And I answered it as I was pulling out.' Martin explains that the man had committed a dangerous manoeuvre and that he should pull over to use the phone for his own safety and the safety of others. The man says that he would and that he was sorry. Pat tells him to remember to use his seatbelt. The man says thank you twice and we return to the van. Martin says that that would have warranted a stop form but that he didn't because it was only a bit of 'friendly community advice' – doing a service to the community. He says that he doesn't tend to issue forms for advice. He says that if the man had denied committing an offence or started having a go, he would have completed the form. C/L4

3am driving around. See a white car driving through the city centre - we start to follow it. I ask why. Apparently it went through a restricted area - 'There's a lot of that at this night - people think the restrictions are during the day. But they're not - only taxis and buses can go there. And there are still people around - pissed people, that makes it more dangerous.' We follow the car and flash it over. An Asian man gets out - mid 30s. Mark 'We've been following you - can you tell me why we stopped you?' 'No officer' 'Well you know when you turned left in town - that's a restricted area.' 'Sorry officer - I didn't realise - I thought that was just for the day time. I work in the city centre' 'Well there was a big sign - so look next time' 'Sorry officer - I will. I live in London and don't know the roads.' 'That's okay - just be careful next time' We let the driver drive off. 2 minutes. In the van, Mark says that a form should have been completed but there is an issue of whether the person admits to what they have done and apologises. D/N3

The interactional impact that use of the form could cause serves to highlight the importance of officers own interactional competence. It was clear that the form's potential interactional disruption was something that some officers could manage better than others. The following observational extract illustrates how a form is introduced and used without any explicit disruption to the encounter.

00.07 The officers notice the car in front has a defective rear light. The car is full with young people, and Phil speculates that there will be a nominated driver, explaining that the driver will probably not have drunk whilst the others will have. The blue light is put on, and the car in front parks up. Phil gets out and approaches the driver's side. There is a young white girl driving, about 20 years old. In the car there are four other young people - all males - one is black. Phil explains that the girl has a defective taillight. She asks if it is on the right side, and Phil says yes. She says it was not working for a while before, and she was going to fix it, but it had started working again, so she had not. Phil asks if the girl can come out and stand on the pavement. He asks what she has been doing in a friendly way, and whether she has drunk anything. She says they have been out for a drink, it is one of her friends' birthday. She has had one bacardi breezer earlier in the evening. She is friendly and co-operative and Phil is also friendly. Phil explains that because she has committed a moving traffic offence, he can breathalyse her. He produces a breathalyser kit and she blows into it. She passes. He then asks her if she has any documents on her, she produces a driving licence. He takes out a pilot form, and starts to fill it in with her, asking for her details. She provides her details. He then fills out the HORTI section of the form, and explains to her that she will be required to produce certain documents at a police station (insurance and MOT, I think). She is not however given a VDRS. He asks her to pick her ethnic background from the form, and she laughs a bit, but answers that she is white British. He gives her the form, explaining that she needs to return with the form to a police station along with the documents. He also points out that there is some information on police powers on the form. A/N2

The following example illustrates a lack of competence in use of the form and demonstrates the negative interactional consequences of this. The officer's use of the form is not introduced seamlessly into the encounter. Rather, having forgotten about the form, the officer himself explicitly breaks off from the interaction, disrupting the encounter to go and get one from the car. This causes the person stopped to complain about the stop, drawing on his status as a previous victim of crime. The officer fails to give a good explanation for the use of the form, not mentioning how it might be of use to the person. Problems also occur when the officer tries to ask the person to describe their ethnic identity. This particular dimension of the SLI recommendations is explored in more detail in the following section.

