The Race and Crime Debate in Britain:
What was the Question?

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Summary

This thesis critically examines the debate in Britain about the involvement of different ethnic groups in crime. It describes the origins and development of this debate and the broad schools of thought within it, along with the main findings of research and statistics to date. This overview provides the context for new empirical material generated during research into the ethnic monitoring which became mandatory for all police forces in England and Wales in 1996.

In the light of this evidence, the thesis re-visits the three main 'explanations' traditionally offered for the apparent disparity between the ethnic composition of criminal justice statistics and that of the population at large. It concludes that both structural and cultural factors are important but that the nature and interaction of their effects are more complex than has been appreciated. Discrimination by the police, though, plays only a very limited role relative to the other two 'explanations'; and direct discrimination is probably now rare. However the 'race' and crime debate has largely failed to recognise the effect of the legitimate exercise of police discretion in considerably amplifying real ethnic differences in offending.

Ethnic monitoring, it concludes, will not only fail to discover any significant level of discrimination, it could rebound by reinforcing negative stereotypes. To avoid this, the data need to be interrogated on the basis of more sophisticated understandings both of the processes which produce them and of the problems they are intended to address.

Marian FitzGerald
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For
Greig Ince
Philip and Steven
and, of course,
Chloe-Mae
ACKNOWLEDGEMENTS

The roots of this thesis go back for over twenty years. I am indebted to a very large number of people who set me on the path from which it has evolved and who have been important to that evolution.

It is dedicated to my old friend Greig who was an inspiration before ever he pressed me into the 'Scrap Sus' campaign and for whose work and commitment I maintain the deepest respect. My sons, Philip and Steven also have my respect, my abiding love and my infinite thanks. This thesis is for them too, along with my granddaughter Chloe-Mae.

The following people, additionally, have - variously and at different times - been important sources of: inspiration; intellectual stimulation; encouragement; and moral, emotional and practical support. I gave up trying to group them since so many fall into more than one category; and a few straddle nearly all. The best I can do is to begin with my parents and simply list the rest in alphabetical order.

## CONTENTS

Chapter One: The 'Race' and Crime Debate in Britain

- The question of discrimination ................................................................. 2
- Terminology .................................................................................................. 3
- Historical Background .............................................................................. 6
- The 'problem' and its interpretation ......................................................... 12

Chapter Two: The story so far ...................................................................... 25

- Inter-ethnic comparisons ........................................................................... 25
- The criminal justice process ...................................................................... 32
- Ethnic minorities and the criminal justice system .................................... 37
- Summary and conclusions ........................................................................ 58

Chapter Three: Police ethnic monitoring - the research project and its context

- The history of police ethnic monitoring ................................................... 61
- The organisational context ....................................................................... 65
- Summary and discussion .......................................................................... 74

Chapter Four: Stop and search .................................................................... 92

- The significance of police stops ............................................................... 92
- What are the PACE figures intended to cover? ......................................... 95
- What shapes the PACE figures in practice? ............................................. 98
- Ethnic differences ................................................................................... 109
- Summary and discussion ........................................................................ 124

Chapter Five: Arrests and cautions ............................................................ 128

- Arrests ...................................................................................................... 128
- Cautions ................................................................................................... 141
- Summary and discussion ........................................................................ 151

Chapter Six: The truth at last? .................................................................. 153

- Structural factors ................................................................................... 153
- 'Cultural' factors .................................................................................... 154
- Conclusions ............................................................................................ 171
- Post-script: the role of ethnic monitoring .............................................. 197

References .................................................................................................. 200
Chapter One
The 'Race' and Crime Debate in Britain

THE QUESTION OF DISCRIMINATION

In 1991 the Criminal Justice Bill was amended in the House of Lords to include a new clause requiring the Home Secretary annually to publish:

'....such information as he considers expedient for the purpose of-

a) enabling persons engaged in the administration of criminal justice to become aware of the financial implications of their decisions; or

b) facilitating the performance by such persons of their duty to avoid discriminating against any persons on the ground of race or sex or any other improper ground.'

The requirement (Section 95 of the 1991 Criminal Justice Act) was symbolically significant in two main ways. Implicitly it signalled Government concern about 'race' and the criminal justice process; and, more specifically, it formally recognised that discrimination was a possible cause for this concern. That is, it gave statutory recognition to anxiety about unequal treatment of ethnic minorities by the criminal justice system some thirty years after this anxiety was first expressed publicly.

S.95 seemed unlikely, however, to satisfy the needs of those working within the criminal justice system or to meet the expectations of those who have been campaigning on issues of 'race' and criminal justice. For the 'information' available at the time it was passed provided extensive empirical corroboration of the cause for concern - but it was of very limited value in showing how this occurred; and, by the same token, it was largely incapable of identifying what part discrimination played in this.

It is beyond the scope of this study definitively to prove where and precisely how racial discrimination may occur in the criminal justice process. Rather, in the context of developments since s.95 was passed, it aims to refine current understandings about:

a) the range and interrelationship of possible explanations for apparently different
ethnic outcomes; and

b) the likely role of discrimination in relation to other factors.

This chapter begins by providing an outline of the historical background to the concerns in question and by sketching some of the more theoretical interpretations of the apparent ethnic differences shown by official statistics in both rates and patterns of criminal activity. Chapter 2 then reviews the empirical evidence currently available on ethnic minorities and the criminal justice process. Chapter 3 describes developments since s.95 was passed and outlines the research approach taken to exploring the extent to which these may shed light on the questions raised at both the theoretical and empirical level. Chapters 4 and 5 present the findings of the research. Chapter 6 discusses their implications for developing our understandings about 'race', crime and the criminal justice process and concludes by drawing out specific implications: for future developments in the patterns revealed by ethnic statistics and for the role of ethnic monitoring.

Before proceeding further, however, it is necessary briefly to clarify some of the terms used in the thesis.

TERMINOLOGY

The meaning - and indeed, the validity - of the term race has been extensively discussed; so too has the concept of ethnicity; and further controversy inevitably surrounds the relationship between the two. Rex and Mason's 'Theories of Race and Ethnic Relations' (1986) usefully draws together many of the elements of this debate. It does not, however, attempt to reconcile them but rather confirms that any usage is bound to be contested. For, as Ratcliffe has commented in respect of 'race':

"The major debate in Britain...concerns radically different theoretical and epistemological paradigms. This is seen most clearly in the conflicting approaches to the matter by scholars such as Rex and Miles; a conflict grounded at one level in the fundamental division between Weberian and Marxian forms of analysis. But this very clear delineation of academic "battle lines" should not be allowed to conceal major internal divisions within these camps or to obscure the work of those who are aligned to neither."

(Ratcliffe 1991 p.214)
Mason himself makes a similar point with regard to ethnicity - a simple, universally acceptable definition of which, he says, 'is not possible, not least because of the range of theoretical traditions from which the issue can be approached' (Mason 1991 p.198).

Constraints of space, in any case, do not permit an extensive defence of the usage which I intend to employ here. Briefly, and without claiming that it is definitive (or problem-free) this may be explained as follows.

In a discussion of sociological questions, there is no biological justification for the use of the term 'race'. Yet it is already pervasively used in popular and academic discourse and is the basis of legislation. As such, it is impossible to avoid in discussing what are commonly referred to as issues of 'race and crime'. This is not to dismiss the objections of writers such as Miles who, essentially, argue that such usage reinforces unfounded notions of inherent biological difference, thereby distracting attention from the ways in which the term has been socially constructed and perpetuating the forms of exclusion and discrimination which result from this social construction (Miles 1982, 1987, 1989). Indeed, the approach adopted here acknowledges Miles' concerns by following the convention of using the term only in inverted commas. This is not necessarily to endorse his view of the processes by which 'race' is socially constructed; it simply reflects McEwen's neat description of the conceptual world with which I am concerned. In this world

``...the term race is applied more often to phenotype - the physical characteristics, such as colour, more frequently found in particular ethnic groups - than genotype - those distinctions which have some biological underpinning. Socially race has a significance dependent not upon science but upon belief."

(McEwen 1991)

However, I hope to avoid many of the pitfalls associated with the term 'race' since one of my concerns is to draw out important differences between the many groups to whom simplistic 'racial' labels have been applied. Yet the fact that these are commonly referred to as 'ethnic minority groups' poses a further set of problems. In UK usage, the term implicitly refers to groups of people who are phenotypically distinctive from the majority population. By far the greatest

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1 Thus anti-discrimination legislation is embodied in the Race Relations Act 1976 and the term is used in s.95 of the Criminal Justice Act 1991 (as cited).
number of these have their ancestral origins in sub-Saharan Africa (and, more recently, the Caribbean) and in the countries of the Indian subcontinent. They have tended to be referred to respectively as 'Afro-Caribbeans' - or, more recently, 'Blacks' (see references below to 1991 Census) - and 'Asians'. But people from the Middle and Far East are also sufficiently numerous occasionally to feature in official statistics as ethnic minorities. (For more detail, see Chapter Two). And more fundamental objections may be raised both to the use of the term 'ethnic group' and to the qualification 'minority'. An ethnic group, Yinger suggests:

"...exists in the full sense when three conditions are present: a segment of a larger society is seen by others to be different in some combination of the following characteristics - language, religion, race and ancestral homeland with its related culture; the members also perceive themselves in that way; and they participate in shared activities built around their (real or mythical) common origin and culture."

(Yinger 1986 p.22)

This definition challenges current U.K. usage in at least three ways. Firstly, the 'Black' and 'Asian' categories are too large to be considered 'ethnic groups'; for they subsume nearly two and a half million individuals differentiated by a wide range of languages, religious affiliations, and 'racial' characteristics, and who identify with a variety of ancestral homelands across the globe. Secondly, many of those who are thought of - and, indeed, officially categorised - in this way may not, in fact, perceive themselves as sharing these characteristics and still less 'participate in shared activities'. And, thirdly, phenotype of itself is neither an essential ingredient of ethnicity nor a sufficient qualification for its ascription. Thus, while many 'Blacks' and 'Asians' might not qualify for ethnic group membership on Yinger's test, many whites would do so - including those who perceive their 'real or mythical common origin and culture' as Irish, Scots, Welsh or, even, English.

And this, in turn, raises questions about the usefulness of the 'minority' qualification. Clearly - even if this excludes the 'English' from 'minority ethnic group' status - it does not restrict the logical application of the term to non-whites. Moreover, even if one accepts this limited use of the term because it reflects current practice, it is still inappropriate where the unit of analysis is such (for example, at the level of particular streets or certain enumeration districts) that 'ethnic minority groups' comprise the majority of the local population.
Notwithstanding these inconsistencies, the practice here will follow that adopted in respect of 'race'. The term 'ethnic minority group' will be used to refer to people who are likely to be classified according to the 1991 Census (see Chapter Two) in any of the groups aggregated into the 'Black' and 'Asian' categories. As far as possible, relevant distinctions will be made within and between these groups; but it should be noted that the terminology used cannot always be consistent inasmuch as the data sources referred to use different definitions, particularly in respect of the 'Black' groups. The term 'black' was often used in the recent past to cover all non-white minorities and there are still some who persist in this on political grounds. That is, they assert that these groups share a common experience of discrimination because of their colour and, implicitly, that to deny them a collective label which reflects this is to deny the discrimination. However, such a generic label masks important distinctions which, for the purposes of this thesis, are themselves already frustratingly obscured by the terms 'Black' and 'Asian'. Also, there is increasing evidence that many Asians do not accept (and may, indeed, actively reject) being referred to in this way. Further problems arise because the groups now termed 'black' by the Census were, until 1991, referred to variously in official classification and in the literature as 'West Indian', 'African' or 'Afro-Caribbean'; and though the latter term should, strictly speaking, be used to subsume both groups, it was often used loosely to describe people mainly or exclusively of West Indian origin. In the interests of consistency and clarity, the thesis refers to these groups wherever possible as 'black' (disaggregating further within this as appropriate), even though the original data source may use one of the alternative forms referred to. Where tables are drawn from such sources, however, the original classification is used - not least to avoid giving a spurious impression of comparability between data sets.

HISTORICAL BACKGROUND

The origins of most of Britain's ethnic minorities can be traced to immigration from its former colonies following the second world war. 'Primary' immigration (that is of individuals - usually men) was encouraged at that time to fill manpower needs but began to be severely restricted from 1962 onwards by legislation which selectively curtailed the rights of entry granted to overseas-born British subjects by the 1948 Nationality Act. Symbolically, the culmination of this process was the passage of new nationality legislation in 1981; and, although further restrictions have continued to be imposed since then, these have targeted 'secondary' immigration (that is, the process of reuniting their families with 'primary' immigrants) which has lagged behind 'primary'
immigration and which, in some cases, is still not complete.

The history of this post-war immigration and of the development and impact of immigration controls has been covered extensively in the 'race relations' literature (e.g. Layton-Henry 1984, 1992, Fryer 1984, Walvin 1984). For present purposes it is worth noting that the main primary immigration from the Caribbean was in the 1950s and 1960s. That from the Indian subcontinent (ISC) began up to ten years later and was further boosted in the late 1960s to the mid 1970s with the arrival of refugees of ISC origin from East African countries. The only further significant wave of immigration since that time has been that of limited numbers of Vietnamese in the late 1970s. The rate of family reunion has varied from one group to another for a variety of reasons; and relatively high levels of secondary immigration from Bangladesh still continue. (The broad patterns of primary and secondary immigration by different groups up to the end of the 1970s are captured in Table 5 of Brown 1984).

In the early post-war period, tensions between the indigenous population and what then were almost universally referred to as 'coloured immigrants' received little public attention from politicians nationally. Certainly, extensive and overt discrimination against these minorities tended to be ignored, including the pattern of physical attacks against Asians which were already commonly referred to in the late 1950s as 'Paki-bashing'. But attacks by whites on West Indians sparked 'race riots' in 1958 in Notting Hill and Nottingham and began to force issues of 'race relations' onto the national political agenda. Although the police were subsequently commended by the Home Secretary for their peace-keeping role in these events (Rose et al. p.355), the minorities themselves and others concerned with 'race relations' had already begun by this time formally and publicly to express their concern about police treatment of West Indians in particular. Meanwhile, the anti-immigrant lobby seized on the riots to campaign for restrictions on immigration from the Caribbean specifically, explicitly linking West Indian immigrants with criminal activity².

² Layton-Henry quotes the MP for North Kensington, who told the Daily Sketch

'The government must introduce legislation quickly to end the tremendous influx of coloured people from the Commonwealth...overcrowding has fostered vice, drugs, prostitution and the use of knives. For years the white people have been tolerant. Now their tempers are up.'

(op. cit. 1984 pp.50-51)
The police themselves acknowledged a problem of deteriorating relations with West Indians in the 1960s and 1970s. Rose et al. cite Sir Joseph Simpson who, as Metropolitan Police Commissioner, wrote in 1967:

"Complaints of police "brutality", of West Indians afraid to complain to the police for fear of being "beaten-up", and protest marches and demonstrations in support of these allegations, have all been part of the deteriorating background to the pattern of police and immigrant relations during the last six months."

(Rose et al. 1969 p.349)

Yet, at least at senior levels, the police do not appear publicly at this stage to have endorsed the links with crime being made by the anti-immigration lobby. And this was still the case in 1972 when the House of Commons Select Committee on Police/Immigrant Relations - which took evidence from a wide range of bodies including central government departments, local government and police forces themselves - acknowledged widespread concern about 'growing tensions', but concluded 'beyond doubt' that

"coloured immigrants are no more involved in crime than others; nor are they generally more concerned in violence, prostitution and drugs. The West Indian crime rate is much the same as that of the indigenous population. The Asian crime rate is very much lower."

(Select Committee 1972. Main Report p.71)

However, only four years later when the Select Committee took evidence more generally on the situation of 'The West Indian Community', the Met submitted a memorandum which concluded that, while further research was needed 'on this sensitive and emotive subject'

"already our experience has taught us the fallibility of the assertion that crime rates amongst those of West Indian origin are no higher than those of the population at large."


Challenged on this apparent departure from their previous position, they submitted a further memorandum, stating that
...from current statistics available...our overall experience of 1971 no longer holds good.'

(op. cit. Vol III p.689).

The 'current statistics' referred to by the Met - and the basis of their evidence to the two Select Committees - were derived from descriptions in that minority of cases where victims had had sight of the offender. From around this time, however, the Met formally introduced a system (based on visual assessment by the police) of the ethnic origin both of people they arrested and those against whom they subsequently took proceedings.3

Meanwhile, the 'politics of race' in their broader sense had, for a variety of reasons, begun to assume a higher profile at both central and local government level. The first immigration controls were imposed on Commonwealth citizens in 1962, followed in 1965 by the introduction of the first 'race relations' legislation and by the provision in the Local Government Act of 1966 of additional funding to help local authorities meet the 'special needs' of immigrants. The lobby against discrimination - symbolized nationally in the activities of the Campaign Against Racial Discrimination (CARD) (Heinemann 1972) - grew stronger. It began to raise public awareness of the issues and was backed by studies of prejudice and discrimination (Daniel 1968, Rose et al 1969). But there was a parallel rise in manifestations of anti-immigrant feeling, most famously and dramatically captured in Enoch Powell's 'Rivers of Blood' speech of 1968. And further developments in the 1970s - including the rise in the electoral fortunes of far-right parties and the emergence of a strong anti-racist movement in response - combined in the context of relative political instability to perpetuate and reinforce the political salience of 'race' issues (FitzGerald 1987).

One specific form in which the theme of 'race' and crime came to be woven into these wider political developments was in a growing preoccupation with 'mugging'. The origins and

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3 Ethnic information was also collected by the police on the sentences imposed on those they proceeded against but this has ceased to be available since the advent of the Crown Prosecution Service (whose court work subsumes some previous police functions). Although the figures continued to be gathered for operational purposes, the Met ceased collating ethnic statistics based on victim description. This decision was apparently taken on the twin grounds that the data did not cover the full range of offences and because of the danger of inaccuracy. This information has begun recently to re-emerge, however - most dramatically in the launch of 'Eagle Eye' (see Chapter 3) - with apparently little or no comment on the implicit reversal of policy.
manifestations of this preoccupation have been extensively documented - most notably in 'Policing the Crisis' (subtitled 'Mugging, the State and Law and Order') by Hall et al. in 1978. In brief, the term was imported from the U.S.A. and applied very loosely (but emotively) in the media and in political discourse to a range of street crime (especially 'robbery or assault with intent to rob', but also 'thefts from the person'). It was used with both explicit and implicit reference to black people (that is, those of Caribbean or African origin) (Ramsay 1982), such that Hall et al. concluded

'For all practical purposes, the term "mugging" and "black crime" are now virtually synonymous.'

(op. cit. p.100)

Nor was this association confined to 'mugging'. Troyna in his study of 'race' reporting in the media between 1976 and 1978 noted that '..almost 25% of all items in which "West Indian" as a category was mentioned related to crime stories' and, that 'West Indians featured in 23% of crime items.' (Troyna 1981 p.28)

Meanwhile allegations of police discrimination and harassment of black youths in particular continued, receiving widespread media attention in the context of the campaign against s.4 of the 1824 Vagrancy Act (the 'Sus' laws). Yet, in parallel, a dichotomous strand of concern about police/ethnic minority relations began to receive public attention in the late 1970s as campaigning groups took up the issue of racial attacks. In this instance, the ethnic minorities in question were predominantly of Asian origin (FitzGerald and Ellis 1990); and they were of concern as victims rather than as alleged perpetrators of crime. While, in the case of black people, the police were accused of being too proactive, in the case of Asians, the main complaint was their alleged failure to act.

In the 1980s, however, there has been a marked shift in the context which frames any discussion

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4 In a speech to a Police Federation seminar in 1976, Enoch Powell said of 'mugging'

'to use a crude but effective word, it is racial.'

5 Under s.4, the police had powers to arrest without warrant a person whom they 'reasonably' suspected of 'loitering with intent to commit a felonious offence'. Metropolitan Police figures in 1976 showed that black people accounted for 42 per cent of all arrests in this category, compared with 12 per cent for all offences in 1975. (Demuth 1978).
of criminal involvement by ethnic minorities.

The riots in Bristol in 1980 and in Liverpool, Brixton and elsewhere in 1981 were perceived as unprecedented on the British mainland (see Scarman 1981 para 1.2). They were also perceived to have disproportionately (not to say predominantly) involved black youth and to have been triggered by encounters between these youths and the police. Moreover, despite a high profile Government response, they recurred in 1985, this time with loss of life.

If 'mugging' was the peg on which issues of 'race' and crime were hung in the 1970s, the riots were the filter through which they came to be viewed throughout the 1980s. Moreover, this transition has occurred within the context of major shifts in the broader political context, two aspects of which are worth highlighting here. In terms of the politics of 'race', the focus in the 1980s has increasingly moved away from preoccupations with immigration control to concern about 'the enemy within' (see FitzGerald and Layton-Henry 1986) while 'race' issues themselves have also become more politicised (FitzGerald 1987, 1989). Secondly questions of 'law and order' more generally have assumed a higher political profile as issues on which to score electoral points (McLaughlin 1991).

It is therefore no coincidence that the 1980s have also seen a marked increase in academic interest in these areas, with a mushrooming of publications on aspects of 'race' and crime, some of which have been commissioned by Government (both central and local) and by the criminal justice agencies themselves. The main institutional focus of these studies has tended to be the police, but concern has recently begun to extend to other agencies of the criminal justice system (and to the interaction between them).

A factor in this broadening of academic focus has undoubtedly been the availability since the mid-1980s of national crime data broken down by ethnic origin. One important Government initiative in response to concerns over 'race' and crime was to begin keeping records of the ethnic origin of prisoners received by Home Office institutions from 1985 onwards. The collection of such information in the context of crime has been controversial - not least because of the publicity which resulted from a Metropolitan Police press release in 1982 selectively using their data on ethnic origin to highlight the 'disproportionate involvement' of young black people in street crime (Scotland Yard, Press Release, 10 March 1982). Yet the collection of this type of information
cannot simply be dismissed as a device for protecting the system against charges of discrimination or, even (as the more cynical would have it) as a means of reinforcing negative stereotypes of black people (Carr-Hill and Drew 1988). It is equally open to positive interpretation. Collecting ethnic data can be seen as a response to the lobby for statistical evidence capable of demonstrating discrimination. The Commission for Racial Equality, for example, has repeatedly urged the Government to extend this monitoring, as have bodies such as the National Association for the Care and Resettlement of Offenders (NACRO), echoing the conclusion of Rose et al. who, as long ago as 1969, wrote:

'We therefore recommend that the methods of collecting and presenting data be improved to allow accurate assessment of rates of crime and delinquency among ethnic and other minority groups; and that data and information be available about complaints against the police...'

(op. cit. p.726)

Until 1993, the Prison Statistics remained the only regular national data source of this type, supplementing the London figures for those arrested and proceeded against by the Metropolitan Police which had already been available for some eight years (see above). Inasmuch as either set of statistics can be regarded as an objective measure, they have indeed confirmed that there is 'a problem'; and this is further supported by evidence from a growing number of other sources, including national data from the first year's ethnic monitoring of police stops under the Police and Criminal Evidence Act (1984) which the police Inspectorate (HMIC) have required all forces to undertake since 1993. Moreover, insofar as trends can be discerned, the data suggest that, since they first began to be published, the problem has not diminished and may, in fact, have been getting worse.

'THE PROBLEM' AND ITS INTERPRETATION

The figures published in 1986 (HOSB 1986) already showed that black people were over-represented in British prisons (relative to their presence in the population at large) by a factor of about nine. However, there was no apparent over-representation of Asians. When broken down according to the crimes for which prisoners had been sentenced, the figures also suggested that different ethnic groups had different patterns of offending. Full details are given in Chapter 2; but it should be noted here that a further bulletin on the ethnic origin of prisoners published eight
years later (HOSB 1994) showed that the proportion of black people in the prison population had increased from 8 per cent for men and 12 per cent for women in 1985 to 10 per cent and 20 per cent respectively in 1992. From the outset, the prison figures appeared not only to confirm the picture which had been painted by the police data for London, they provided 'evidence' to the political Left that black people were being disproportionately 'criminalised' and to the political Right that they were disproportionately 'criminal'.

As they stand, the figures appear to lend themselves as readily to either of these interpretations. In fact, four broad explanations have been offered in the media and in political and academic debate (Jefferson 1988, Reiner 1989, FitzGerald 1991). The over-representation of black people in British prisons has been attributed to:

1) discrimination within the criminal justice system - with high levels of discrimination by the police having a knock-on effect at other stages of the criminal justice process and being amplified in some cases by further discrimination by other agencies;

2) structural factors (including the age structure and disproportionately high levels of socio-economic disadvantage among the minority groups);

3) 'cultural' factors - characteristics which are peculiar to individual ethnic groups, either because they are in some way inherent or because they have developed in response to the group's treatment by British society in general and the agencies of the criminal justice system in particular;

4) a combination of any two or all three of these factors.

At first sight, the parties to this debate appear to span a political spectrum from right to left and which can broadly be divided into three bands. These parallel Benyon's typology of 'perspectives' on the riots (Benyon 1987) which he characterises as 'conservative', 'liberal' and 'radical'. However, some strange bedfellows occupy the same bands; the divisions between the bands are by no means clear-cut; and there are some striking similarities in the positions held at opposite extremes of the spectrum. It is convenient in this first chapter, however, to summarise the main interpretations currently on offer under these heads, offering minimal comment but returning to
them as appropriate in the final chapter in the light of the evidence presented in between the two.

**Conservative interpretations**

On the right are those who argue that the statistics reflect actual levels and types of offending by different ethnic groups and that this, in turn, simply reflects broader, inherent ethnic differences. For the most part, these differences are now depicted in cultural rather than biological terms; what is important to note, though, is that such cultural differences appear to be conceived of as fixed and immutable. While those who hold this perspective (and who tend to be referred to as the New Right) assiduously eschew arguments of biological superiority, they nonetheless claim that cultural pluralism can never work. Their position is most starkly and famously illustrated in Enoch Powell's verdict that

>'The West Indian or Indian does not, by being born in England, become an Englishman. In law he becomes a United Kingdom citizen by birth; in fact he is a West Indian or Asian still.'

*(Speech to Greater London Rotarians 1969)*

Ethnic minority criminal activity and, by extension, involvement in civil disorder is seen, in this framework, as 'cultural' and as adding weight to the arguments against aspiring to create a multi-cultural society. Hence Powell's explicit designation of 'mugging' as 'racial' and Norman (now Lord) Tebbit's implicit reference to the 1985 riots as an indictment of experiments with pluralism:

>'I see no point in, for example, simply blaming the immigrants (sic) in these inner-city areas - although there can be no doubt that, from whatever causes the problems arose, they are more difficult to deal with in a multi-cultural, multi-ethnic society than in a monocultural society of a single racial origin.'

*(Hansard 9 December 1985)*

The notion of criminality as a cultural trait - and the rôle of this in the arguments of 'The New Right' are well documented in Barker (1981) and in Gordon and Klug (1986). Examples from the media include Peregrine Worsthorne in the Sunday Telegraph of 29 November 1981:

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6 Discussion of 'race' issues, however, may be conducted without explicit reference to ethnic minorities. Especially in élite and political circles a coded language may increasingly be employed to make essentially racist arguments without providing verbal proof of racism. (Reeves 1983).
'Brixton is the iceberg tip of a crisis of ethnic criminality which is not Britain's fault - except in the sense that her rulers unnecessarily imported it…' 

And similar arguments have been advanced by academics. Thus Gordon and Klug quote from a Cambridge don (John Casey) who wrote in the first edition of the Salisbury Review that

'West Indians...especially the Jamaicans, and above all those actually born in this country...[are] structurally likely to be at odds with English civilisation...'

(op. cit. Autumn 1982)

He referred to their 'vastly disproportionate' involvement in violent crime, to 'habits particularly characteristic of Jamaica, including ....a general rebelliousness... and, incidentally, that curious interest in fire' as well as to 'the West Indian lifestyle (which seems to include drugs and other unlawful activities)'.

At a more day-to-day level, I personally recorded the following, telling comment by a police officer which shades from the cultural into the biological:

'These are black crimes. I've never nicked a white for bag-snatching yet. It just happens to be what they're good at: they're very quick with their hands.'

(Personal communication, Walthamstow 1980)

**Liberal interpretations**

Occupying the wide middle-ground of the spectrum are Benyon's 'liberals' - commentators who attribute the involvement of ethnic minorities in crime - or, more generally, in disorder - to a combination of factors. Such is the variation in the relative weight they give to these factors and the relationship they describe between them that many would not accept that they can be grouped together in this way. The argument here is that they are linked inasmuch as all take some account of socio-economic factors. However, there are marked differences of emphasis even in respect of this apparently common ground.

Some liberal commentators stress the need to view the problem in a broader 'race'-neutral context which has two particular reference points. One is the well-established link between criminal
activity and socio-economic status. As one puts it:

"If black over-offending constitutes at least part of the explanation for their high arrest rates, then it puts back squarely on the agenda the question of disadvantage and crime. For, if blacks are disproportionately involved in known offending behaviour, they also have much higher rates of social disadvantage. Since known offenders are disproportionately drawn from the ranks of manual workers, the unemployed and the socially deprived, the higher black arrest and offender rates should not particularly surprise."

(Jefferson 1991 p.181)

The other reference point in this wider context is a historical perspective through which commentators variously recall that, on the one hand, levels of crime and disorder have long been the focus of public concern and, on the other, that certain groups within society have been the bearers of these concerns. These themes are too widely covered to provide a full list of references; but specific mention should be made of the classic studies by Cohen ('Folk Devils and Moral Panics', 1980) and Pearson ('Hooligan: A History of Respectable Fears' 1983) on which many writers more specifically concerned than Cohen or Pearson with issues of 'race' and crime, have subsequently drawn.

Others, while subscribing to the importance of structural factors, have emphasised the particularity of the socio-economic position of ethnic minorities much of which, they argue, is attributable to direct and indirect discrimination and to the cumulative effects of these over time. This approach is most famously identified with Lord Scarman who, in insisting on broadening the terms of reference of his inquiry into the Brixton disorders to include social questions (Scarman 1981), earned a special place in the 'liberal' pantheon. However, critics of the use he made of this opportunity - and, in particular, of his treatment of issues of 'race' and crime - have included liberals as well as radicals. Lustgarten fires this well-fashioned broadside:

"Identifying an issue in ethnic terms may get it taken more seriously...but may also mean that fundamental causes or relationships are obscured....the part is taken for the whole."

(Lustgarten 1983 p.237)

And he continues:
"...it is important to avoid adopting the narrow view that reduces issues ...to a sub-
category of race relations. Lord Scarman, unfortunately, set the pattern...His insistence -
which won general approval on the Left - upon extending his brief to include a long
excursis on racial disadvantage gave this element undue prominence."

(Emphasis added)
(op.cit. p. 240)

That is, commentators in this middle band agree on the centrality of socio-economic factors, but
they already differ in the ways in which they interpret the influence of these; and they polarise
more starkly in terms of the additional factors involved. Some seem to verge on (and even to
espouse) conservative interpretations. David Smith, for example, who is a key figure in the
literature documenting racial disadvantage (Smith 1977, 1981), appears to adopt a position which
diffs little from that of the New Right:

'It is often reported that 40 years ago the police used to behave extremely badly in the
East End, and yet in general that did not lead to anti police riots in the same sense that we
have seen them recently. Maybe this is connected with changes in expectations which are
in turn connected with the introduction of ethnic minorities in the cities...

'In social anthropological research it has been found that individual West Indian boys or
young men will respond in quite an emotional way to accounts of experiences quite
remote from their personal lives of some kind of bad behaviour by the police or any kind
of oppression as they see it towards members of their group.'

(emphasis added)
(Smith 1987 p. 71)

Among the most controversial of the 'liberal' interpretations is the work of the 'New Left
Realists', in particular Lea and Young whose essay on the riots of 1981 begins in the same vein
as Smith by pointing out that

7 Lustgarten's main concern, however, was not with Scarman's position in the 'race' and crime debate
but with his narrow concern with police relations with ethnic minorities (rather than with the wider
working class). Coupled with this was what Lustgarten viewed as Scarman's idealised notion of
crime discretion and his further tendency to imbue this with the spurious cloak of 'professionalism'.
In this combination he foresaw (perhaps prophetically) a serious threat to the wider debate about
police accountability which had begun to rage at around the same time.
`...while the widespread rioting of 1981 seems almost an obvious reflex of economic collapse, there were no disturbances of anything like the same proportions during the 1930s.'

(in Cowell, Jones and Young 1982 p.5)

Here, and especially in a fuller essay (Lea and Young 1984) which responds to the criticism provoked by that in 1982, they develop `A Subcultural Approach to Race and Crime' (op.cit. 1984 p. 124). They start from assuming a link between deprivation and crime; but they focus on criminal activity among `second generation West Indian youth' as a very particular manifestation of that link. `Conservative' and 'liberal' explanations alike, they argue, have failed to explain the connection; but their most detailed (and, often, emotive) criticism is directed at the latter. Their own position may be summarised as follows.

Lea and Young accept as fact that there is a higher crime rate among `second generation West Indian youth' and that it manifests in a distinctive pattern of criminal activity (in particular, mugging). They strongly contest any notion that this activity is `political' (as opposed to purely `predatory' and 'anti-social'); and their premise that this is not due simply to deprivation or to the experience of racism rests largely on the twin observations that the first generation of `West Indians' did not exhibit the same pattern and - importantly - nor do `Asian' youth. They start from an assumption that

`Different ethnic groups react differently to deprivation...'

and go on to elaborate the notion that

`the crime rate is neither wholly a function of ...material conditions...nor of a particular culture, but a complex interaction between the two. Subcultures arise out of material conditions, but at the same time the culture a group carries with it into a new situation will influence how the new material conditions will be experienced, enjoyed or actively fought. The existing culture will provide a major part of the raw material out of which a new cultural adaptation will be worked.'

(op. cit. 1984 p.133)
They explain that

"The economic alienation of young black people gives rise to a culture with a propensity for crime."

(op. cit. 1982 p.12)

and go on to argue that this culture

"...is not a hand-down from the previous generation of immigrant parents as the conservative thesis of "alien cultures" would suggest. Rather, it is an improvised culture based on the import of elements from the West Indies by kids most of whom either have never been there or left when they were very young....(S)uch culture is widely disapproved of by the older generation of West Indian immigrants and is, furthermore, a minority and deviant sub-culture within the West Indies itself."

(op.cit. 1984 p.127)

As to why young Asians have not followed the same path, Lea and Young advance the explanation that Asians have been 'comparatively' insulated from 'the process of relative deprivation for two reasons:

'First, by comparison with West Indian youth, Asians have a more substantive opportunity structure within their own community. This is related to the comparatively larger size of the professional and business class in the Asian community. Secondly, the distance between Asian culture and indigenous British culture is greater than that between the latter and West Indian culture. Assimilation to indigenous British standards and aspirations has thus probably been a more rapid process for youth of West Indian parentage and hence relative deprivation [is] felt more acutely with the consequent fostering of a deviant counter culture.'

(op.cit. 1982 p.8)

Finally, at the opposite (radical) end of the liberal spectrum described in this section, other authors acknowledge that structural factors do not offer a full explanation and that what remains unexplained has to be accounted for in terms which are specific to the ethnic groups in question. However, rather than cast the ethnic component of this account in terms of inherent cultural characteristics, they draw on notions of conditioned responses to discriminatory and oppressive policing which, over time, have developed as a force in their own right, powering an apparently descending spiral. Thus Jefferson refers to
'the consequence of the mutual hostility between blacks and police as a self-fulfilling prophecy which can produce a deadly dynamic of mutual distrust, tension, hostility and eventually hatred'.

(op. cit. p.135)

Radical interpretations

While Jefferson shares this perception with others who might broadly be thought of as belonging to the liberal camp, it is unsurprising to find him providing the bridge to the radicals inasmuch as he was one of the authors of 'Policing the Crisis'. This is one of the major works associated with the radical position. Indeed, Hall et al. self-consciously warn in their Introduction that:

'Liberals, people of goodwill, active in the cause of penal reform or improving race relations, will like it least of all...'

(op. cit. Introduction p.ix)

The radicals share some key points of reference with the liberals - especially the centrality of socio-economic factors (including those which are specific to ethnic minorities) and of discrimination (both in its widest sense and by the police in particular). However, the influence of these factors is viewed within a wider and more expressly political framework - one in which the state and its agents (in this instance the police, with the assistance of the media) traditionally serve their own ends by designating certain groups as threats to society at large. Very broadly, the radical interpretation holds that, at the present historical juncture, certain ethnic minorities who have served the state's purpose of supplying labour when required but who have been kept from full participation in British society (including through the denial of equal rights) are variously the bearers of, distractions from and scapegoats for the crisis of capitalism and the related crisis of state authority.