1.30am we are driving along a road to the left of the large open space around Blackheath with Greenwich park immediately on our left. We are driving slowly behind a bus when a car overtakes us from behind and also overtakes the bus. Dean accelerates slightly to follow the car and almost immediately pulls it over. Mark does the talking, while Dean gets on the radio to do a PNC check on the registration plate. Mark explains to the driver "the reason we stopped you right was because this is a single lane road and you overtook us". The man claims he was not doing over thirty and Mark disagrees lightly but does not argue about it. He says something like "even so it's a bit extravagant, don't want to get into trouble for a little thing like that do you? just want to take it easy".

Mark breaks off to go back to the car to get a form saying "I just have to fill in a form". The man reacts to this by groaning loudly and starts complaining that he has been burgled, his car attacked(?). Mark says "its not a ticket, it's just for our records to say we've stopped you" but does not make mention of Macpherson. The man's name is George Georgiou (I think he looks IC2). Mark has difficulty getting the name right and the man has to say "first name george, surname georgiou".

As Mark completes the form, Dean asks the man if he has been at work and is now going home. "Trying to" says the man. Dean asks if the man has his own company, the man says yes and gives the name of the company, Dean nods his head and says something about that being the name that the car came under from PNC. Mark then says "I've just got to ask you this question on the form" and asks the ethnicity question. I hear the man say something about his human rights. (back in the car Mark says the man also said "I object to that") Mark gives him the inner slip, and says "it just explains why we've stopped you...you can keep it or throw it away" Dean quickly takes it out of the man's hand and gives him the outer copy with the cover, saying something like "you've given him the wrong bit...can't get the staff these days". In the car Mark explains to Dean that he gets confused with the FPN in which, he says, you give the person the inner copy. B/N1

It is worth noting further negative implications flowing from this encounter. The obvious display of poor competence is clearly uncomfortable for the officer, not just in relation to the person stopped but to his colleague. Indeed this colleague has to conduct repair work at the end of the encounter when the officer fails to give the person stopped the appropriate parts of the form. These experiences will serve to reinforce the negative cultural responses to the SLI requirement identified above and have clear implications for recording practices. Officers experiencing such difficulties may seek to reflect and develop their competence in use of the form; more likely, they will look to avoid such experiences by not using the form. Justification for such a response is available in cultural accounts. The low-levels of recording discussed earlier in the chapter are certainly suggestive of this latter interpretation.

The impact of the SDE question on interactions

The sensitivity of officers to any disruption of interactional dynamics was further evident in their reactions to the requirement to ask a person stopped to define their own ethnicity. I explore this further in what follows.

Attitudes to the SDE question were generally negative or at best, non-committal. Few officers saw any value in the question but did regard it as something that could potentially make an encounter more difficult, 'it's a derogatory question, causes friction'. They did not feel comfortable asking the question, 'might enflame the situation'.

A significant minority of officers gave accounts of negative reactions to asking the person's ethnicity, for example, 'But I'm black British, why are you putting me apart?' and '[I'm] white obviously, it's a stupid question'. Examples of less serious reactions included amusement 'white lads thought it was amusing [they] said "can I be any of these [categories]?"'

These experiences were also highlighted in discussions during fieldwork.

[Unprompted discussion of the form between officers and researcher] Mark chipped in at the end of the discussion and said the bit that he didn't like was the self-defined ethnicity question. Steve said: "people don't understand what it means - they reply 'what?' - so I tend to say that I would describe myself as English or British. Then some people get confused [anxious] and say that they have a British passport and have British nationality - have to calm them down. Some say 'what the fuck do you want to know for?'" LC/N1

There's a little chat about the 'stupid answers' they get: 'black Jamaican' (when clearly white), 'from the St Matthew's estate', 'blue'. 'Don't know how to explain without putting words into their mouths'. LC/N4

Further evidence of 'stupid' answers was evident from later inspection of some completed forms. Here, examples point to a possible lack of understanding of the question: 'Christian' (not remedied by the police officer); and of deliberately false, and thus challenging, responses: 'Double Dutch' and 'Inner city youth'.

The above accounts highlight that the SDE question poses a range of potential interactional problems for officers:

- Racialising an encounter, opening the officer up to claims that the person's ethnic identity is the basis for the stop.

- Providing an opportunity for challenge; making the officer feel stupid.
- Raising the temperature of the encounter, in officer's eyes, unnecessarily.
- Acting as an interactional disruption: officer's do not know how to ask the question, and the person does not know how to answer. There is a sense it is an externally imposed aspect to the interaction that officers find difficult to seamlessly weave in.
- Ceding a degree of control of the encounter to the person stopped: its *self*-defined ethnicity.

The following extracts from observational narratives provide empirical examples of the types of difficulties described by officers. In the first extract (also referred to in the last chapter), a teenage boy who has been searched uses the SDE question as an opportunity to challenge the officer in a way that they are not able to directly respond to. They have to allow the person to define themselves, even when this is not done properly.

[Search of a teenager] Paul fills out the form. Asked the ethnicity question the boy says 'what shall I be...chinese today'. Trevor turns up and talks to the boy with Mike he asks if (name) is in the house. The boy does not know. The boy goes over to his friend for whom Mike is also completing a form. "What are you going to be... say african". The boy says white to Mike. A/L3

Negative reactions to bringing ethnicity into the encounter were evident. This was not just from ethnic minorities as the following extract demonstrates:

[Search of a black man suspected of possession of a knife] Welsh Mark continues to fill in the form, "sorry about the wait, Tony, just need to finish this". He asks the ethnicity question "I've got to ask you this question now, it's just a question on the form" The man replies "carribbean" with no obvious reaction but the white woman seems slightly unhappy saying something about his 'black skin'. Mark gives the man the form and the couple leave. We return to the car. B/N2

In the next extract, the officer experiences difficulties because the person does not understand the meaning of the question. The officer displays reluctance and an inability to provide much explanation, wrongly trying to explain ethnic identity as both religion and place of birth. Finally, he is forced to explicitly say he has not been trained. This overt display and acknowledgement of a lack of competence is likely to be highly uncomfortable for the officer.

'Can I take your details?'

He fills in the form - when he gets to the bottom: 'Before I ask you this question I should explain something - Leicester is part of a pilot from the Stephen Lawrence enquiry [points to the cover] and we're using these new forms - it explains the powers that we have to search you - look section 60 there. And you can take a copy of this. But on in this pilot I have to ask you this question - what is your ethnic background?'

'What you mean?'

'Well you tell me what it means'

'I don't understand - what's effnic mean?'

'Well, that's for you to decide'

'What's effnic then?'

'This is part of a pilot and if you don't know what the question means I have to write that down - I haven't been given any training to tell you what ethnic means - some might say it is their religious background or where they are from'

'Are you going to tell me what it is then? Hurry up mate I've got a girl waiting outside - you know what I mean?'

'Okay - I'll put what you said down'. Mark hands him the form and the lad gets out of the van. D/N3

Despite the commonality of these accounts, such difficulties appeared not to be as frequent as might be supposed from officers' accounts. In 34 observed instances where the person stopped was asked their ethnic identity, there was no problem in two thirds of them (Table 6.4).

Reaction	Number
No obvious reaction	20
Generally positive	1
Surprise/puzzlement	4
Amusement/sarcasm	4
Uninterested	2
Hostility	3
All	34

Of the remaining encounters, in about a quarter people reacted with surprise or amusement and only three people reacted in an overtly hostile way.

The following examples from fieldwork further highlight the disjunction between officers' accounts of difficulties and their experience. In this first extract, an officer displays surprise at the lack of problems encountered when asking people to define their own ethnicity.

[Back at the station] Smithy the response driver comes in - and shows his 10 forms. He sounded surprised that only 1 person said 'I don't understand' to the SDE question. **D/N4**

In the following extract the common view of the difficulties caused by the question are expressed but then almost immediately contradicted in response to a direct question about the frequency of such experiences.