What broadly distinguishes the radical from the liberal position is that, in the radical analysis, issues of 'race' and crime (and, recently, civil disorder) take on additional political significance. On the one hand, ethnic minorities are seen as systematically criminalised - both because the social and economic position in which they are kept by the state offers them no alternative and because they are picked on unfairly by the police (sometimes with the effect of drawing them into criminal
activity). On the other, the minorities themselves are seen as developing strategies of resistance to this oppression. These include civil disorder - hence the convention among 'radical' writers of referring to the riots of the 1980s as 'uprisings' or 'rebellions' - and the adoption of criminal lifestyles in preference to the rôles allotted to them by the state.

Again, there are variations in the emphases of radical authors. The authors of 'Policing the Crisis' rehearse the positions variously taken by black writers (of West Indian origin) associated, on the one hand, with 'Race To-day' and, on the other, with 'the Black Liberator'. And the book's final chapter struggles with moral questions - for example concerning the victims of criminal activity and the longer-term consequences of criminalisation in the cause of political expedience. The authors appear to flirt with different interpretations and variously to hide from or try (unsuccessfully) to reconcile some of the contradictions and dilemmas thrown up in the course of their collective enterprise. Inasmuch as they reach a conclusion about the articulation of black criminal activity and politics, it is

`that there is, as yet, no active politics, no form of organised struggle, and no strategy which is able adequately and decisively to intervene in the quasi-rebellion of the black wageless such as would be capable of bringing about that break in the current false appropriations of oppression through crime - that critical transformation of the criminalised consciousness into something more sustained and thorough-going in a political sense.'

(op. cit. pp. 396/7)

Writing in the 1980s, - and similarly preoccupied with the relevance or otherwise of Marxist analysis to their project - Solomos and Gilroy in particular develop these radical interpretations with the dubious benefit of hindsight on the riots. Solomos, for example in 'Black Youth, Racism and the State', describes how (and why) the state constructs a problem category of 'Black Youth' and the role played by issues of law and order in this construction. And Gilroy more directly challenges liberals and earlier radicals alike - above all for engaging in a debate about the precise scale, level and nature of black criminality, a debate which he sees as designed to distract attention from the real issues and which simply reinforces a narrow and negatively stereotyping view of these activities. Thus he writes of the 'moralism' which appears
"...wherever "left" criminologists address the vexed issue of "street crime". Jock Young, rather than account for the ideological power of "mugging" or confront its racial connotations with precision or honesty, argues that it is "qualitatively different" from other forms of "crime"..."

(Gilroy 1982 p.150)

He concedes that 'Hall et al.'s view of the progression from proto-political to "organized" forms of class struggle' at least 'bypasses' this moralism; yet

"..they too encounter problems around the conception of "criminality" which is not subjected to the rigorous interrogation they accord its specific representation as "mugging". They obscure the complex relation between behaviour designated criminal and political consciousness, by conceding the reality of "false appropriations of oppression through crime". This opens the door to conceptions of black culture and political traditions generating criminality.'

(op. cit. p.151)

He goes on in later work to develop a much fuller theory of the significance of 'race' in new (post Marxist) social/political movements and the place of crime within this. Consciously focusing on the riots - since traditional 'crime' figures are individuated and therefore serve to obscure the collective dimension which is central to his thesis - he argues:

"The riots during the summer of 1981 and the autumn of 1985 were described by the left as "barbarous acts of criminality" and symptoms of the "absence of any viable tradition of ethic politics" while the right argued that they were a "cry for loot rather than a cry for help". Yet...evidence ...does support a view of their origins in a social movement.
'I want to suggest that these forms of protest can be interpreted in a way which does not reduce them to either "marginality" or "deviance", terms which imply that they are nothing more than crude reactions to crisis, lacking cognitive, affective and normative dimensions.'

'Disorderly protests', he concludes

"..reflect the experiences of participants and by conveying antagonism against the world as it is, they can be shown to embody a view of how participants would like it to be.'

(Gilroy 1987 p. 237)
SUMMARY AND CONCLUSIONS

Despite the wide range of political perspectives on questions of 'race' and crime, what is striking is the consensus which underlies any discussion of these issues. Essentially, it is accepted that there is a particular problem of law and order associated with ethnic minorities. More specifically, the problem is associated with black youths of West Indian origin (most of whom by now have been born in Britain). The apparently relatively low rate of criminal activity among Asians gives succour to those who believe that these are questions of innate 'cultural' tendencies; and this has posed obvious difficulties for those who invoke deprivation and discrimination to explain the problem. The latter have generally failed to address the issue, and where they have tried to do so (Hall et al 1978, Lea and Young 1982, 1984, Jefferson 1991) they have themselves sailed near the wind of 'cultural' explanations or, even, (in the case of the New Left Realists) appear to have elaborated new versions of these.

For present purposes, no further attempt will be made to assess the relative merits of this range of interpretations. Rather, we first need to review the empirical evidence currently available on

- the existence of the problem
- its dimensions and
- its causes.

This is summarised in Chapter Two and supplemented by additional, new material in Chapters Three, Four and Five. The conclusions drawn by Chapter Six implicitly evaluate the theories outlined in this chapter in the light of an unapologetically sceptical empiricism. They also attempt to build on those elements of the theories which best withstand this test. For the underlying aims of the thesis are

a) to contribute (however modestly) to the development of better grounded understandings of the problem and

b) thereby, to provide a basis for policies and practices which stand a chance of being
effective in a real world which is complex and in circumstances which will always be less than ideal.
Chapter Two
The story so far

Only a very small proportion of crimes actually committed are dealt with by the criminal justice system\(^1\), so those who show up in criminal justice statistics are not necessarily typical of offenders. Moreover, a proportion of those brought into the system as suspects are innocent of any offence; and there are a number of key decision making points between initial contact with the system and imprisonment, which is its ultimate sanction. That is, the system itself consists in a series of filters: at each stage, a large number of suspects (in some instances, the majority) are diverted from it: relatively few complete the full course - or, as some would see it, circuit - from initial contact with the police to imprisonment. Before turning to examine the empirical evidence of ethnic minority involvement with the system, therefore, it is worth

a) comparing ethnic minority groups with whites to see if there are differences which might trigger these filters differently for different groups and
b) looking in more detail at the way the filters operate.

INTER-ETHNIC COMPARISONS

The 1991 Census - which was the first to ask directly about the ethnic origin of respondents (in addition to place of birth) - provides the most authoritative information to date on ethnic minorities in Great Britain. Prior to that, since 1981 the best available source was the Labour Force Survey (LFS)\(^2\) data. This had also included a question on ethnic origin but, because of the sample size, data had to be aggregated over three years to maximise reliability and, even so, the

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\(^1\) British Crime Surveys conducted by the Home Office in 1982, 1984, 1988 and 1992 have consistently highlighted the discrepancy between the level of crime experienced by respondents and those contained in police statistics. The 1992 report suggests that 70 per cent of all crime went unreported or unrecorded (Mayhew and Aye Maung 1992). And, of crimes recorded, the percentage actually cleared up stood at about a quarter in 1992 (Home Office 1993)

\(^2\) The Labour Force Survey has an annual sample size of 150,000 adult respondents and includes questions on family composition.
numbers were too small satisfactorily to provide ethnic information at sub-regional level. Together, the ethnic minorities identified by the Census make up about five and a half per cent of the total GB population and six per cent of that of England and Wales. Of these groups, the largest consists in people of Indian origin (see Table 2:1), followed by Pakistanis and Black Caribbeans. The Bangladeshis, in fact, are fewer in number than the Black African or Other Asian populations and no larger than the Chinese or Black Other groups, but special reference must be made to them inasmuch as - because of their origins in the Indian subcontinent, their predominantly Muslim religious affiliation (Brown 1984) and their socio-economic position in Britain - they are often grouped with the Pakistanis.

It is worth noting here that the Census categories are different from those used in the LFS up to 1991. In particular, the LFS included a `mixed' category which was the fourth largest of the minority groups and comprised individuals predominantly of West Indian/White origin (Shaw 1988).

Table 2:1

<table>
<thead>
<tr>
<th>Population composition of Great Britain by ethnic group</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Thousands</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Black</td>
</tr>
<tr>
<td>- Caribbean</td>
</tr>
<tr>
<td>- African</td>
</tr>
<tr>
<td>- Other</td>
</tr>
<tr>
<td>Indian</td>
</tr>
<tr>
<td>Pakistani</td>
</tr>
<tr>
<td>Bangladeshi</td>
</tr>
<tr>
<td>Chinese</td>
</tr>
<tr>
<td>Other - Asian</td>
</tr>
<tr>
<td>- Other</td>
</tr>
<tr>
<td>All minority ethnic groups</td>
</tr>
<tr>
<td>White</td>
</tr>
</tbody>
</table>

Source: 1991 Census
The socio-economic characteristics of the ethnic minority populations are different from those of whites at large in ways which may affect the likelihood of their involvement in crime and their contact with the criminal justice process. However, it is also important to take into account marked variations between the different ethnic minority groups themselves.

By the beginning of the 1990s, the LFS showed that over half of the Black Caribbean group (and over 90 per cent of Black Caribbeans under the age of 30) had been born in the U.K.; and this was also true of fully 85 per cent of the Black Other group. However, it applied to only just over a third of Bangladeshis, who were the most likely of all the 'Asian' groups to have been born abroad. This reflects the timing of the arrival of the immigrant generation (referred to in the previous chapter), which also explains why the ethnic minorities tend on average to be younger than whites.

Table 2:2 is based on the Census and shows that the age profile of the population of West Indian origin (the 'Black Caribbean' group) approximates most closely to the white; although it still contains a larger proportion at the peak ages for offending (between 14 and 21). The different 'Asian' groups are younger still: in particular, over 40 per cent of Pakistanis and Bangladeshis are still aged under 16. But the youngest group of all - and one which, in terms of its relative size, will be of increasing importance for the future - is the 'Black Other' group. A large proportion of this category would appear to consist of individuals who would have been classified as 'mixed' in the LFS (see Chapter 6, Footnote 7).

<table>
<thead>
<tr>
<th>Ethnic group</th>
<th>Aged 0-4</th>
<th>Aged 5-15</th>
<th>Aged 16-24</th>
<th>Aged 25-44</th>
<th>Aged 45-64</th>
<th>Aged 65+</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black-Caribbean</td>
<td>7.6%</td>
<td>14.3%</td>
<td>14.9%</td>
<td>32.7%</td>
<td>24.6%</td>
<td>5.7%</td>
</tr>
<tr>
<td>Black African</td>
<td>11.8%</td>
<td>17.5%</td>
<td>16.6%</td>
<td>42.2%</td>
<td>10.4%</td>
<td>1.5%</td>
</tr>
<tr>
<td>Black Other</td>
<td>20.3%</td>
<td>30.3%</td>
<td>19.0%</td>
<td>24.2%</td>
<td>5.0%</td>
<td>1.3%</td>
</tr>
<tr>
<td>Indian</td>
<td>8.8%</td>
<td>20.7%</td>
<td>15.2%</td>
<td>34.6%</td>
<td>16.6%</td>
<td>4.1%</td>
</tr>
<tr>
<td>Pakistani</td>
<td>13.1%</td>
<td>29.5%</td>
<td>17.5%</td>
<td>25.8%</td>
<td>12.4%</td>
<td>1.7%</td>
</tr>
<tr>
<td>Bangladeshi</td>
<td>15.1%</td>
<td>32.2%</td>
<td>17.6%</td>
<td>20.5%</td>
<td>13.5%</td>
<td>1.2%</td>
</tr>
<tr>
<td>Chinese</td>
<td>7.1%</td>
<td>16.3%</td>
<td>17.9%</td>
<td>41.2%</td>
<td>14.3%</td>
<td>3.4%</td>
</tr>
<tr>
<td>Other Asians</td>
<td>8.0%</td>
<td>16.4%</td>
<td>14.7%</td>
<td>43.5%</td>
<td>15.0%</td>
<td>2.4%</td>
</tr>
<tr>
<td>(Other) Other</td>
<td>16.4%</td>
<td>25.3%</td>
<td>15.2%</td>
<td>29.6%</td>
<td>10.3%</td>
<td>3.2%</td>
</tr>
<tr>
<td>White</td>
<td>6.4%</td>
<td>13.0%</td>
<td>12.6%</td>
<td>29.0%</td>
<td>22.3%</td>
<td>16.7%</td>
</tr>
<tr>
<td>All</td>
<td>6.6%</td>
<td>13.5%</td>
<td>12.7%</td>
<td>29.2%</td>
<td>21.9%</td>
<td>16.0%</td>
</tr>
</tbody>
</table>

Source: 1991 Census
Given the importance of area differences in the criminal justice system\(^3\) it is worth highlighting the different patterns of distribution of the ethnic minorities. They are far more likely than whites to live in cities and, indeed, to be concentrated within certain wards within these. In 1982, Brown commented:

'...a large proportion of the black population lives in a small number of local authority areas, and within these areas the black residents tend to be concentrated in a small number of electoral wards... It also means that in most areas of the country there are very few black people indeed. Half the white population in Britain lives in towns and rural areas that have less than half of one per of their local residents coming from ethnic minorities... at the level of census enumeration districts the pattern of concentration is very sharp. Three quarters of the black population lives in a set of EDs in which we find only a tenth of the white population.'

(Brown. op. cit. p.20)

Results from the 1991 Census suggest this picture broadly persists (OPCS 1996). Distribution varies at district or county level, for example, from nearly 45 per cent in the London Borough of Brent down to 0.4 per cent in Cumbria. Overall, some two thirds of local authority districts in Great Britain have ethnic minority populations of less than 2 per cent. Yet, even in areas of relatively high concentration, it is again important to note that there are variations between the minority groups considered in this research. According to the Census, for example, over half of the Black Caribbean, Black African, Bangladeshi and Other Asian groups are to be found in Greater London, but their pattern of dispersal beyond that is very different. The West Midlands actually has a higher proportion of Pakistanis than London and the number in West Yorkshire is not much lower. Although all minorities remain far more concentrated than whites in metropolitan areas, some are more dispersed than others, in particular the Black Other and Chinese groups.

There is no significant ethnic difference in the balance of males to females, particularly among the younger age groups which are of greatest interest for present purposes. However, it is worth comparing the socio-economic characteristics of both separately, in view of the very different level and pattern of representation of males and females in the criminal justice statistics (Newburn and Stanko 94). Certainly, there are socio-economic differences between men which might be relevant to their involvement with the criminal justice system. Of those in employment, the largest minority group (the Indians) are even more likely than whites to occupy non-manual jobs and are

Area differences are illustrated in the 'Sentencing Profiles' for Crown Court centres included in the 'Costs of the Criminal Justice System' publication issued under s.95 of the Criminal Justice Act (Home Office 1992).
actually over-represented in the 'professional' category. Black Caribbeans, however, are under-represented in the professional and managerial group and nearly half occupy manual occupations, as do Pakistanis and Bangladeshis. Moreover, as Table 2:3 shows, the true position of the latter two groups may be worse than appears, since 24 and 19 per cent respectively are self-employed (compared with 13 per cent of whites and only 7 per cent of Black Caribbeans). While these may be classified as holding managerial jobs, a large proportion may in fact be non-skilled workers who have become self-employed as an alternative to or consequence of unemployment (OPCS 1996, op.cit.).

However, unemployment rates are higher for economically active men from all ethnic minorities, with the exception of the Chinese. As Table 2:4 shows, 13 per cent of Indian men were unemployed in 1991, compared with 9 per cent of whites. This is only partly accounted for by age structure since the pattern remains in the 16-24 group.

Table 2:4
Unemployment by ethnic group (males)

<table>
<thead>
<tr>
<th>Ethnic Group</th>
<th>All</th>
<th>Age 16-24</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black-Caribbean</td>
<td>25.2%</td>
<td>37.6%</td>
</tr>
<tr>
<td>Black African</td>
<td>23.8%</td>
<td>41.6%</td>
</tr>
<tr>
<td>Black Other</td>
<td>25.5%</td>
<td>35.2%</td>
</tr>
<tr>
<td>Indian</td>
<td>13.4%</td>
<td>23.4%</td>
</tr>
<tr>
<td>Pakistani</td>
<td>28.8%</td>
<td>36.1%</td>
</tr>
<tr>
<td>Bangladeshi</td>
<td>30.9%</td>
<td>20.5%</td>
</tr>
<tr>
<td>Chinese</td>
<td>10.5%</td>
<td>15.4%</td>
</tr>
<tr>
<td>Asian Other</td>
<td>14.2%</td>
<td>29.4%</td>
</tr>
<tr>
<td>(Other) Other</td>
<td>19.7%</td>
<td>29.4%</td>
</tr>
<tr>
<td>White</td>
<td>10.7%</td>
<td>17.4%</td>
</tr>
<tr>
<td>All</td>
<td>9.3%</td>
<td>18.1%</td>
</tr>
</tbody>
</table>

Source: 1991 Census
Table 2:3
Socio-economic group by ethnic origin

<table>
<thead>
<tr>
<th>SEG</th>
<th>Black Caribbean</th>
<th>Black African</th>
<th>Black Other</th>
<th>Indian</th>
<th>Pakistani</th>
<th>Bangladeshi</th>
<th>Chinese</th>
<th>Other Asian</th>
<th>Other Other</th>
<th>White</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional</td>
<td>1.8</td>
<td>8.4</td>
<td>3</td>
<td>9.2</td>
<td>5.9</td>
<td>4.9</td>
<td>12.4</td>
<td>9.4</td>
<td>10.4</td>
<td>4.8</td>
</tr>
<tr>
<td>Managerial</td>
<td>24.7</td>
<td>26.9</td>
<td>26.4</td>
<td>26.9</td>
<td>23.3</td>
<td>12.5</td>
<td>24.5</td>
<td>33.8</td>
<td>33.4</td>
<td>28.4</td>
</tr>
<tr>
<td>Skilled non-</td>
<td>21.8</td>
<td>21.8</td>
<td>26.9</td>
<td>22.3</td>
<td>17.5</td>
<td>19.4</td>
<td>24.7</td>
<td>23.3</td>
<td>23.9</td>
<td>23.3</td>
</tr>
<tr>
<td>Skilled</td>
<td>21.8</td>
<td>12.5</td>
<td>16.8</td>
<td>15.6</td>
<td>23.1</td>
<td>25.6</td>
<td>22.9</td>
<td>11.5</td>
<td>13.0</td>
<td>20.8</td>
</tr>
<tr>
<td>manual</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Partly skilled</td>
<td>19.4</td>
<td>16.2</td>
<td>15.2</td>
<td>20.7</td>
<td>22.3</td>
<td>29.1</td>
<td>10.3</td>
<td>14.1</td>
<td>12.1</td>
<td>15.2</td>
</tr>
<tr>
<td>Unskilled</td>
<td>7.5</td>
<td>9.3</td>
<td>4.5</td>
<td>3.2</td>
<td>4.3</td>
<td>4.0</td>
<td>3.0</td>
<td>4.3</td>
<td>3.9</td>
<td>5.8</td>
</tr>
<tr>
<td>Not stated</td>
<td>2.6</td>
<td>3.8</td>
<td>2.2</td>
<td>2.1</td>
<td>3.5</td>
<td>4.3</td>
<td>1.9</td>
<td>1.8</td>
<td>1.9</td>
<td>0.9</td>
</tr>
</tbody>
</table>

Source: 1991 Census 10% sample
For women, a different ethnic pattern emerges from employment-related comparisons. Even when age differences are taken into account, women of Caribbean origin are very much more likely to be economically active (working or seeking work) than any other group of women. Compared with other working women, they are also much more likely to work full-time. (For details see Uglow and FitzGerald 1993). Pakistani and Bangladeshi women, on the other hand, are significantly less likely than whites or Indians to be economically active.