And then there's the ethnic background question - it gives people the arse. But they are the people who have the arse anyway." K: "Most people give you a funny look - some don't even know what you mean. Some Asian lads say 'what do you want to know for?'. I ask how often it causes a problem: "Most are okay though - the people you stop all the time are fine." **E/L3**

The difficulties of the question (as one element of the unwanted new form) it seems tend to be highlighted, emphasised and reinforced in the shared accounts of canteen talk.

Other officers had not experienced any negative reactions. And most officers, including those who emphasised the difficulties, readily admitted that most encounters were unproblematic and that giving an explanation up-front was likely to make a negative reaction unlikely.

Before we start they mention unprompted about the form... 'You ask people to describe their ethnic background - but people look at you blanking - they don't know what you mean. You explain and they are usually okay. D/N2

The observations show that explanations were sometimes not given and these were more likely to produce difficulties either in terms of misunderstanding or more negative reactions. The following extract from fieldwork illustrates how a lack of lead-in or sensitivity to the situation can also create difficulties. In this case, the stop of a south asian couple late at night with rather limited English, the officer gives no explanation and simply asks for their 'self-defined ethnic origin'. It is down to his partner to do some repair work by offering illustrative answers that, in the end, help the man understand.

About 3.00am A white sportyish car (VW passat?) seems to slow down and move into the middle of the lane as it passes us left to right. Derek pulls out to follow it. We follow the car to where it stops at the back/side of a low block of flats. As we pass and park in front they look in. Stu says 'he looks a bit out of it?' We get out and approach the couple who have got out of the car. It is a man and woman who look south east asian. Derek explains that we saw the car move around on the road. He asks have you had a drink tonight? the man says no. 'Where have you been tonight', asks Derek who is leading the encounter. "The casino." Derek breathalyses the man. It turns green. He asks the man what he is doing here. The man explains that they have come to visit someone at the flats. The couple are talking to themselves looking through his wallet [for some ID]. Stu has his pocket book out. 'What is your self defined ethnic origin' asks steve. The man does not answer. Stu puts his head down in between the two "Mr Ho" he says slightly louder and repeats the question. The man goes Huh? quizzically. Derek says something like how would you describe your ethnic back ground, what is your race? The man still appears not to understand. Derek says 'we would say we are white european would you say you are chinese....' Understanding comes to the man's face 'ah vietnam'. B/N3

Nonetheless, it was clear that many officers were not happy with this element of the recording requirement. A minority of officers held strongly negative views about asking the question. Some admitted that they were not asking the question at all. It is notable that their accounts explaining their views attend closely to the perceived interactional difficulties that the question could raise. They were concerned about being seen as stupid by white people and racist by people from minority ethnic groups and saw no value in asking the question. An officer explained:

'I'm not going to escalate the situation by asking people how they describe themselves. Each colour has a code and that's it. I don't see the reason why we have to ask the question.' B4

Officer never asked ethnicity question because believes would get bad response. If negative reaction hasn't already come up, it will come up by asking question. Feels it will 'plant a seed that all police officers are racist'. C3

Always bringing in race issue. Form is 'giving people an excuse to find offence' – "bringing yet another thing in to a potentially confrontational situation'. A10

To conclude, there is a sense in which officers' culturally informed response fuels a self-fulfilling element. If officers actively avoid asking the question then they have no

experience on which to reflect which might challenge these pre-conceptions. Equally, officers who may feel defensive about asking the question are more likely to deliver the question awkwardly or defensively, so increasing the likelihood of a negative response.

The preceding discussion demonstrates the important interactional consequences that flow from use of the stop form, as a result of the analytic focus on interactional working codes and resources. This has provided key analytic insights for understanding the low levels of recording evident in the pilot. However, it was clear that organisational factors could also play a part, specifically through supervisor's use of the form to hold officers to account. This is examined briefly in the next section.