There are ethnic differences also in family structure and composition which should be noted here inasmuch as they may have a bearing on criminal justice decisions. Chief amongst these is the much higher proportion of Black families headed by a single parent (41 per cent, compared with 13 per cent of white families); but there are differences also in the average size of households which are only in part accounted for by the fact that the white population is older. The Census shows that, whereas only four per cent of white families and three per cent of Black Caribbean families consisted of two adults with three or more dependent children, the figure for Indian families was 11 per cent and for the Pakistanis and Bangladeshis it rose to 26 and 28 per cent respectively.

Clearly it is important to take full account of this range of differences in trying to interpret ethnic differences at key filtering points in the criminal justice process. However, it is important also to consider how far socio-economic differences can be conceived of as ethnically or 'racially' neutral. That is, we need to be clear whether it is pure coincidence for example that West Indians, Pakistanis and Bangladeshis are disproportionately found low status employment. The full reasons for the differences are controversial and the elements of the debate are too complex fully to explore here. It is, though, worth bearing in mind the classic definition by a House of Commons Select Committee of 'racial disadvantage'. 'Racial disadvantage' is

'...a particular case of relative disadvantage within society. With the exception of racial discrimination, the disadvantages suffered by Britain's ethnic minorities are shared in varying degrees by the rest of the community. Bad housing, unemployment, educational underachievement, a deprived physical environment, social tensions - none of these are the exclusive preserve of ethnic minorities... But the ethnic minorities suffer such disadvantages more than the rest of the population, and more than they would if they were white.'

(HMSO 1981 para.12)
Although the report does not suggest that discrimination is the major cause of this 'relative disadvantage', it does go on to assert that

'if ethnic minorities were not the victims of direct and indirect discrimination in many areas of life, their disadvantages...would be massively reduced...'

(emphasis added)
(op.cit. para.27)

The issue of racial discrimination will be taken up more fully in subsequent chapters with particular reference to the criminal justice system. For the present, it must simply be recalled (see Chapter One) that racial discrimination - in both its direct and indirect forms - is an empirically established phenomenon which has been addressed by legislation since 1965. Evidence of its persistence to the present day comes from a number of sources, including the cases brought annually before employment tribunals (the volume of which shows no sign of abating), in non-employment cases tried at the County Court and in the findings of formal investigations conducted by the Commission for Racial Equality (CRE Annual Reports). Moreover, the range of agencies - both public and private - within which discrimination has been found suggests that it is not confined to particular spheres of economic or social activity.

THE CRIMINAL JUSTICE PROCESS

Those who come into contact with the criminal justice system as suspects of crime and offenders are not a representative cross section of the population at large. They tend to be young and male and to come from the poorer sections of society. Most of those who are weeded out at each of the decision-making points up to the point of imprisonment fall mainly into one of two categories: those who are innocent; and those who, although guilty of an offence, are thought not to warrant incarceration.

The aims of the system have been summarised thus:

'...to prevent and reduce crime, to dispense justice fairly, to protect the public, to punish the guilty and to acquit the innocent.'

(Home Office 1992 p.2)

Inevitably, it does not always live up to these aims in practice. Recent cases have heightened public
concern over serious failures to acquit the innocent. Moreover, the provisions of various statutes (from the Bail Act 1976 to the Criminal Justice Act 1991) - not to mention a steady flow of 'guidelines' from the Lord Chancellor's Department - implicitly acknowledge problems of inconsistency in the way the system treats those it processes. For - albeit within certain defined, but fairly wide, parameters - it is undoubtedly capable of meting out different treatment to two similarly placed individuals who are guilty of the same offence. Even without any question of impropriety arising, decision making in the criminal justice process will be inconsistent to some degree for the following reasons:

- A very wide range of factors come into play in determining each of the decisions taken at each stage in the process.

- Considerable discretion is available to individuals and to agencies in the balance they accord these factors in reaching their decision.

- Different patterns establish themselves between - and even within - areas in the way this discretion is exercised.

- A decision taken at one point in the system will determine the range within which future decisions may be taken; each of these future decisions will in turn be subject to the same exercise of discretion, with the same potential knock-on effect.

The key decision making points from entry to the system to imprisonment and the filters which, in principle, select out the innocent and those undeserving of incarceration are simply represented in Figure 2:1.

Broadly speaking, there are three routes through which people may be brought in to the system (although there may be some overlap between these). They may commit an offence which a member of the public (usually the victim) reports to the police and may subsequently be detected on the basis of that report. They may be apprehended as a result of proactive policing, including forms of surveillance, searches and police stops. And they may be deemed to have committed offences against the police themselves.
Figure 2.1

The criminal justice process:

1. Offence committed
2. Suspect identified
3. Arrest
4. Charge
5. Brought to trial
6. Found guilty
7. Immediate custodial sentence
8. Non-custodial sentence
9. Acquittal/case dropped
10. Caution
11. No further action
12. No suspect identified
13. Offence reported
14. Not reported
Following this initial contact, many people proceed no further into the system. Suspects of reported crime, for example, may not be identified by the victim as the person responsible; few stops result in arrests - because they uncover so few offences; and the police may decide not to arrest in situations where technically they have the power to do so.

If an arrest is made, this does not necessarily lead to a decision to charge - in part because the police need to establish whether there are sufficient grounds for charging. The charge which is then brought may sometimes be chosen from two or more possibilities where the substantive offence falls (as many do) in the area where these may overlap. However, the person charged may still not be prosecuted but may instead be cautioned. Whether this option is available depends on a number of factors. Key among these is whether the person admits guilt; but, even when this is the case, eligibility for cautioning is determined by considerations which include the individual's home circumstances, previous convictions and whether the victim is prepared to forego prosecution.

If a caution is ruled out, the Crown Prosecution Service - which was established in 1986 - takes a decision whether to ratify both the decision to prosecute and the charge brought by the police. In the great majority of cases these are not contested by the CPS (Gelsthorpe and Giller 1990, McConville and Sanders 1992). It should also be noted that it is still possible at this stage for the police themselves to decide to take no further action. Those who are prosecuted may be entitled to assistance with legal representation, depending on their financial circumstances; but there are inconsistencies in the extent to which this facility is both taken up by and granted to those who are apparently eligible on these grounds.

Some charges are triable only on indictment: that is, they have to go to Crown Court. However, many are triable-either-way: the accused may elect to be tried in a magistrates' court or to appear before a judge and jury at the Crown Court; but magistrates also have the right to refuse jurisdiction in such cases and to override accuseds' choice by sending the case to the Crown Court. While awaiting trial, they may be set at liberty or held in custody at the discretion of the police, depending on the seriousness of the charge brought and on other factors such as the police's judgement about their likelihood of interfering with witnesses or of turning up for the trial (which may, in turn hinge on an assessment of their domestic circumstances). If the trial is adjourned, the court will then decide whether to remand the accused until it resumes. Similar considerations come into play as are supposed to govern the police decision and, in practice, it is rare for someone who has already been
remanded in police custody to be bailed by the courts.

Where the accused is already under some form of supervision (whether by the Probation Service or, in the case of a juvenile, in the care of a local authority) other agencies will provide reports on them which provide background for the court. Where they pleaded not guilty, they were also referred to the Probation Service for the preparation of a 'social inquiry report' until the 1991 Criminal Justice Act which extended this provision to all defendants, irrespective of plea (49). Further, the accused's legal advisers may commission reports (for example from employers or medical practitioners to provide background which may assist their case). And the court itself may call for reports (for example where there is doubt about the accused's fitness to plead) - both in the course of the trial and, if s/he is found guilty - before passing sentence.

Conventionally, acquittal is not synonymous with innocence: the fact that the charge brought has not been proven may simply reflect the absence of sufficiently strong evidence to support a presumption of guilt. In Crown Court trials, acquittal rates are higher than for cases heard at magistrates' courts.

However, where the accused is found guilty, penalties at the Crown Court are likely to be harsher. In part this reflects the generally greater seriousness of the cases heard at the Crown Court. In part it also reflects the stronger powers available to it. Indeed, magistrates have the power to refer cases which they have heard to the Crown Court for sentence if they think this more appropriate. But unexplained differences remain nonetheless. Hedderman and Moxon (1992) - who matched 758 cases on nine key characteristics - found that custody was used almost three times as often where defendants had elected trial in the Crown Court and that sentences were, on average, about two and a half times longer. Also there are many factors which influence the type and the severity of the sentence meted out in both courts. Chief amongst these are the seriousness of the offence, the offenders' previous convictions, whether or not they pleaded guilty (with a discount for a 'guilty' plea) and the content of any reports (although the amount of influence which these have may vary considerably). Moxon, in fact, identifies no fewer than 19 factors which had a significant mitigating effect on sentencing in the Crown Court, sparing the defendant the full rigour of the penalty which the judge had the power to impose (Moxon 1988). By contrast, only eight factors had an 'aggravating' effect. Again, it should be noted that some defendants may be further remanded in custody while awaiting sentence and that a certain proportion of these will ultimately receive non-custodial disposals.
Over the past fifteen years or so a number of empirical studies have been made of ethnic minorities and the criminal justice system in the United Kingdom. They have, however, often been confined to particular localities - so that it may not be safe to generalise from their findings, given what is known about local variations in criminal justice practices. They have also tended to focus on particular decision-making points in the system rather than on the system as a whole. Some have been methodologically flawed. Few have been able to take into account all the variables which influence particular decisions (and which might, therefore, explain apparent ethnic differences). And some of the findings of early studies may now be out of date.

It is tempting to turn to the much richer American literature for illumination and some authors have, indeed, done so. Certainly this may usefully refine the research questions on which further empirical studies might be based. However, there are several reasons why it would be dangerous to try to read across the findings of empirical research for ethnic groups in the U.S.A. One is that the same ethnic categories in the two countries do not necessarily refer to the same groups. Also, patterns of social relations and the variation in geographic and socio-economic distribution within and between the different ethnic groups are different in the two countries in important respects (which, in turn, are often related to differences of history and in the size of the groups). Nor are the two countries strictly comparable in terms of levels and patterns of crime and the workings of their criminal justice systems. And, finally, to make ready assumptions of ethnic similarities would be to run the risk of pathologising - of assuming that, even where there are important differences in their social, cultural and criminal justice environments, certain ethnic groups exhibit identical patterns of behaviour - patterns which, by extension, are assumed to be determined by their ethnicity.

In the U.K., the prison statistics are the only national criminal justice data which have an ethnic breakdown and are capable of showing trends over time. Initially prisoners were supposed to be classified on the basis of their ethnic appearance; but a revised system in 1992 formalised the practice of asking prisoners to classify themselves and used new categories which were consistent with the 1991 Census. Although the pre-and post-1992 data are not strictly comparable, the two systems approximate closely and the trends over time are consistent.
### Table 2:5
**Ethnic composition of the prison population**  
(England and Wales)  
June 1985 to June 1995

<table>
<thead>
<tr>
<th></th>
<th>White</th>
<th>Black</th>
<th>Asian</th>
<th>Chinese/ Other/ Not recorded</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Males</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1985</td>
<td>83</td>
<td>8</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>1995</td>
<td>83</td>
<td>11</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td><strong>Females</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1985</td>
<td>78</td>
<td>12</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>1995</td>
<td>76</td>
<td>20</td>
<td>1</td>
<td>4</td>
</tr>
</tbody>
</table>

Source: Prison Statistics

As mentioned in Chapter One, the figures have always been interpreted as showing that black people - and in particular black women - are massively over-represented in the prison population relative to their presence in the population at large. However, only since 1992 has it been possible reliably to identify the proportion of prisoners in each ethnic group who are foreign nationals. Once these are excluded from the picture, the black over-representation remains. As Table 2:6 shows, it reduces only marginally for men; but the fall for women is dramatic.
Table 2:6
Prison population at 1995 (British nationals only)

<table>
<thead>
<tr>
<th></th>
<th>White</th>
<th>Black</th>
<th>Asian</th>
<th>Chinese and other</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
</tr>
<tr>
<td>Prisoners</td>
<td>87.1</td>
<td>86.1</td>
<td>9.7</td>
<td>11.0</td>
</tr>
<tr>
<td>General population</td>
<td>95.4</td>
<td>95.3</td>
<td>1.2</td>
<td>1.5</td>
</tr>
</tbody>
</table>

* Figures for the male population aged 15-64 and females aged 15-54 (British nationals only)

Thus, it is safe to say that there has been an over-representation of black people in the prison population at least since figures have been kept; but it is more difficult to be sure of trends until several more years data are available on British nationals only. It is, nonetheless, possible tentatively to draw some inferences from the ratio of young offenders to adult prisoners in each ethnic group. Table 2:7 gives previously unpublished data for British nationals, broken down for the first time by the subgroups within the 'black' and 'Asian' categories.
### Table 2:7
Male British national prisoners by age and disaggregated ethnic group (June 1995)

<table>
<thead>
<tr>
<th></th>
<th>As % of Young Offenders</th>
<th>As % Adult Prisoners</th>
<th>Young Offenders as % of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>87.9</td>
<td>87.8</td>
<td>17.4</td>
</tr>
<tr>
<td>Black</td>
<td>8.4</td>
<td>9.3</td>
<td>19.7</td>
</tr>
<tr>
<td>Black African</td>
<td>1.1</td>
<td>1.1</td>
<td>20.4</td>
</tr>
<tr>
<td>Black Caribbean</td>
<td>5.6</td>
<td>5.9</td>
<td>18.9</td>
</tr>
<tr>
<td>Black Other</td>
<td>1.7</td>
<td>2.2</td>
<td>21.4</td>
</tr>
<tr>
<td>Asian</td>
<td>2.5</td>
<td>1.7</td>
<td>23.7</td>
</tr>
<tr>
<td>Indian</td>
<td>1.0</td>
<td>0.7</td>
<td>21.8</td>
</tr>
<tr>
<td>Pakistani</td>
<td>1.4</td>
<td>0.9</td>
<td>26.5</td>
</tr>
<tr>
<td>Bangladeshi</td>
<td>0.2</td>
<td>0.1</td>
<td>*</td>
</tr>
<tr>
<td>N</td>
<td>7977</td>
<td>36964</td>
<td></td>
</tr>
</tbody>
</table>

*Ns too small (16 young offenders and 8 adults)*

This suggests that, in the future, the Asian groups may form an increasing proportion of the male prison population while the proportion of black prisoners will stabilise or decline slightly. In part, this picture reflects the relative demographic profiles of the different groups. This is shown in Table 2:2 where it is worth focusing on the 5-15 age band who were 9-19 in the year to which these prison statistics relate. That is, if age is controlled for, black people will remain over-represented relative to their numbers in the population at large and the 'Asian' group as a whole will not - or the over-representation will be so marginal relative to that of the black groups that it will not be seen as significant. Table 2:7, however, highlights the extent to which the 'Asian' total generally is driven by the Pakistani rather than the Indian group; and this is likely to become even more the case in the future.
With regard to patterns of offending, even comparisons which are limited to British nationals, continue to show quite marked differences between ethnic groups. (Figures for Asian females are not included since they numbered only twelve.)

Table 2:8

Adult sentenced prisoners 1995
Offence group by ethnic origin and gender
(British nationals only)

<table>
<thead>
<tr>
<th>Offence group by ethnic origin and gender</th>
<th>White</th>
<th>Black</th>
<th>Asian</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Males</td>
<td>Females</td>
<td>Males</td>
</tr>
<tr>
<td>Violence against the person</td>
<td>23</td>
<td>21</td>
<td>20</td>
</tr>
<tr>
<td>Rape</td>
<td>5</td>
<td>-</td>
<td>5</td>
</tr>
<tr>
<td>Other sexual offences</td>
<td>6</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Burglary</td>
<td>17</td>
<td>5</td>
<td>12</td>
</tr>
<tr>
<td>Robbery</td>
<td>13</td>
<td>8</td>
<td>26</td>
</tr>
<tr>
<td>Theft/handling</td>
<td>10</td>
<td>23</td>
<td>6</td>
</tr>
<tr>
<td>Fraud and forgery</td>
<td>3</td>
<td>7</td>
<td>2</td>
</tr>
<tr>
<td>Drug offences</td>
<td>8</td>
<td>18</td>
<td>15</td>
</tr>
<tr>
<td>Other offences</td>
<td>12</td>
<td>10</td>
<td>7</td>
</tr>
<tr>
<td>N</td>
<td>30444</td>
<td>1063</td>
<td>3201</td>
</tr>
</tbody>
</table>

Figures not included where numbers fell below 10

Particularly of note here are:

- the relatively high proportion of white males and females imprisoned for offences of violence compared to the Black groups.
the relatively high proportion of white male prisoners in the burglary category
- the relatively high proportion of Black male prisoners convicted of robbery (twice the rate for whites)
- a higher proportion of white female prisoners convicted of theft/handling offences
- and very strikingly higher proportions of the minorities imprisoned for drugs offences - which accounted for nearly half of all black female prisoners.

In sum, even the more refined prison statistics which have become available recently provide clear evidence of the cause for concern which had variously been expressed for up to twenty years before they began to be kept (see Chapter One). Yet, although they are the best established and most comprehensive set of official data on race and crime, a number of limitations and problems of interpretation attach to them which it will be necessary to return to in later discussion. Certainly they are not sufficient of themselves to provide explanations for the black over-representation they show; two sets of outstanding questions remain. The first concerns whether they reflect actual levels and patterns of offending among different ethnic groups. The second is a set of questions about the influence of decisions made at previous points in the criminal justice process on the picture they present.

With respect to the first set of questions, the published evidence is nugatory. At the time of writing - none of the main longitudinal U.K. studies of criminal careers4. (Farrington and West 1990, Kolvin et al 1990, HOSB 1989) nor other surveys of self-reported offending (Kinsey 1992) had asked for information on the ethnic origin of the individuals they covered. However, a 1993 Home Office survey offers some limited evidence that black young people aged 14-25 had similar rates of offending as their white peers and5 that rates were actually lower in all the Asian groups (Graham and Bowling 1995).

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4 See Graham (1988) for an overview.

5 Numbers were relatively small: with only 86 black respondents in the male sample and only a minority of any group admitting to offending of any kind, little meaning can be attached to apparent variations in types of offending. Interpreting the results, however, is further complicated by the fact that a much higher proportion of ethnic minority respondents than whites either declined to answer the questions on offending at all or answered them only partially.
With respect to decision making at earlier points in the criminal justice process, the evidence is inconclusive for the reasons outlined at the beginning of this section. What there is is summarised here in two parts. The first covers the early stages of the system where the key decisions are made by the police. And the second covers those taken at the court stage. It is important to bear in mind that many - although by no means all - of the decisions taken at the second stage are determined to some significant extent by those already taken at the first.

**Police decisions**

Albeit fragmentary and incomplete, enough is known to provide a sketch of the situation of ethnic minorities at the point of entry to the criminal justice system. Indeed, a relatively large number of studies have looked at the rate at which the police stop ethnic minorities relative to whites. One of the earliest of these (Tuck and Southgate 1981) suggested that there were no significant differences between Afro-Caribbeans and whites within relatively small areas (that is, areas which fell within a single police division). Their findings in central Manchester in 1980 tend to be confirmed by those of a local study in Leeds in 1987 (Walker et al. 1990). Yet other studies (Jones et al. 1986, Norris et al. 1992, Young 1994) and, in particular, the national data from the 1988 British Crime Survey (Skogan 1990) have consistently found that black people are more likely than any other group to be stopped. This analysis of the BCS found that significant differences remained even after allowing for all other relevant variables. And, although the BCS was unable to control very tightly for area, London studies which have done so (Willis 1983, Jones et al. 1986, Norris et al. 1992) have confirmed the BCS finding. Where Asians have been considered at all (Walker et al. 1990, Skogan 1990) they appear less likely to be stopped than blacks or whites.

Such encounters may be important in forming attitudes and, even, in the openings they create for conflict with the police which may of themselves lead to arrest. It is important to bear in mind, too, that stop powers are used to very differing degrees by different police forces (and, even, divisions) as later chapters of this thesis illustrate. However, it should be noted that only a very small proportion of stops lead to any further action. Even where arrests are made, these are rarely for serious offences; indeed Jones et al. suggest that they may simply result in prosecutions for possession of cannabis.

There is, however, very little ethnically-based information on other points of initial contact with the
criminal justice system even though these are more likely than stops to result in arrest and charge. It has been suggested (Smith 1983; Hewstone, Benn and Wilson 1988) that victims of crime may be more likely to report offences if they know the perpetrator to be a member of a different ethnic group; and this is tentatively supported by more recent analysis of the British Crime Survey (FitzGerald and Hale 1996).

Similarly, despite frequent allegations by campaigning groups that black encounters with the police may disproportionately result in them being charged with offences such as 'obstruction', there is no firm statistical evidence on this point. However, a number of studies in the late 1970s and early 1980s - many of which referred to the now abolished 'Sus' laws (see Chapter One) - remarked on the greater likelihood of black people being arrested as a result of proactive policing (Demuth 1978, Stevens and Willis 1979, Fludger 1981 and Cain and Sadigh 1982). A Home Office study of the operation of the Public Order Act (Brown and Ellis 1994) has now added further weight to this suggestion. This found not only that, in more than a quarter of the cases analysed, the police had used s.5 of the Act against individuals who offended them rather than members of the public, but also that the individuals who fell foul of them in this way appeared disproportionately to be black. And in Hood's Birmingham sample, blacks were significantly more likely to have been arrested on the direct initiative of the police (Hood 1992).

However they enter the system, evidence in London - including, importantly, the large dataset generated by the Metropolitan Police (see Chapter One) - has consistently found that arrest rates are higher for blacks than for whites (Stevens and Willis 1979, Smith 1983, HOSB 5/89) and Walker et al came to the same conclusion in Leeds. Also, there is a suggestion that overall differences - far from being explicable in terms of differences in age structure - actually mask still higher rates of arrest of young black people relative to whites (Smith 1983, HOSB 5/89). Both Smith and Walker raise the possibility that their risk of arrest is higher in areas where ethnic minorities are fewer in number; indeed, Walker claims that in localities with larger ethnic minority populations, it is the arrest rate for

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* This found that whites were more likely to report crimes they believe were committed by ethnic minorities (44 per cent) than those committed by whites (40 per cent). However, the numbers involved are too small to control for different types of offence which might alter the general picture since some crimes are more likely to be reported than others.
whites which is higher\textsuperscript{7}. And Walker and her colleagues go on to speculate that the black people arrested in areas where they were fewer in number might also differ noticeably from local whites. For example, they might be council tenants living in a pocket of relative deprivation in an otherwise middle-class neighbourhood (Jefferson and Walker 1992).

The prison statistics (see earlier, Tables 2:7 and 2:8) confirm that there are significant differences in the charges brought against different ethnic groups. And reference has also been made to the possibility that black people are more likely to be charged with victimless crimes, as a result of more proactive policing. Walker (1988, 1989), in her analysis of the Met data, remarks on the fact that black defendants are more likely to be charged with indictable-only offences; and, although she repudiates the inference that this is because they commit more serious crimes (since many comparable offences are triable-either-way) the consequences may nonetheless be more serious. Moreover, other commentators have certainly implied that the charges brought against blacks are more serious than for whites committing the same substantive criminal act. Blom-Cooper and Drabble (1982) strongly suggest that this is a result of differences in charging practices between police divisions, while Hudson (1989) goes further and encourages an inference of more direct discrimination.

The question of whether those arrested have no further action taken against them has received remarkably little attention, although it is interesting to note that the Leeds study by Walker et al. found that this was much more likely in the case of Asians. Until recently, the only detailed study of the rate at which juveniles are diverted from the system by cautioning had only been addressed in a study in London in 1978 (Landau 1981, Landau and Nathan 1983). This found that black youths were less likely than whites either to be referred to the Juvenile Bureau at all or to be cautioned if they were referred. Landau does not provide information on the proportion who were \textit{de facto} ineligible for referral (and, therefore, for cautioning) because they refused to admit guilt, although other studies (see below) show that blacks are more likely to plead 'not guilty' to the charges against them. But he and Nathan point out that, of those referred to the bureaux, Afro-Caribbeans may have lost out on

\textsuperscript{7} This finding should be treated with some caution because of problems with the benchmark data used and the small sample size in areas of low ethnic minority population. It may, however, be worth noting that the white population in question appeared to be a more transient population than their black neighbours.
the social criteria for recommending a caution - criteria which include family circumstances (as well as whether the victim was willing for the offender not to be prosecuted). Because of higher rates of single-parenthood in Afro-Caribbean households he found that these young people - many of whom may have been first-time offenders appeared to be being penalised because they were 'latch-key kids'. Landau does not, however, explore the possible further implications of his finding that cautioning rates vary considerably between different police districts - both in absolute terms and in relation to particular offences.

Some twelve years after Landau's study, seven police forces began on an experimental basis ethnically to monitor the proportion of juveniles referred for prosecution, compared with those diverted from the courts through cautioning or by having no further action taken against them. Reporting on the results of these pilot studies in 1992, the Commission for Racial Equality expressed concern again at the higher rates of prosecution of black juveniles and claimed (though the numbers in each force were often very small) that these could not be explained in terms either of the seriousness of the offences they committed, nor their number of previous offences. Only one of the forces, however, took explicit account of admissions. This found that nearly twice as many young whites (62 per cent) were prepared to admit to the offence. And, in another force which grouped its cases into those which were 'divertable' and those which were not, a very much higher proportion of blacks fell into the latter category. Moreover no ethnic differences were found in referral rates for those whose cases were 'divertable'. Overall, the CRE report also suggests (though the report plays this down) that cautioning rates were often much higher for Asians than for other groups, including whites. It is worth adding here that, in passing, the Leeds study by Walker et al. (1990) confirms this general picture.

Although it is possible for the police to remand suspects in custody at this stage, only one study has looked carefully at ethnic differences at this point (MacLeod 1990). It found that, in Leicester, black suspects were significantly more likely than whites not to be given bail. The opposite, however, was true for Asians - even when account was taken of a range of relevant variables including age, offence type and previous convictions.

To summarise, by the court stage, a pattern of ethnic differences is already well established, although our ability to explain them is very limited. Some of the studies cover only males and the relatively
small numbers of females who feature in the criminal statistics suggest that inferences can only safely be drawn for men even from data which include both. Few of the available studies provide precise definitions or sufficient further breakdown; but it seems likely that the 'Afro-Caribbeans' they refer to are predominantly of West Indian origin, resident in Britain and likely to have been born here. We also know that this group is disproportionately likely to come into contact with the police and to do so more as a result of proactive policing, including being arrested for what has classically been termed 'Contempt of Cop' (Sherman 1983). They are also more likely than whites to be arrested and to be charged with offences which may be more serious or may carry the risk of more serious consequences. Moreover, a smaller proportion appear to be diverted from the system altogether at the pre-court stage.

Asians, on the other hand, have tended to receive far less research attention. What is available treats them indiscriminately as if they were a homogenous group in both cultural and (more pertinently in this context) socio-economic terms. Inasmuch as such findings tell us anything meaningful, what is striking is the contrast with the black group; and this is heightened further by their position relative to whites as well. 'Asians', it seems, have lower rates of contact with the police than any other group and, where they do, they are more likely to be diverted from the system at a very early stage.

Court-centred decisions
Ethnic differences in the rates at which those picked up by the system have been filtered out by the court stage can be illustrated by combining data from the Metropolitan police for the years 1984 and 1985 which are split between two Home Office Statistical Bulletins (5/89 and 6/89). From the first of these it is possible to work out the numbers arrested in each of the three main ethnic groups in 1984 and 1985. The second provides figures for those proceeded against for indictable offences at magistrates' courts in the same years. While it may be objected that individuals in the latter group were not necessarily in the former, it seems likely that a comparison of the two sets of figures may broadly indicate the rate at which those arrested in London end up being prosecuted. There are marked ethnic differences: 82 per cent of whites arrested were proceeded against by the police, compared with 92 per cent of 'blacks' and 77 per cent of Asians.

Once brought to court, there is no research-based information on a number of issues which may
strongly influence court outcomes. Nothing is as yet known, for example, about the respective use of legal aid by different groups or the quality and general thrust of the legal advice available to them. Nor has the role of the Crown Prosecution Service in cases involving ethnic minorities received attention. What is known, however, is that blacks are more likely to be tried at the Crown Court, that they are more likely to plead not guilty and that they are more likely to be tried from custody - all of which factors increase their likelihood of a receiving a custodial sentence.

One reason for the higher proportion tried at Crown Court is their greater likelihood of being charged with summary offences (see above). Additionally, cases which are triable-either-way are also more likely to be heard at Crown Court if the defendant is black. However, the studies which show this do not agree on whether it is defendants or magistrates who are primarily responsible. Brown and Hullin (1992) confirm the earlier finding of Walker et al. (1990) in Leeds showing that magistrates were more likely to decline jurisdiction in cases involving Blacks. Yet according to Shallice and Gordon (1990), this was not true in London. All three studies, nonetheless, found that black defendants themselves were more likely than whites to elect to be tried at Crown Court.

It is possible that election for Crown Court trial may be also be related to plea. There are doubts about the reliability of plea information in the Metropolitan Police statistics, which constitute the largest available dataset (Vennard 1982, HOSB 6/89); but this strongly suggests both that blacks are much more likely than whites to plead 'not guilty' (Walker 1988, 1989) and that the difference is more marked at the Crown Court than in cases heard by magistrates (Walker 1989). A number of other studies (Moxon 1988, Shallice and Gordon 1990, Walker et al. 1990, Hood 1992) - corroborate this and additionally suggest that it is true of Asian defendants.

There are further ethnic differences in the circumstances in which those subject to court proceedings await trial. The Prison Statistics consistently show even greater over-representation of black males in the remand than in the sentenced population (see Table 2:9) as do Met data (HOSB 6/89, Walker 1989). However, this is not true for black females; and the apparent disparity for Asian females should be treated with caution since the number of unsentenced female prisoners from this group was only eighteen.
Table 2:9
Prison population 1995
Remand and sentenced (by gender and ethnic origin)
column percentages

<table>
<thead>
<tr>
<th></th>
<th>White</th>
<th></th>
<th>Black</th>
<th></th>
<th>Asian</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
</tr>
<tr>
<td>Remanded</td>
<td>80.0</td>
<td>71.2</td>
<td>14.1</td>
<td>22.2</td>
<td>2.7</td>
</tr>
<tr>
<td>(untried)*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sentenced</td>
<td>84.4</td>
<td>76.3</td>
<td>10.6</td>
<td>21.1</td>
<td>3.0</td>
</tr>
</tbody>
</table>

* Excludes prisoners convicted but awaiting sentence
Source: Prison Statistics 1995

There are, of course, a number of possible explanations for these differences, including the greater likelihood of Crown Court trial which may take longer and, therefore, result in a higher number of remands per case. But questions also arise about possible differences in the application of bail criteria.

Walker (1989) appears to hint at the first of these explanations. Analysing Met data, she found that a higher proportion of blacks were remanded by magistrates at each point where a bail/remand decision was taken. However, differences were less marked at the Crown Court where rates were the same for 17-20 year olds (although blacks aged 21-25 were more likely to have been remanded at some time).

It is, however, equally possible to suggest that Walker's findings point to differences in the way the courts apply the bail criteria (see opening section, this chapter). Reference has already been made to limited evidence that the police are more likely to remand black suspects in custody (MacLeod 1990). Not only do the Met data confirm that this pattern is repeated at magistrates courts and, to a lesser extent at the Crown Court (see previous para.), HOSB 6/89, confirms that this is true for all offence
groups. Yet for Asians the pattern is reversed: the same statistical bulletin shows that they have lower remand rates in all offence groups than blacks (with the exception of drugs offences). These categories are too broad to indicate the degree of seriousness within them; but HOSB 21/94 examines the remand rates of those subsequently given custodial sentences, controlling for offence and sentence length. Looked at in this way, apparent ethnic differences reduce markedly; yet significant differences remain within some sentence-length/offence groups. And the findings tell us nothing about those who, although previously remanded in custody, were ultimately either given non-custodial sentences or acquitted (see below).

Hood (1992) breaks new ground in constructing a 'Custody Remand Score' modelled on the seven variables known to be legally relevant to the bail/custody decision. This is then used to predict the likelihood of custodial remand for each of the ethnic groups in his large Crown Court sample and confirms that blacks are indeed more likely to be remanded in custody than whites, all other things being equal (op. cit. p. 149), with the further inevitable consequence of heightening differences in the rate at which they received custodial sentences.

In considering the outcome of court cases, it is important to look both at acquittals and at the sentences passed on those convicted.

The available evidence from London suggests that both black and Asian males are more likely than whites to be acquitted at both magistrates' courts and the Crown Court (Walker 88, HOSB 6/89); and it is worth noting additionally that Walker found a higher proportion of cases involving blacks had already been withdrawn at magistrates' courts because of insufficient evidence. In a smaller study in Leeds (which only covered outcomes at the Crown Court) a significantly higher proportion of Afro-Caribbeans were also acquitted - although Asians were more likely than whites to be found guilty (Walker et al. 1990).

Despite higher acquittal rates, disproportionate numbers of blacks still remain among those found guilty by the courts; and further ethnic differences appear in the sentences they receive. This is true of non-custodial disposals, although - with the exception of probation, where all the main sources find
a lower representation of blacks relative than in the prison population\(^8\) (HOSB 6/89, Brown and Hullin 1992, Moxon 1988, Mair 1986, Voakes and Fowler 1989, Walker 1989, Hood 1992) - no clear pattern emerges; and it seems possible that the differences between studies may simply reflect wider differences in the courts' use of alternatives to custody (which are often area-specific). All the evidence shows clearly, however, that blacks are more likely to receive custodial sentences which, in turn, are significantly longer than those given to whites (HOSBs 17/86, 6/89, Hudson 1988, Walker 1988,1989, HMSO 1991). Again there is a contrast with Asians who appear to have lower custody rates than whites - although those who are sentenced to imprisonment tend, like Afro-Caribbeans, to receive longer sentences.

Any attempt to explain higher custody rates and longer sentences needs to take account of a number of factors and of the interaction between them. Key amongst these are:

- age
- court of trial and sentence
- charge(s) (and seriousness within offence category)
- plea
- number and type of previous convictions
- whether any recommendations are made in pre-sentence reports and the extent to which these are followed by the courts.\(^9\).

It will, however, be noted that these objective, measurable criteria are relatively few in number compared to the range of influential factors identified by Moxon (see above) - the majority of which are 'softer'.

Until the Hood report there had been only three empirical studies which tried to take a sufficient number of even this limited number of factors into account in explaining ethnic differences in

\(^8\) It should be noted that the probation statistics cited later are of limited help on this point, since they only relate to cases dealt with by the Probation Service and not to the totality of disposals.

\(^9\) Until 1991 when pre-sentence reports became mandatory in most cases, a further factor was whether or not a social inquiry report had been prepared on the defendant at all.
sentencing. Each suffers from serious limitations. McConville and Baldwin (1982) lumped all Asians and Afro-Caribbeans together as 'blacks'. Hudson (1989) draws on a large data set but consistently fails to provide numbers for individual ethnic groups, let alone the subsamples to which she refers. And Mair's study - which is by far the most rigorous - was only ever intended as a pilot and the numbers are too small to yield definitive answers. It is, however, possible to summarise the evidence available for the impact of each factor separately and for a limited range of interactions between them (where studies have considered them).

The difference in their age distribution suggests on the one hand (as has already been noted) that ethnic minorities are likely to be over-represented in the criminal statistics but, on the other, that more may be first-time offenders and, therefore, less likely to receive custodial sentences. In fact the Met data for 1984-5 which has already been cited shows that 9% of whites proceeded against were under 16, compared with 12.6% blacks and 8.2% Asians. A surprisingly large number of studies, however, fail to control for age, including Crow and Cove (1984) which is one of those most frequently cited. Where this is taken into account, an overall pattern persists of higher custody rates for blacks but a lower rate for Asians (HOSB 6/89).