Organisational impact on officers: supervisory accountability

The new form could provide a useful basis for improved accountability through direct supervision of the records submitted to and checked by shift sergeants and inspectors. We explored this in interviews with more senior managers across the sites. About half of the 17 officers interviewed felt that the form had been useful in terms of supervising their team in some way. In contrast only four said that the form had not been of use. Responses were relatively mixed in terms of how the form was useful, though tended to focus on it as a good monitoring tool for officer activity. A couple of supervisors added that the form showed them whether officers were recording their activity properly:

'Can see who's filling in forms correctly - who is in, who is stopping-checking.'
Inspector, D

As a monitoring tool, the details recorded on the form can provide supervisors with information about the stops and searches carried out by officers (e.g. the number of forms submitted, the quality of the reasons or grounds and the outcome of the encounter).

However, the value placed on stops and searches by supervisors in assessing officers' performance varied considerably. Overall, 13 supervisors said that searches were a useful method of assessment, although the vast majority talked about this in terms of examining officers' grounds for search, the 'quality' of the search (e.g. arrests) and officer activity in general:

'How they do it is important, not numbers - important not to alienate people.'
Inspector, A

'[Don't] view it as quantity but quality. Expect officers to be motivated by intelligence - if a picture of someone is shown, then I would expect from the team that person to be stopped and searched.'
Sergeant, D

Only one supervisor interviewed commented that the quantity of searches carried out was important. Views were more mixed, however, about stops as a means of assessing performance: just under half felt they were a useful indicator either in terms of quantity or in other ways, for example seeing officers were conducting stops regularly. Just over half did not regard stops as a good indicator. There was also a sense that stops and searches together formed only part of a much wider picture of an officer's performance.

In terms of accountability, supervisors can also play a positive role through management and leadership by actively encouraging officers to complete forms. Eleven sergeants and inspectors said that they had emphasised the importance to the shift team of completing

records for stops and searches. Roughly half of these said that they had encouraged officers all the time. Others were more selective and had tended to support officers either at the start of the pilot or when they needed to (e.g. with identified officers):

'Put strong emphasis during training/first couple of months. Now taken as given.'
Inspector, A

One sergeant who had been given dedicated responsibility for the pilot, and who had a central role in monitoring forms, said that it was very difficult to know when forms had not been completed by officers.

Both supervising completed forms and encouraging recording practices require supervisors to adopt an active role. Some Inspectors said that these duties had been delegated to the sergeants. Although some officers did say that the sergeant would 'bounce' forms back that were not completed to the required standard, a few felt that their supervisor did not check the form thoroughly (i.e. forms had been 'bounced back' from a divisional level). One Inspector commented that he did not emphasise the supervision of forms because of his work pressures:

'Haven't got time... Very little [checking] gets done. Not too worried about it to be perfectly honest.' Inspector, E

This suggests that, at least for some more senior managers, ongoing oversight of recording loses out to competing priorities and pressures. These findings echo those from research on the impact of PACE (Bottomley, et al., 1991) which indicated

limited supervision of officers or search records. There is also an argument that this is a reflection, at least in part, of changing roles and responsibilities for supervisors across the service as a result of management restructuring and changes to policing style.

The concern from these findings is that a necessary emphasis on completing accurate and adequate records 'falls through the cracks' at supervisory level and, in practice, is left to individual officers. The analysis earlier in the chapter demonstrated the interactional tensions and difficulties that render individual recording practices unsatisfactory. It is difficult to see how this will change without a recognition of the interactional impact of the SLI reforms and a focus on the training requirements that flow from that.

Conclusions

The analysis on this chapter has highlighted the ways in which the SLI reforms can impact negatively on interactions between the police and the public. Primarily, this occurred in two ways: introducing the form into an encounter formalised it, and asking the person stopped to define their ethnic identity could bring a racial element to the encounter. Experience of these difficulties has served to strengthen and justify a cultural disposition against the reforms. The high level of under-recording of stops renders any aggregate statistical picture of stops meaningless.

Officers are sensitive to anything that might unnecessarily disturb or disrupt an encounter with the public. They are looking as far as possible to negotiate and persuade a cooperative response from the person stopped. Officers attend to a range of interactional concerns: avoiding risks to personal safety, maintaining their authority, avoiding unnecessary hassle, minimising the risk of complaint, a general preference for cooperative encounters and avoiding the unnecessary use of their formal powers, uncertainty over legal powers.

Most officers had experienced difficulties with use of the form that could support negative orientations to the SLI reforms. The use of the form could cause specific interactional difficulties: having to articulate a (legally) defensible account on the spot, people complaining about having to wait, about giving their name and address when they have done nothing wrong, thinking it is a form of police sanction.

Other contextual factors could also come into play, such as how the person stopped reacts to the officer. If there is deference and cooperation then the officer will tend to respond in a consensual and informal way, but if there is open hostility, negative attitude, challenge or confrontation then the officer is more likely to seek to impose their authority onto the situation (cf Muir, 1977). In such situations, officers sometimes drew on the stop form as an aid in the imposition of this authority.

It also depends on the *type* of person stopped as well as their behaviour. There was no evidence of a deterministic relation between a category of person stopped and their

treatment. There is an interactional component to the categorisation by officers of the people they stop. A person's behaviour may mediate police treatment; so although they may get stopped because look 'disrespectable' or already known to the police, if their behaviour is deemed acceptable then they may get treated as a respectable would. But membership of this residual police category will tend to make it more likely that a person is treated less well.

But in both cases, the person stopped may not get the form. For those deemed 'respectable', officers do not want to detain them further. The encounter will have likely been cooperative so they have no wish to 'impose' the form, and see no obvious need to explain the encounter given this cooperation, and no obvious intelligence gain either. For those deemed less respectable, a form was only of worth if intelligence value pertained.

Officers also attend to the possibility of organisational trouble; if they fail to articulate good reasons may get complaints from person stopped or hassle from supervisors. They are not confident of management support in such cases. Having to account for their actions at the time thus adds a further interactional stress or pressure. Their experience, however, is likely to be that they do not get any of this so this concern may fade into the background over time.

Taken together these various dynamics tend to push officers towards not completing a stop form: potential interactional problems, organisational trouble, little demand for the form from people stopped.

The importance of the potential interactional disruptions also highlights the importance of officers' interactional competence to manage them. Some officers displayed the interactional skill and confidence to weave the form in, but others did not. Some officers seemed to have reflected that when the form was explained this tended to alleviate interactional disruption.

Training for the pilot did not attend to interactional elements to help officers deliver it. It took more a focus on ensuring an understanding of, and adherence to, the 'rules' governing use of the form. This perhaps displays an orientation to the SLI reform as less a way of improving police-public interactions but rather as a way of controlling (problematic) police behaviour. It could be argued that the SLI reforms orient more towards a measure aimed at restricting *whether* an encounter took place than *how* it took place.

Some officers oriented to this; they interpreted the SLI reforms as aimed not at improving things for the public but more as an external imposition to restrict, contain, and constrain police practices perceived by others as problematic. This informed rejection of the reforms. This rejection, arguably, might have been based on a disagreement with the conclusions drawn by the SLI: that the police are institutionally racist and that the practice of stop and search is the embodiment of that. It is perhaps important to remember that officers tended to interpret this charge as one of individual racism.

In the final chapter of this thesis, I draw the central arguments of this thesis together, and return again to the charges laid against administrative research outlined in Chapter 1.

Chapter 7 Conclusions

I began this thesis by highlighting the importance of the notion of 'policing by consent' for the legitimacy of the British police. Although the police possess the authority and power for coercive intervention in citizen's lives, the consensual policing model presumes that the police will employ discretion to minimise the use of coercion.