Although Hedderman and Moxon clearly demonstrate the link between Crown Court trial and heavier sentences, the precise relationship with different sentencing outcomes for different ethnic groups does not appear to be straightforward. That is, the differences are not primarily explained by the higher proportion of blacks tried at the Crown Court. HOSB 6/89 found no significant overall difference in the disposals used by magistrates courts or the length of custodial sentences (although there was a higher use of fines for Asians). At the Crown Court, however, there was a much higher use of immediate custody for blacks; and the bulletin remarks that this was due to the higher proportion of the black group given youth custody (19 per cent), compared with the white group (11 per cent) (and) Asian (7 per cent). Walker (1988, 1989) confirms the higher use of custody - and of longer sentences - for blacks at Crown Court; but she found that, for adults, the magistrates courts were also more likely to impose custodial sentences on this group.

Walker also suggests that London courts were more likely to use custody for black offenders - both juveniles and adults - in all offence groups. Yet Moxon's study of Crown Court sentencing, which
aggregated data from different courts across the country\textsuperscript{10} and standardised on the most common
offence (theft and handling), found no significant differences in the use of custody. Brown and Hullin,
on the other hand, found Leeds magistrates more likely to impose custodial sentences on Afro-
Caribbeans. And HOSB 6/89 which tries to take into account age and offence group (albeit without
controlling for court) presents a picture which is not clear cut. In the three largest offence groups
(violence against the person, burglary and robbery), Afro-Caribbeans consistently received immediate
custody more often than whites in the 14 to 17 age group; but this was not true for robbery amongst
the over 21s.

More recently, new light has been shed on the question of differences in sentence length by the 1994
analysis of the prison statistics (HOSB 21/94) which provides details of the excess sentence length
for white, black and Asian males received into prisons in 1990 but which then `normalises' these to
take account of age, type of offence and whether sentencing took place at magistrates' courts or at
the Crown Court. As Table 2:10 shows, the excess remains when these factors are taken into account,
even though it reduces significantly.

\textsuperscript{10} For a discussion of the impact of area differences which may be masked by aggregation, see Chapter Six.

53
Table 2:10
Males received into prisons in 1990
(Average sentence length in days)

<table>
<thead>
<tr>
<th></th>
<th>Actual length</th>
<th>Excess</th>
<th>Normalised length*</th>
<th>Excess</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Under 21</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>White</td>
<td>372</td>
<td>-11</td>
<td>380</td>
<td>-3</td>
</tr>
<tr>
<td>Black</td>
<td>501</td>
<td>+118</td>
<td>419</td>
<td>+36</td>
</tr>
<tr>
<td>Asian</td>
<td>491</td>
<td>+108</td>
<td>427</td>
<td>+44</td>
</tr>
<tr>
<td><strong>All</strong></td>
<td>571</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>21 and over</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>White</td>
<td>544</td>
<td>-27</td>
<td>553</td>
<td>-18</td>
</tr>
<tr>
<td>Black</td>
<td>776</td>
<td>+206</td>
<td>669</td>
<td>+98</td>
</tr>
<tr>
<td>Asian</td>
<td>642</td>
<td>+71</td>
<td>618</td>
<td>+47</td>
</tr>
<tr>
<td><strong>All</strong></td>
<td>417</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* For explanation see previous paragraph
Source: HOSB 21/94

These differences might be accounted for to some degree by seriousness within offence category and also by plea. Evidence of a greater propensity amongst Afro-Caribbeans to plead not guilty has already been referred to; but no studies appear to control for this in looking at court of trial in conjunction with rates of custodial disposals (which are themselves related). Rather, it tends to be referred to only inasmuch as it may explain the lesser availability of social inquiry reports prior to the Criminal Justice Act 1991 (see above) and the consequent lower use of probation for this group (Moxon 1988, Voakes and Fowler 1989).

Data produced by the Met until the mid 1980s on court outcome were severely limited in their usefulness by the absence of information on the previous convictions of those proceeded against, although Fludger’s early study of Borstal trainees (which does not distinguish between blacks and Asians) is frequently cited as evidence that young people from ethnic minorities are more likely to be sentenced to custody with fewer convictions than whites. And Mair (1986) - in one of the most
potentially useful of all the studies available - found that although Asians were more likely to be first
offenders, Blacks had no more previous convictions than whites. However, he points up how
misleading such comparisons can be if age is not taken into account, for his black sample was much
younger, suggesting:

',..that black people are being apprehended by the police and prosecuted more often than
whites, and that this process may start at an earlier age for blacks...: in the 17-20 age group,
28 per cent of blacks as compared to 36 per cent of whites were first time offenders'
(op. cit. p.153)

The 1986 and 1984 analyses of the prison population (HOSBs 17/86 21/94) both provide information
on previous convictions in connection with explaining ethnic differences in sentence length. Taking
six or more previous convictions as their benchmark, white male prisoners - both adults and young
offenders - had, on average, more previous convictions than either blacks or Asians11. However, when
previous convictions were taken into account along with geographical area in addition to age, type
of offence and court of sentence the variation in length of custody shown at 2:10 above were largely
but not entirely accounted for. Differences remained in particular for wounding, theft and handling
and drugs offences for some court, age and area categories: in the first case the average sentence
length was longer for blacks than for whites and in the other two cases this was true for both
minorities.

Regarding social inquiry reports (now Pre-Sentence Reports), the available evidence has been
confused on several counts. Contrary to the authors referred to previously, the studies by Shallice and
Gordon (1990) and Mair (1986) both claim that blacks are more likely to have reports prepared on
them (although they disagree on the reasons for this). There has been further disagreement on
whether the reports themselves show bias in their recommendations and yet more over whether the
recommendations made influence the decision of the court, with Voakes and Fowler contending that
'the reports..bear some responsibility for influencing the Court towards the more punitive or
restrictive sentences' (op. cit. p.30), while Mair concludes:

11 Of male sentenced prisoners aged under 21, the proportion with six or more previous convictions was 39 per cent
for whites, 27 per cent for blacks and 18 per cent for Asians. In the case of adults, the figures were respectively
60 per cent, 48 per cent and 28 per cent.
'The recommendations made in social inquiry reports...were similar for the three groups, which may point away from unequal treatment by the probation service to unequal treatment by the courts."

(op. cit. p.154).

Hood (1992) has recently lent authoritative weight to Mair's interpretation in his major study which, on this point, came to the 'inevitable' conclusion 'that the differences in the sentences imposed cannot be attributed to recommendations made by the probation officers' (op.cit. p.159).

The ethnic monitoring system established by the Probation Service in 1993 is by no means adequate in many respects and the first returns were not as complete as might have been hoped. Ethnic group was not recorded for 12, 14 and 9 per cent respectively of those commencing probation, community service and combination orders and for 9 per cent of offenders on whom the Probation Service had prepared Pre-Sentence Reports (PSRs). Moreover, there is a geographical bias to the missing data, with the highest non-response rates in Inner London (37 per cent), the West Midlands (24 per cent) and North East London (23 per cent) - areas which, together, account for a high proportion of the ethnic minority population, and, the black population in particular (see earlier, this chapter). By 1994, this situation was beginning to improve, with the total non-recorded figure for probation commencements at 8 per cent. Those for Inner London, the West Midlands and North East London were still high but were down respectively to 19, 12 and 14 per cent.

These limitations of the probation statistics imply a need for caution in respect of some otherwise interesting findings (HMSO 1996). Although black people were, indeed, over represented on all orders in relation to their proportion in the population at large, the percentage was only 5 per cent.

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12 The form of ethnic categorisation adopted by the Probation Service after long negotiations is complex and is not fully consistent either with benchmark data from the Census or with other criminal justice statistics. The main problem derives from the fact that individuals are not immediately asked which of a prescribed list of categories they belong to. They are first asked:

'Would you wish to describe yourself as black?'
'Would you wish to describe yourself as white?'
'Would you wish to describe yourself in another way?'

Although the subsequent question is based on a prescribed list which can be re-aggregated to other sources, it is much more elaborate and it allows respondents to choose more than one category.
The fact that the scale of over-representation is only about half that seen in the prison population is consistent - albeit very crudely - with the notion that, in terms of court disposals, black offenders are more likely than whites to receive immediate custody than probation. South Asians, on the other hand, are under-represented, making up only 1.6 per cent of offenders who were recorded as receiving probation, community service or combination orders. It is more difficult to make inferences from the probation statistics about the extent to which this is attributable to recommendations made by the Probation Service, since the Service made no recommendation on a much higher proportion of black offenders on whom PSRs were written. However, Table 2:11 shows that the black offenders for whom proposals were made were slightly more likely than whites to be recommended for a custodial sentence. The proportion receiving custodial sentences in all groups was over 10 times as high as the proportion for whom the Service had recommended custody; yet the figures do not suggest that the courts treated black defendants any more punitively (relative to the probation proposal) than whites. (Although numbers are relatively small, it is interesting to note the apparently greater lenience exercised by the courts in the case of Asians.)

Table 2:11
Pre-sentence reports by proposal and disposal 1994

<table>
<thead>
<tr>
<th></th>
<th>White</th>
<th>Black</th>
<th>South Asian</th>
</tr>
</thead>
<tbody>
<tr>
<td>No proposal</td>
<td>88.9</td>
<td>7.9</td>
<td>1.4</td>
</tr>
<tr>
<td>Proposal for immediate custody/</td>
<td>86.9</td>
<td>8.5</td>
<td>2.9</td>
</tr>
<tr>
<td>suspended sentence</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disposal: immediate custody/</td>
<td>89.5</td>
<td>6.9</td>
<td>2.1</td>
</tr>
<tr>
<td>suspended sentence</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>N</td>
<td>169826</td>
<td>11035</td>
<td>3554</td>
</tr>
</tbody>
</table>

Source: Probation Statistics England and Wales 1994

In conclusion, further reference should be made to Hood's study which has not only clarified a number of key questions about the treatment of ethnic minorities at various points prior to sentencing but is
the only study to have taken rigorous account of all the sentence-related factors listed above and used them in multi-variate analysis on a large data set. Hood matches the cases in his sample by creating a 'probability of custody score' based on 15 variables which described '50 legally relevant attributes of the offence and the offender's criminal record' (op. cit. p.197). Basing the score on the average for the whole sample, he found a five per cent greater probability of black males being sentenced to custody than white males. (When the score was based on the rate for blacks, the difference increased to 7.6 per cent). There were no significant differences among women, however; and the rate for Asians was rather lower than the score predicted. Considerable variations were found by the study, however, which are masked by these overall figures, three of which are of particular interest. These are that the disparities are greatest for offences of medium seriousness (where there is greater scope for the exercise of discretion) and that there are important differences between both courts and individual judges. That is, some courts and judges deal relatively equitably with defendants from different ethnic groups, while the differential treatment meted out by others is much greater than the aggregated results for the sample as a whole suggest.

SUMMARY AND CONCLUSIONS

At a very crude level of analysis, the age structure and socio-economic position of ethnic minorities suggest that one might expect to find them disproportionately represented in the criminal statistics. Yet there are important distinctions to be made both between and within groups which the available evidence - and many commentators - have hitherto failed to recognise.

Moreover, until recently the available evidence in the U.K. has been frustratingly limited despite being apparently extensive. One gap in our current knowledge is the essential question of whether and to what extent there are differences in actual rates and patterns of criminal activity between ethnic groups. The major data sets and research studies cover the entry of a small minority of offenders into the criminal justice system and outcomes at different stages of the process; but they only offer limited insights. On some questions they remain completely silent; on most they fail to take account of all the relevant factors; and on several they disagree. Nonetheless, a picture has emerged which begs more questions than it answers but which has confirmed the cause for concern described in Chapter One. Patchy as it is (and relatively weak in its coverage of the Asian groups), the evidence to date has been
clear on eight key points:

1. Black youth are especially likely to be stopped by the police and to be arrested. Asians are less likely than whites to be stopped.

2. Once arrested, blacks are less likely to be cautioned than whites. Asians are more likely to be cautioned.

3. The overall pattern of charges brought against blacks differs from that of whites; and there appear to be some further differences for Asians.

4. Black defendants are more likely to be remanded in custody.

5. Black defendants are more likely to plead not guilty to the charges against them.

6. They are also more likely to be tried at the Crown Court.

7. They are more likely to be acquitted.

8. But where they are found guilty of crimes they are likely to receive more and longer custodial sentences and a different range of non-custodial sentences.

These differences emerge from evidence which - far from ruling out the possibility of discrimination - has also suggested that many of them cannot be explained simply in terms of factors which are 'race'-neutral.

The list was published in the first of the publications on 'race' under s95 of the 1991 Criminal Justice Act (Home Office 1992); and the next chapter begins by describing research into a major new policy initiative which was launched in 1996 on the peg of s.95 which was implicitly designed to explore the reasons for some of these findings. The initiative has raised expectations that criminal justice statistics on 'race' and crime are about to enter a new era in which data will more definitively answer the
questions raised by the sources referred to here - including questions about the possibility of both
direct and indirect discrimination. The chapter provides relevant background on the context in which
the initiative has been taken and describes the approach taken in the thesis to exploring how far these
expectations are likely to be realised in practice.
In March 1995 a Home Office letter to Chief Constables announced that all police forces in England and Wales would be required to record the ethnic origin of everyone they stopped and searched using their powers under s1 of the 1984 Police and Criminal Evidence Act (PACE). The requirement applied also to arrests and cautions; and they were to record the ethnic origin of victims and suspects in homicide cases. A follow-up letter specified that statistical returns to the Home Office were to use a four-point classification which was compatible with 1991 Census data (White, Black, Asian and Other) and should show the proportion of cases where ethnic origin had not been recorded. The system would be mandatory from April 1996; but forces were invited to pilot the new system on a voluntary basis from 1995. The results of the pilot would not be made public but the Home Office would evaluate it.

This chapter briefly describes the research project spawned by this initiative, the results of which form the substance of Chapters Four and Five, before outlining the historical background and the context in which those results need to be seen.

The Home Office had not anticipated the number of volunteers for the pilot: by mid-1995 nearly all of the 43 forces in England and Wales were monitoring one or more of the items specified in the letter. Some were starting from scratch but others were building on their own local systems, most of which had been established in recent years, although some went back very much longer. To meet the commitment to evaluate the pilot trials an ad hoc team was assembled of social researchers,

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1 The requirement to monitor deaths in police custody was added later.
statisticians and administrators. As Principal Research Officer responsible for race relations research in the Office's Research and Statistics Directorate, I was centrally involved in this initiative. Between us, we undertook one day visits to over thirty of these pilot sites based on a specification which I drew up. There were three aspects to this. Forces were given a list of detailed background information which they were asked to provide in advance; they were given an indication of the schedule of core issues which the Home Office team would cover in each force; and they were told the range of experience the team was looking for in the personnel they met on the day. Within this common framework, however, a considerable margin was allowed for exploring locally-specific issues.

I co-ordinated feedback from the team's regular de-briefing meetings, along with material provided by forces themselves and reports written by the team according to my original schedule for the visits. These provided the basis for the guidance which I then wrote and which was issued to forces under Home Office circular 3/96 in February of the following year. The guidance covers, stage-by-stage, the collection and analysis of the basic ethnic statistics required by the Home Office as well as how the data can be used both internally within forces and with the public at large. Throughout the evaluation and in drafting the guidance, I liaised closely with the Community and Race Relations Subcommittee of the Association of Chief Officers of Police. They were represented on the working group which was otherwise largely composed of team members; and I regularly gave oral progress reports to their meetings.

My immediate priority was to provide this practical guidance to help forces as they faced the imminent introduction of mandatory ethnic monitoring. The insights gained from the pilots, however, confirmed that the high expectations of politicians, pressure groups, policy makers and some police officers were likely to be disappointed. For the background to the initiative and the organisational context into which it was being introduced already suggested:

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2 I approached the first meeting with some trepidation but was successful in weaning them from the misapprehension that the main focus of the research was to provide an explanation for ethnic differences in the PACE data.
a) that it would be some time before the system produced reliable data and longer still before the patterns shown by these data could be adequately interpreted; and

b) that, even when that point was reached, the data would not, of themselves, definitively answer the central question they were implicitly expected to address, viz. whether or not the police discriminated against ethnic minorities.

It was in part to document these two caveats that I set up a further, more detailed research project. By publishing the results before the first year's monitoring data appeared in autumn 1997 I hoped to damp down expectations and avoid the danger that they would be over-interpreted. The new project had three inter-related aims:

- to set police ethnic monitoring in context;
- to describe the range of experience of ethnic monitoring across different police forces; and
- to identify and anticipate any problems which would need to be addressed if the new monitoring system was to be both reliable and of practical benefit.

In late autumn of 1995, my Research Officer (Dr Rae Sibbitt) and I began fieldwork in four very different force areas. I covered two contrasting divisions of the Met: an inner city division which was highly cosmopolitan and where black residents predominated among the minorities; and a semi-suburban area where a long established Jewish community had now been joined by a sizeable Asian population. Rae Sibbitt, meanwhile, worked in two provincial forces. One was a very large force, including several major urban areas, with a significant (but predominantly Asian) population. The other was a small force which was predominantly rural, with the exception of a few large towns, and in which the minority population was well below the national average.

The main focus of our fieldwork was the ethnic monitoring of PACE stop/searches, arrests and cautions. We interviewed police officers at all levels as well as civilian staff concerned with ethnic monitoring and a limited number of members of local organisations with an interest in the issue. We
attended both internal and external meetings which were pertinent and amassed a wide range of
documentation, including management information, policy documents, minutes of relevant meetings
and statistical information on local populations in the areas. Both of us directly observed the police
in action on the streets and in custody suites. Our observations were considerably enriched by Andy
Zurawan who was recruited specially for the project and who spent nearly four weeks overall
patrolling with officers in three of the four areas. In the fourth area (the suburban area in the Met),
he worked with the Management Information Unit looking in detail at the ethnic differences shown
by the PACE records. All three of us wrote up our fieldwork notes and exchanged them.

Over the whole period (that is, the evaluation of the pilot trials and the fieldwork in the case study
areas), I was also involved in a range of other activities which yielded additional relevant material,
both quantitative and qualitative.