The picture presented by the Stephen Lawrence Inquiry made clear that the police do not operate with the clear and unambiguous consent of ethnic minorities in Britain. This is due to their experience of being subject to oppressive levels of police coercive attention. The belief that this is due to police discrimination has led to a general lack of trust and confidence in their fairness.

The experience of ethnic minorities with regard to stop and search is totemic of the problematic relations between the police and ethnic minorities. It is argued that the inherent discretion present in powers to stop and search allow officers to use these powers in a discriminatory way. As a result, ethnic minorities experience being stopped and search to a degree vastly disproportionate to their numbers in the population.

Quantitative research and official statistics, reviewed in Chapter 2, provide empirical confirmation of this disproportionality. These results have served as the focus for long-running debates over police use of searches. Less attention, however, has been paid to the

consistent finding that highlights the importance of the manner in which police conduct stops and searches. Qualitative and quantitative research consistently demonstrates that ethnic minorities perceive that they are treated badly and disrespectfully by the police in such encounters.

Mechanisms for accountability have generally been seen as the basis for a check on police use of their discretionary legal powers. This was a core principle of the 1984 Police and Criminal Evidence Act in which the police were held accountable for the use of new powers to search through the introduction of a requirement to make record of every search.

The SLI focused explicitly on the issue of disproportionality in its analysis of the negative impact of stops and searches on ethnic minority communities. The reform of stops and searches it proposed can be seen to follow a similar line to PACE, with an emphasis on increasing accountability. Its recommendations were aimed squarely at developing an enhanced statistical picture that covered the full range of police-public encounters regarded by the inquiry as problematic for relations between the police and ethnic minorities. This enhanced picture was to provide the basis for increased police accountability.

But in focusing on the problematic *outcomes* of stops and searches- the general over-policing of ethnic minority communities- the SLI reforms failed to take account of the importance that ethnic minorities attached to the negative treatment they regularly

experienced in encounters with the police. This was despite some emphasis being given to this in the report with the reported call to the police from ethnic minorities to 'treat us with respect'.

The literature review highlighted the importance of discretion in considering the influence of a range of factors and identifies the importance of culturally derived working codes that guide and orient police interactional practice. This insight yields considerable analytic power when used to understand the impact of the SLI reforms and illuminates the fact that the attempt by SLI to improve and enhance police *accountability* (through the new form) actually operates counterproductively to cut across the use of discretion to formalise and racialise encounters and which can impact negatively on the interactions between the police and the public. As a result, stop forms were not completed for the majority of encounters.

A defence of administrative research

An over-arching aim of this thesis was to use the substantive discussion as the basis for a challenge to academic criticisms of the merits of administrative research. I argued that much of the weight of such a critique is supported by a deliberate polarisation of the research enterprises of government and academia.

Equally, however, such criticisms fail to consider the implications of important distinctions between the two: not only in the institutional contexts in which the research

is conducted, but also with regard to the purposes to which that research is aimed. A consideration of the different institutional contexts in Chapter 4 highlighted that in fact for many academics research is a part-time occupation, fitted in between fulfilling their pedagogic function and attempts to secure external research funds. Government researchers, by comparison, have the relative luxury of working more continuously on particular pieces of research. Recognition of this fact means that the frequent emphasis placed on differences in the period of time over which research is undertaken cannot therefore be simply read as reflective of differences in actual time spent doing the research. So although the pressures of political and policy demands mean government research often runs to tighter timescales than those prevalent in academic work, this can lead to a more intensive and immersive fieldwork experience. There is, however, undoubtedly less time to reflect on the meaning of the research; the analysis and report writing occurs without the benefit of distance from the field. The Home Office reports of this research were completed within six months of the completion of fieldwork to meet the deadline of a ministerial public seminar to discuss the research findings and their implications for future policy.