In addition to the existing literature and the material from the fieldwork areas, the Management
Information Unit in the second of our London divisions did special analyses of their own PACE data
for us. I was a member of the working party set up by the Metropolitan Police with the CRE in
summer 1995 to look in depth at police stops in London. It commissioned analyses of other London
data which have been made available to me. Additionally, with Professor Chris Hale at the University
of Kent, I produced a report for the Working Party analysing data on stops from the British Crime
Survey (FitzGerald and Hale forthcoming). This compares stops of different ethnic groups by the
police in London with those in the rest of the country and sets the findings on stop/searches in this
wider context. At the annual week-long Home Office Holly Royde community and race relations
seminars in 1995 and 1996, I led workshops on police ethnic monitoring and worked closely with
officers there who were developing local projects on this topic. Late in 1996, I brought together the
key findings emerging from all of these different strands in a presentation at two national conferences
on police ethnic monitoring convened jointly by ACPO and the Home Office. These brought together
ACPO rank officers, officers with senior operational responsibilities and specialist staff including
(civilian) force statisticians from the majority of forces in England and Wales. The discussion
generated by my presentation and the workshops I subsequently led provided further insights and
material of direct relevance to this thesis.

The thesis, then, draws on material from all of the three main sources described (that is, the evaluation of the pilot trials, work in the case study areas, and from the other related activities described in the previous paragraph) to meet the broad aims set out at the end of Chapter One specifically by:

- shedding further light on some of the outstanding questions in the debate on 'race' and crime described in the previous two chapters; and
- exploring the potential (and the limitations) of current police ethnic monitoring and its likely future extension for resolving these questions.

It is worth noting here that the material related to stop/searches proved much richer than for arrests and cautions and this balance is reflected in the chapters which follow. However, many of the issues raised by it clearly had implications for understanding ethnic differences in these other areas of police activity also. This chapter continues by describing two important features of police ethnic monitoring which have already been referred to above - that is, the background to its introduction and key aspects of the organisational context in which it will be implemented.

THE HISTORY OF POLICE ETHNIC MONITORING

It is nearly 30 years since the authors of one of the earliest, major studies on British race relations urged:

'...that the methods of collecting and presenting data be improved to allow accurate assessment of the rates of crime and delinquency among ethnic and other minority groups.'

(Rose et al 1969 p. 726)

Where the material was generated by Rae Sibbitt or Andy Zurawan this is explicitly acknowledged. With these exceptions, the material used was generated by myself or held in common within the research project or is based on my own analysis of secondary sources.
The principle of ethnic monitoring remained controversial for many years, however. The practice became widespread only in the 1980s and it has come relatively late to the criminal justice system. Following the seminal work by Rose and his colleagues cited above, other studies began systematically to document both racial disadvantage and discrimination and to show that these were persisting beyond the immigrant generation (Smith 1977). Their evidence added increasing weight to the argument that public bodies should routinely collect information which would help them both to monitor disadvantage and to ensure that their own policies and practices were free of discrimination. Census population data were available on place of birth and this type of information was often included in records of individual users of services. (In the 1960s, for example, schools were required to make annual returns to the Department of Education and Science of the number of immigrant pupils.)

However, by the 1970s increasing numbers of children of the West Indian immigrants had been born in this country and this was beginning to happen with the groups who followed them. The size, location and circumstances of these populations could be estimated for a while - albeit fairly crudely - on the basis of the numbers living in households where the *head* had been born in a particular country; but it was clear that this could only be a stop-gap measure. Once the children began to set up homes in their own right - as was already happening with the 'West Indian' group - such monitoring would be possible only by asking them about their ancestry or ethnic origin.

Three inter-related arguments were advanced against introducing ethnic monitoring. One was that it was wrong in principle to distinguish people on the basis of colour. The second was that identifying individuals in this way would actually increase their chances of being discriminated against. And the third was that the information, if it fell into 'the wrong hands', could be used systematically to discriminate against whole groups. Gradually, though, the counter-arguments prevailed, chief

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4 Though, under this system, retired Anglo-Indians artificially inflated the 'ethnic minority' populations of the shire counties.
amongst which was that discrimination was already occurring and those responsible were unlikely to be inhibited by the lack of statistics. On the other hand it would be impossible to track down discrimination and disadvantage - or to assess the effectiveness of policies to deal with them - unless the circumstances of the populations at risk could be measured with accuracy and consistency over time.

The main impetus towards ethnic monitoring of the delivery of public services came from local authorities and began in the late 1970s. In part it was politically driven and gathered momentum in the wake of the Greater London Council of the early 1980s which blazed a trail in terms of the profile it gave to issues concerning ethnic minorities and race equality issues, burning many fingers (and arguably some bridges) in the process but leaving an indelible mark on future policy in these areas. Behind the rhetoric, though, two important pragmatic considerations were also influential. One was the authorities' need, in times of increasing financial constraint, to make the case for additional resources - for example, under the Department of the Environment's Urban Programme and in applications to the Home Office for grant under s11 of the 1966 Local Government Act\(^5\). The other impetus came from the race relations legislation and especially the new Race Relations Act of 1976. Several local authorities were investigated by the Race Relations Board (prior to 1976) and by its successor, the Commission for Racial Equality, especially with regard to their housing policies. The lesson was not lost on others who realised that they needed some ethnic yardstick against which to measure their performance - if only to cover themselves against allegations of discrimination. Adding impetus to this were two new provisions of the 1976 Act: the extension of the law to cover indirect as well as direct discrimination; and a specific duty laid on local authorities by the Act.

s71 of the 1976 Race Relations Act requires all local authorities

'to make appropriate arrangements with a view to securing that their various functions are carried out with due regard to the need

\(^5\) The original terms of s11 allowed local authorities to apply for 75 per cent of funding for posts to meet the 'additional' cost of meeting the needs of residents from the New Commonwealth or Pakistan.
a) to eliminate unlawful discrimination

b) to promote equality of opportunity, and good relations, between persons of different racial groups.'

The import of s71 is largely symbolic; for its legal force (as measured by case law) has effectively been nil. Yet it has proved a powerful lever on the development of race equality policies (including ethnic monitoring) and has been co-opted to that end both by community groups and, importantly, by 'policy entrepreneurs' within local government (Young 1981).

Notwithstanding the relative length of local authority experience, the picture is still patchy. A variety of factors - some of them very locally specific - impelled certain authorities to develop ethnic monitoring systems while others continued to hold out against the tide until relatively recently (FitzGerald 1986). The pattern does not correspond directly with the size of local ethnic minority populations; and there have frequently been variations from one department to another within the same authority. Moreover, even those who were pioneers in this field did not necessarily 'get it right' first time. There was a long period while the bandwagon was rolling at its fastest when authorities were gathering large amounts of ethnic data but did not - and often could not - analyse it to any obvious effect for developing policy and/or practice. Thus, many of the most experienced authorities have by now been through one or more major reviews of their monitoring systems while others are only just getting started. Yet a 1996 report comments thus on the experience of departments in several authorities who had been thought of as leaders in the field:

'In some cases data collection seemed to have become an end in itself - although front-line staff could not understand why they had to spend so much time and energy collecting the data in the first place only for no use to be made of it.'

(Jones 1996 p70)

Meanwhile, as the fears about ethnic monitoring proved to be unfounded and data based on place of birth became increasingly obsolete, the practice spread more widely throughout public agencies and
increasingly into the voluntary and even the private sector.

Locally, therefore, police forces have increasingly been operating in a context where ethnic monitoring has become the norm for other key agencies (in particular, local authorities). They often need to work closely with these agencies and to exchange information, for example in inter-agency fora, local partnerships and statutory and other consultation arrangements and this exerts a certain pressure to be able to 'match' ethnicity data held by others. Added to this, there is often pressure from local campaigning groups, ethnic minority organisations and Race Equality Councils for the police to account for their perceived treatment of minorities locally. In several forces local monitoring initiatives had already begun - either on a pilot basis or more permanently - well before notice was received of the Home Office requirement. Several such initiatives began in close co-operation with local RECs or with the CRE nationally. The best known examples are: Leicestershire Constabulary which began routine monitoring which, in some respects, went beyond the current Home Office requirement; and the pilot scheme to monitor juvenile cautioning which was undertaken by seven forces in collaboration with the CRE (CRE 1992, see previous chapter).

Nationally the build-up of pressure towards ethnic monitoring has taken place in the context of the long-standing concerns about 'race' and crime described in the previous chapter and of important organisational changes within the police - in particular the move to a 'performance culture' (with all that connotes in terms of measurement) which is described in more detail in the following section. Together these created a climate which was conducive to the introduction of s95 of the 1991 Criminal Justice Act and to a number of separate initiatives in its wake, which generated a cumulative momentum leading to the Home Office announcement of compulsory monitoring from 1996. Chief

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6 In practice there was surprisingly little public resistance to providing this information from the outset and voluntary response rates to questions about individuals' ethnic origins now suggest that these are viewed at least as routinely as, for example, questions about marital status. Non-response rates to the ethnic question in the Labour Force Survey were already only 1.1 per cent in 1981.

7 In 1992 Leicestershire began by trying to monitor: arrests; complaints against the police; arrests from stop/search; negative breath tests; discontinuances by CPS; premises searched; PACE and voluntary stop/searches; drug related offences; and HORT1s (see next footnote). That is, the list does not include cautions or homicides; and the negative breath test item has had to be dropped because the information was too unreliable.
among these initiatives were the following.

In July 1992, the Home Office sent a circular to all Chief Constables (HO 70/1992) entitled 'Implementing Section 95 of the Criminal Justice Act 1991 and Ethnic Classifications'. On a strict reading of this section (see Chapter One), the Home Secretary has complete discretion over both the type of information he considers 'expedient' for the purposes specified and the choice whether to publish financial information or information related to race, sex or any other type of potential discrimination. Yet the Circular referred to 'the Act's requirements in relation to the police service'. The first s95 publications, it said, would be based on existing material but

'... in the longer term, more comprehensive information will be required to fulfil the provisions of the Act' so

'In future, additional monitoring will be required to measure both equal opportunities within forces, and fairness in service delivery. The specific areas of police work to be monitored have yet to be finally agreed. More information on this will be provided to forces as soon as possible, once agreement has been reached within the Home Office and with ACPO.'

(emphasis added)

The circular concluded

'Section 95 will be an important tool for the police service, and for other agencies in the criminal justice system, to ensure that they deliver a fair and non-discriminatory service to all members of the public and to employees.'

It was followed in 1993 by three further important catalysts to the introduction of compulsory monitoring.

The first - and probably the most important - of these catalysts was the report of the Royal Commission on Criminal Justice (HMSO 1993). At the behest of the Commission I had written a report on 'Ethnic Minorities and the Criminal Justice System' which highlighted the current, patchy state of knowledge at the key decision making points prior to imprisonment (FitzGerald 1993); and
the Commission amply took this up. Of its 352 recommendations, the second and third were the following:

2. There should be further research to establish the extent to which members of the ethnic minority communities suffer discrimination within the criminal justice system.

3. A system of *ethnic monitoring should be introduced to establish how ethnic minorities are treated* and thus to identify measures which are needed to ensure that as far as possible the rules, procedures and practices of the criminal justice system are applied in the same way to all.'

(emphasis added)
(op. cit. p. 188)

The second catalyst was the introduction by the police Inspectorate (HMIC) of a ‘Performance Indicator’ (see below), requiring all forces to provide basic ethnic statistics (broken down simply by white/ethnic minority) on their use of stop/search powers under PACE. Meanwhile, a joint working party had been set up by the Association of Chief Police Officers (ACPO) and the Commission for Racial Equality (CRE) which in the same year published ‘Policing and Racial Equality: a practical guide to the ACPO strategic policy document *Setting the Standards for Policing: Meeting community expectation.*’

This third catalyst (the ACPO-CRE document) had a powerful impact; and its influence was very apparent throughout the research at all levels within the police - even if this was not explicitly or consciously acknowledged. Two aspects of the report, in particular, seem to have been taken to heart. One is that, although the report covers a range of race equality issues (including dealing with victims of crime, public satisfaction, consultation, complaints and Neighbourhood Watch schemes), primacy has been attached to its coverage of ethnic monitoring which, following the Circular of the previous year, was already being referred to as a *fait accompli* thus:

‘There are two essential objectives which may be achieved by the collection and analysis of ethnic data in relation to people alleged to have committed offences. First, it will enable the police to evaluate the exercise of the powers over which they retain exclusive control. For
example, the analysis of all process decisions, including cautions, will indicate whether there are any significant differences between ethnic groups.'

(emphasis added)
(CRE 1993 p.21)

The data which it recommended collecting would have covered: stop and search; searching of premises; arrests for criminal offences; reports for summons (and process decisions); issues of HO/RT/1 and VDRS notices.

The other aspect of the ACPO-CRE report which calls for comment is its invocation of s95 of the 1991 Criminal Justice Act which it interprets even more creatively than did the eponymous Home Office circular of the previous year. In its Introduction, the ACPO-CRE guidance described the significance of s95, as follows:

'The issue of ensuring that policing is provided in a non-discriminatory manner has become more urgent as a consequence of the Criminal Justice Act 1991. The police must be in a position to respond satisfactorily to section 95 and one of the most important features of a non-discriminatory programme is the compilation and evaluation of ethnic data. Without this information the Home Secretary is unlikely to fulfil his duty under the Act.'

(emphasis added)
(op.cit. pp.8-9)

Meanwhile, the promised consultations within the Home Office and with ACPO took place and resulted in the 1995 letter to Chief Constables. This scaled down the list of items proposed in the ACPO-CRE document. The four areas to be monitored initially were among those on which forces already submitted statistical returns to the Home Office. They were chosen in order to try to keep the exercise more manageable and to ensure data quality.

S95 is now invoked in ways which echo s71 of the Race Relations Act 1976. If s71 had been a spur

HO/RT/1s are notices issued to drivers by the police asking them to produce their documents subsequently at a police station and VDRSs require motorists to rectify vehicle defects the police have identified.
to action by local authorities for which, strictly speaking, there was no legal requirement, one is
tempted to see s95 as its equivalent for the police. In police circles at every level, the collection of
the ethnic statistics with which this report is concerned is routinely referred to as 'Section 95
Monitoring.'

Less attention, however, seems to have been given to the other 'essential objective' of ethnic
monitoring specified in the ACPO-CRE guidance:

'... because the police are part of a criminal justice process, the decisions made by the Crown
Prosecution Service and the courts must be considered in relation to the process brought by
the police. Indeed, without such information, the purpose of monitoring will largely be
defeated.'

(op.cit. p.21)

At the time of writing, the CPS and the courts have, in principle, accepted the need for ethnic
monitoring of what happens in the process between the police stage and imprisonment. However, it
has also been agreed that it would be a waste of effort for them to establish a new ethnic record for
each case they deal with (as well as leading to possible confusion). Rather, they will rely on the
ethnicity data initially recorded by the police. In the context of this thesis, therefore, questions about
the reliability and completeness of the police statistics as well as the interpretation of the ethnic
differences they show have a wider significance. For ethnic monitoring by the police will not only
provide the basis of future information on decisions taken at the stages of the criminal justice process
between the point of entry and imprisonment (see Figure 2:1); it will also (for better or worse)
provide models for interpreting that information.
THE ORGANISATIONAL CONTEXT

The experience of ethnic monitoring in service delivery generally suggests that the results it produces and their implications strongly reflect - and may be affected by - the particular service being delivered. The characteristics of the organisation delivering it come strongly into play, including the extent of diversity within the organisation. For no large national organisation is a monolith: the problems it faces will vary - between different parts of the organisation; at different levels of responsibility within it; and according to local circumstances. In the case of the delivery of policing (and, specifically, the treatment by the police of suspects and offenders) the factors which will most critically affect the implementation of the Home Office requirement are closely inter-related but can broadly be grouped under three separate heads:

- local variations in the policing environment
- service priorities and arrangements for meeting them and
- policing 'cultures'.

Local variations

It is important to recognise very different local circumstances in which all 43 forces in England and Wales are collecting ethnic data. Not only do forces differ in the problems of crime they face and their response to these (points taken up in more detail later), they vary widely in size, in the types of population they serve and, in particular, in their ethnic make-up, as Table 3:1 shows.

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9 The sources used for this table were various: population data are taken from the Chartered Institute of Public Finance and Accountancy's 'Police Statistics' (1993-4); Notifiable Offences from the Home Office Criminal Statistics for England and Wales; and ethnic minority population data from internal Home Office sources.
### Table 3:1
Key characteristics of police forces in England and Wales (1993-1994)

<table>
<thead>
<tr>
<th>Population (000s)</th>
<th>Of which ethnic minority</th>
<th>Population per officer</th>
<th>Notifiable offences per 100,000 population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Avon &amp; Somerset</td>
<td>1445.6</td>
<td>2.0</td>
<td>474</td>
</tr>
<tr>
<td>Bedfordshire</td>
<td>545.8</td>
<td>9.9</td>
<td>471</td>
</tr>
<tr>
<td>Cambridgeshire</td>
<td>681.2</td>
<td>3.5</td>
<td>539</td>
</tr>
<tr>
<td>Cheshire</td>
<td>977.9</td>
<td>1.0</td>
<td>513</td>
</tr>
<tr>
<td>Cleveland</td>
<td>548.9</td>
<td>1.0</td>
<td>377</td>
</tr>
<tr>
<td>Cumbria</td>
<td>495.0</td>
<td>0.4</td>
<td>418</td>
</tr>
<tr>
<td>Derbyshire</td>
<td>944.0</td>
<td>3.0</td>
<td>517</td>
</tr>
<tr>
<td>Devon &amp; Cornwall</td>
<td>1528.1</td>
<td>1.8</td>
<td>525</td>
</tr>
<tr>
<td>Dorset</td>
<td>669.5</td>
<td>1.0</td>
<td>516</td>
</tr>
<tr>
<td>Durham</td>
<td>593.3</td>
<td>1.5</td>
<td>529</td>
</tr>
<tr>
<td>Dyfed Powys</td>
<td>474.7</td>
<td>0.7</td>
<td>493</td>
</tr>
<tr>
<td>Essex</td>
<td>1495.0</td>
<td>1.9</td>
<td>509</td>
</tr>
<tr>
<td>Gloucestershire</td>
<td>528.4</td>
<td>1.8</td>
<td>457</td>
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<tr>
<td>Greater Manchester</td>
<td>2561.6</td>
<td>5.9</td>
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<td>1.5</td>
<td>451</td>
</tr>
<tr>
<td>Hampshire</td>
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<td>505</td>
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<td>1.0</td>
<td>430</td>
</tr>
<tr>
<td>Kent</td>
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<td>491</td>
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<tr>
<td>Lancashire</td>
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<td>4.4</td>
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<td>0.8</td>
<td>500</td>
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<td>603.1</td>
<td>3.5</td>
<td>509</td>
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<td>1.5</td>
<td>400</td>
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<td>490</td>
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<td>South Wales</td>
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<td>Staffordshire</td>
<td>1055.7</td>
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</tr>
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<td>646.3</td>
<td>2.2</td>
<td>528</td>
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<tr>
<td>Surrey</td>
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<td>1.9</td>
<td>481</td>
</tr>
<tr>
<td>Thames Valley</td>
<td>1998.7</td>
<td>3.6</td>
<td>516</td>
</tr>
<tr>
<td>Warwickshire</td>
<td>485.4</td>
<td>3.4</td>
<td>471</td>
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<td>West Mercia</td>
<td>1105.2</td>
<td>1.4</td>
<td>538</td>
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<td>West Midlands</td>
<td>2600.0</td>
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<td>372</td>
</tr>
<tr>
<td>West Yorkshire</td>
<td>2065.9</td>
<td>8.2</td>
<td>410</td>
</tr>
<tr>
<td>Wiltshire</td>
<td>580.6</td>
<td>1.7</td>
<td>459</td>
</tr>
<tr>
<td>City of London</td>
<td>300.0</td>
<td>7.3</td>
<td>349</td>
</tr>
<tr>
<td>Metropolitan Police</td>
<td>7284.6</td>
<td>19.0</td>
<td>262</td>
</tr>
<tr>
<td>Average (England and Wales)</td>
<td>*</td>
<td>5.9</td>
<td>406</td>
</tr>
</tbody>
</table>

* Not applicable
Metropolitan forces in bold
The Metropolitan police is in a league of its own in terms of population size and police strength, with each of its five areas larger than many provincial forces. The provincial forces themselves vary in size such that the population of the largest (the West Midlands) is nearly seven times that of the smallest (Dyfed Powys). Not captured in the table is the very different mixture within forces of conurbations, cities, large towns and rural areas. It is also worth remembering that force boundaries do not coincide exactly with local authority boundaries and that some forces cover more than one authority.