It is also important to reflect on the different purposes to which academic and government research is aimed, in any judgement of their merits. Government research is primarily aimed at informing the design, development and implementation of policy. The research presented in the Home Office reports influenced significantly the Home Office response to the SLI recommendations, including subsequent changes to PACE Code of

Practice A and the development of central guidance in the form of a Stop and Search Manual.

So, as with most government research, consideration of how the research might relate to academic concepts and debates was thus not accorded a driving priority.

Finally, I consider the three specific criticisms of government research identified in Chapter 1. Taking each in turn, I demonstrate how the analysis and discussion presented in the body of this thesis directly challenges their validity.

- Government research is restricted in its scope to specific and short-term policy initiatives

In Chapter 1, I argued that an examination of the programme of research undertaken by the Home Office research team demonstrates that its scope was not restricted simply to an evaluation of the SLI reforms. The programme also included work that critically examined the utility of search powers as a tool against crime in the context of its evident detrimental impact on police-ethnic minority relations, and a study of street populations 'available' to be searched aimed at developing more sophisticated interpretations of the statistical figures on disproportionality.

The thesis itself has focused specifically on the research into the impact of the SLI reforms but has still drawn the analysis out beyond the confines of that specific initiative.

In so doing, I have sought to demonstrate how its findings contribute new insights into long-running debates about a policing model in which consent and coercion coexist in inherent tension. More specifically, I have illustrated the centrality of consent and coercion to a developed understanding of stop and search encounters and the links with broader relations between the police and communities.

- Government research is limited in its ability to question or challenge policy agendas

These challenges are often part of a broader attack on the current emphasis in government notion of 'evidence-based policy making'. But although such criticisms engage to a degree with what government research is- and I have challenged the picture they portray- they rarely apply any degree of sophisticated analysis to the business of policy-making. The research on which this thesis is based informed and directed much of the Home Office response to the SLI.

- Government research is conceptually (and by implication) intellectually impoverished

I would argue that I have demonstrated throughout this thesis that administrative research can hold conceptual weight. I have linked the analysis to key conceptual underpinnings of academic study of the police: discretion and accountability. Increased accountability has often been proposed as a method of constraining the problematic use of police discretion to circumvent attempts at legal constraint. But discretion can also operate positively, allowing officers to attend sensitively to interactional dynamics in the achievement of

cooperative and consensual encounters with the public. Through empirical analysis, I have demonstrated, in the case of the SLI reform of stops and searches, that attempts to increase accountability can impact negatively on this use of discretion and thus disrupt officers' attempts to police with consent.

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Appendix A: Powers to search

Details of searches under the most common legal powers are given in the table below.

Power / basis for search	When can it be used?	What is the object of the search?
Police and Criminal Evidence Act 1984, section 1	Where an officer has reasonable grounds for suspicion.	Stolen goods; articles for use in certain Theft Act offences; offensive weapons, including bladed or sharply pointed articles. Criminal damage: articles made, adapted or intended for use in destroying or damaging property
Misuse of Drugs Act 1971, section 23	Where an officer has reasonable grounds for suspicion.	Controlled drugs.
Firearms Act 1968, section 47	Where an officer has reasonable grounds for suspicion.	Firearms.
Criminal Justice and Public Order Act 1994, as amended by s8 of the Knives Act 1997, section 60	When authorisation by officer of the rank of inspector or above is given in relation to a specific place and time period.	Offensive weapons or dangerous instruments.
Terrorism Act 2000, section 43	Anywhere	Evidence of liability to arrest under section 14 of the Act
Terrorism Act 2000, sections 44(1) and 44(2)	Anywhere within locality of authorised area	Articles which could be used for a purpose connected with the commission, preparation, or instigation of acts of terrorism

Note: Other powers include: various poaching and wildlife conservation legislation; the Aviation Security Act 1982, section 27(1); the Customs and Excise Management Act 1979, sections 163 and 164; and the Sporting Events (Control of Alcohol etc.) Act 1985.