The previous chapter drew attention to the very uneven and highly skewed distribution of the minority population; and this is already reflected in Table 3:1. However, it also pointed out that there were important variations within this by ethnic group. Of the Asian group, for example, only 18.6 per cent of Pakistanis lived in London in 1991 compared to 44.4 per cent of Indians and 54.2 per cent of Bangladeshis. London, though, was home for over 60 per cent of the black population who, until recently, have been the main focus of concern in the 'race' and crime debate; yet this figure, in turn, masks distinctions between the subgroups within this generic category. That is, four very broad ethnic categories are being used as a basic minimum for monitoring purposes but they subsume groups who differ from each other considerably, including in their age-profiles and their socio-economic characteristics, in ways which will affect their likelihood of coming to the attention of the criminal justice system. Moreover, the four categories mask the very different distribution of these subgroups between different forces.

All the minority groups, though, are concentrated in largely urban areas and this has a number of implications for ethnic monitoring. One is that the ethnic minority population only reaches or exceeds the average for England and Wales in eight of the 43 police force areas but the ethnic mix within these areas varies considerably. The eight are dominated by the Metropolitan Police and the West Midlands

10 77 per cent of Black Africans lived in the capital in 1991, compared to 58 per cent of Black Caribbeans and 45 per cent of the 'Black Other' group.

11 The system was adopted for two main reasons. It allows comparisons direct comparisons with Census population data while providing for visual classification of suspects in policing situations where it might be invidious to ask them to classify themselves. However, the Home Office guidance of February 1996 makes clear that forces may require more refined information within the framework of this basis system and they are encouraged to use self-classification where this is possible.
and the black group forms a very much smaller proportion of the total population than the Asians everywhere except for the Metropolitan police area, where it just exceeds the Asian total but where the 'Other' group is also relatively large. Another is that even forces which have relatively small ethnic minority populations overall may contain pockets of fairly high concentration. These may account for nearly all of the force's ethnic minority residents while most areas served by the force will be almost exclusively white. Thus in Lancashire, for example, where ethnic minorities form little more than four per cent of the total population, the figure rises to over 20 per cent in Blackburn and Burnley.

Table 3:2

Population of police force areas with average or higher ethnic minority populations
(as % of total population)
(Largest group shown in bold)

<table>
<thead>
<tr>
<th>Force</th>
<th>Black</th>
<th>Asian</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Metropolitan police</td>
<td>8.0</td>
<td>7.8</td>
<td>4.3</td>
</tr>
<tr>
<td>West Midlands</td>
<td>3.6</td>
<td>9.7</td>
<td>1.3</td>
</tr>
<tr>
<td>Leicestershire</td>
<td>1.0</td>
<td>8.9</td>
<td>1.2</td>
</tr>
<tr>
<td>Bedfordshire</td>
<td>2.5</td>
<td>6.1</td>
<td>1.2</td>
</tr>
<tr>
<td>West Yorkshire</td>
<td>1.2</td>
<td>6.0</td>
<td>0.9</td>
</tr>
<tr>
<td>City of London</td>
<td>0.9</td>
<td>2.4</td>
<td>4.0</td>
</tr>
<tr>
<td>Greater Manchester</td>
<td>1.3</td>
<td>3.6</td>
<td>1.0</td>
</tr>
<tr>
<td>Thames Valley</td>
<td>1.4</td>
<td>3.0</td>
<td>1.3</td>
</tr>
</tbody>
</table>

Source: 1991 Census

Levels of recorded crime vary considerably between forces: they tend to be higher in metropolitan areas and forces which include cities and large towns (that is, the types of area where ethnic minorities are most likely to live.). The number of police officers per head of population also ranges

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12 Projecting from the 1991 Census, however, it is apparent that by mid 1995 Asians predominated among those aged 20 and under.
quite widely from 1 per 262 to 1 per 539 and tends to be highest in urban areas. London is apparently
the most intensively policed (although additional national responsibilities and the issues particular to
policing a capital city inflate the numbers), followed by Merseyside, Greater Manchester, the West
Midlands and Cleveland.

Policing priorities

As Lustgarten points out

‘The purposes of policing are much less obvious than may first appear’

(Lustgarten 1986 p.22)

and the tensions between their role in preventing (and detecting) crime, protecting life and property
and the preservation of public tranquillity has been much rehearsed - most notably, in recent times,
by Lord Scarman (op.cit.). Yet police forces have increasingly approached their work on the basis
of formalised objectives backed up by practical arrangements (including information systems) geared
to these objectives and designed to measure the extent to which they are being realised. Implicitly
these developments favour their role in detecting crime over their other roles if only because this lends
itself most readily to measurement.

These developments have been driven by a range of both internal and external pressures - both
political and financial; and it is no coincidence that they have taken place as many forces have coped
with structural change, the introduction of new management systems, changes in working practices
and major IT developments. At the same time there have been new approaches to relations outside
the force including revised arrangements for working with other local agencies and an enhanced
emphasis on consultation with the public.

Forces routinely provide a wide range of information to the Home Office and other bodies. From the
early 1990s, the information which forces had to submit annually to the police inspectorate (HMIC)
increasingly became streamlined into a suite of national 'performance indicators' (PIs) which were first introduced in 1993 and which

'...reflect the combined requirements of the Home Office, the Audit Commission, the ACPO and the Inspectorate and are classified according to the ACPO's five key service areas, with a section on resources and costs. The indicators cover information which, jointly, it is believed managers need to know in order to assess the performance of the force.'

(1994/5 report of Her Majesty's Chief Inspector of Constabulary p.23)

(HMCIC 1995)

Additionally, the Home Secretary acquired a statutory power under the Police and Magistrates Court Act of 1994 annually to set key objectives for policing. The Home Secretary's Objectives are related to certain of the Performance Indicators and they are intended to 'cover those areas of policing about which the public appear most concerned' - albeit these may, obviously change from one year to the next depending on changes whether in public concerns or of Home Secretaries. In 1995/6, for example, while the fieldwork for this research was being undertaken, forces had been set the following five objectives by the Home Secretary
### Figure 3:1

**Home Secretary's Key Objectives (and related Performance Indicators) 1995-6**

<table>
<thead>
<tr>
<th>Key Objective</th>
<th>Key Performance Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and if possible increase the number of detections for violent crimes</td>
<td>The number of violent crimes detected per 100 officers</td>
</tr>
<tr>
<td>To increase the number of detections of burglaries of people's homes</td>
<td>The number of burglaries of dwellings detected per 100 officers</td>
</tr>
<tr>
<td>To target and prevent crimes which are a particular local problem in partnership with the public and other local agencies</td>
<td>Work carried out this year on the development of a high level indicator suggests that tackling repeat victimisation looks to be the most fruitful area, since reduction in repeat victimisation can lead to significant reduction in crime generally. Work will continue on developing a PI for repeat victimisation aimed at reducing its incidence.</td>
</tr>
<tr>
<td>To provide high visibility policing so as to reassure the public.</td>
<td>Public satisfaction with levels of foot and mobile patrols.</td>
</tr>
<tr>
<td>To respond promptly to emergency calls from the public.</td>
<td>(1) The percentage of 999 calls answered within the local target time.</td>
</tr>
<tr>
<td></td>
<td>(2) The percentage of responses within the local target time to incidents requiring immediate response.</td>
</tr>
</tbody>
</table>

The Home Secretary's Objectives were set alongside 25 PIs under six headings:

- call management
- crime management
- traffic management
- public order management/public reassurance
- community policing management
- resources/costs.

Police authorities have also been required since 1994 to publish information on the forces' performance in answering the telephone, answering letters, access to and use of buildings, and equal opportunities. Worth noting here are the four 'race' related items in this battery of information which is now required nationally. The first three are PIs set for forces by HMCIC and the fourth is part of

80
the information to be published by the Police Authority. Only the first and the third, however, are
directly relevant to the areas of service delivery monitoring which are the subject of this research
report. The four are:

1. a) Number of PACE stop/searches of white persons per 1000 white population.
   b) Number of PACE stop/searches of ethnic minority persons per 1000 ethnic minority
   population.
2. Percentage of reported racial incidents where further investigative action is taken.
3. Number of ethnic minority police officers per 1000 ethnic minority population.
4. a) Does the Authority have a published policy to provide services fairly to all sections
    of the community?
   b) How does the Authority monitor its performance in implementing this policy?
   c) Does the Authority follow the Commission for Racial Equality...code of practice on
    employment?

Chief constables are expected to refer to the Home Secretary's objectives in their annual reports,
along with any additional indicators set locally. The HMCIC report acknowledges that reservations
have been expressed about the move to standardised national measures of performance; and the
figures it includes for performance on meeting the Home Secretary's objectives differ quite widely
from one force to another. HMCIC accepts that these differences are in part a reflection of local
circumstances, including differences in both levels and patterns of crime. However, a detailed review
after the first year's returns in 1993/4 revealed:

'a significant lack of consistency in the data supplied due to a widely different
interpretation of requirements;
considerable variation in the systems available for data capture and analysis, with
widespread reliance on manual systems and at times inaccuracies in the systems used;
and
a degree of mismatch between some performance indicators and the practice in certain
forces.'
'......The review team' it continues 'concluded that, in the circumstances, the comparison of performance between forces could for some indicators prove to be misleading.'

(op cit p.69)

The indicators, nonetheless, are also central to the annual plan which forces are required to publish under the 1994 Act after consultation with the local community. According to HMCIC this plan, in turn,

'.should be linked to a force strategic plan setting out the longer term direction of the force over a period of 3-5 years. The annual plan may need to be supported by more detailed plans for local units. An important element of the plan is that it must be costed, with an expectation that costings will eventually be based on outputs and outcomes rather than inputs.'

(op. cit. p.60)

Thus ethnic monitoring is being introduced into a service where priorities are increasingly being formalised and standardised on a national basis according to measurable criteria and with a new emphasis not only on cost effectiveness but also on internal and external communication about these priorities. In reality, however, it is evident that the service will take some time before it is fully capable of meeting these objectives on the basis of information which is strictly comparable across all forces; and even when it does, important local differences will remain. Our case study areas revealed considerable variation in management information systems, the deployment of staff and in approaches to tackling crime (FitzGerald and Sibbitt forthcoming). Of particular significance in the context of this thesis was the variation in the use of the powers available to them - a central theme which emerges from the scrutiny of stop/searches, arrests and cautions in the following chapters.

'Cultural' factors

For all that has been written about police culture, especially with regard to 'race' issues (Holdaway 1983, Smith 1983, Reiner 1985, Graef 1990, Fielding 1991), our research uncovered a diversity of attitudes towards ethnic monitoring. At the collective level, these tended to reflect a combination of past history and present circumstances, all of which vary considerably between forces. It is, however,
important to stress also that the range of views held by individuals within forces was probably more
diverse still than the range of collective opinion between them.

As we have seen, London has by far the longest experience of dealing with the issues now being
raised by ethnic monitoring and of the sensitivities attached to these. It has unprecedented experience
of collecting and analysing ethnic data and was the site of major disturbances in 1981 and 1985 (as
well as much of the political fallout from these) and is the home of the majority of the black
population. London too has been the area where that debate has had its highest political profile over
the years in terms of specific campaigns and constant pressure from local authorities (most notably
the Greater London Council in the early 1980s) and well-established local groups including Racial
Equality Councils and their predecessors.

A number of other forces share circumstances which are in some ways similar to those of the Met.
Even though their experience may not be as long-standing or as extensive or intense, it has also
inculcated an awareness of the issues associated with ethnic monitoring before it was formally
required of them. Such forces include the following:

- forces which have experienced (or been threatened with) disturbances largely involving young
  people from ethnic minorities;

- forces where organisations representing ethnic minorities have exerted pressure regarding
  police treatment of suspects and offenders from their communities;

- forces where the wider political environment has been alive to issues of racial equality and
  where, for example, other local agencies have developed their own ethnic monitoring systems.

13 These include the 'Scrap Sus' campaign and campaigns on specific cases such as the campaign over the death in
police custody of Wayne Douglas which sparked new disturbances in Brixton in December 1995.

14 In 1988 for example, the umbrella organisation for all London Race Equality Councils (GLARE) produced a report
entitled 'A Fair Cop' which made detailed recommendations for organisational reform within the Metropolitan
police in order to ensure equality of treatment for ethnic minority suspects and offenders.
The forces with these characteristics have not always been those with the largest ethnic minority populations and, although they are often found in combination, the three sets of circumstances described above have not always combined in the same way in different forces. Two areas which were badly hit by the disturbances of the 1980s for example, Avon and Somerset and Merseyside do not (at force level) have large ethnic minority populations. In 1991 minorities represented only two per cent of the total population. However, the politics of 'race' has played out very differently in each area. Broadly speaking, the local authorities in Avon and Somerset - especially in the Bristol area - have espoused a classic programme of 'progressive' policies (including ethnic monitoring) and have been urged on by a very active but well-established REC with one of the most stable leaderships of any in the country. Merseyside, on the other hand, was suffering from high profile political instability during the formative period of the riots and their aftermath, with a 'radical' left group in charge of the city council which for ideological reasons held to some of the traditional arguments against ethnic monitoring and an REC which was the arena for much of the factional in-fighting connected with wider political battles (Ben-Tovim and Gabriel 1986, Liverpool Black Caucus 1986).

Also, this type of experience has not universally encouraged a favourable predisposition to ethnic monitoring. The criticisms post-Scarman in some areas brought a defensive closing of ranks among officers bruised and battered by the undoubtedly traumatic effect of the riots; and this was further reinforced by the events of 1985 in which PC Blakelock was killed. Officers we interviewed said that this legacy was still apparent in some areas which failed to attract and retain mature recruits and which persisted in a 'them and us' mentality, with supervisors more likely than elsewhere, unquestioningly to take the part of junior officers against outside criticism. Certainly memories of these events still powerfully influenced the personal attitudes of officers who had lived through them in their early days as constables; and many of these had now moved into more senior positions elsewhere within the same force or to forces elsewhere in the country. Conversely, officers who were not part of that legacy but came to these areas with no experience of the issues had been forcibly and painfully struck by attitudes of suspicion and, even, hostility which they encountered in their dealings with minorities.
The majority of police forces, however, had never been faced with such traumas; and their longest experience of any kind of ethnic monitoring in service delivery has been the recording of racial incidents from the late 1980s. They had not been sensitised - favourably or otherwise - to the issues of ethnic monitoring of suspects and offenders until the ethnic breakdown of PACE stop/searches required by HMIC from 1993 was published in answer to Parliamentary Question in December 1994. National publicity focussed on London but remarked also on the disproportionate stopping of minorities elsewhere and this seems to have alerted some groups to press forces to account for the local figures.

The evaluation and the case study research as well as other discussions with police officers around the country indicated broadly that the ethnic monitoring requirement appeared mainly to be accepted without question. It was largely regarded as yet another demand for statistics the purpose of which was unclear (or irrelevant); but officers saw compliance as a matter of professional responsibility. Beyond this, four sets of attitudes towards ethnic monitoring became apparent. The second and third were the most common and were not particular to any rank or type of force. These attitudes can be summed up as follows:

1. *The problems monitoring is concerned with are problems only for a minority of forces and London in particular. This force has been free of them until now: collecting and publishing these data is an unnecessary imposition and/or may stir up trouble where none previously existed.*

This attitude was prevalent in two types of area.

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15 The headline in the Independent of 3 December 1994 read ""Racist" searches by police prompt calls for inquiry" and the Guardian reported:

'Police "stop-and-search" figures published yesterday, showing that over two-fifths of Londoners questioned by the police on the street are black or Asian, prompted calls for an urgent inquiry into the "racist" use of these powers.

...Bernie Grant, the black Labour MP for Haringey, said the figures showed the Metropolitan police used their stop-and-search powers to intimidate ethnic communities.'
One was areas where the local ethnic minority communities were predominantly Asian and where, until recently, community criticisms of the police had centred almost exclusively on their response to racial incidents. At least one, however, had been surprised when it undertook more detailed analysis of its stop/search data. The figures showed no disparity between whites and ethnic minorities; but this aggregated picture was found to mask considerable over-representation of the small black population. Moreover, certain forces were increasingly becoming concerned about the growth in criminal activity among sections of their Asian youth and recognised that ethnic data on suspects and offenders might become increasingly relevant for the future.

The other set of forces were those with very small ethnic minority populations. Staff responsible for providing data in a small force with only one per cent ethnic minority population recognised the need for national statistics and the value of local comparisons but thought that the setting up of systems was a burden which could not be justified for local purposes.

2. The figures will simply be used - nationally and locally by politicians, the Home Office, the Inspectorate, ACPO, by the media, our own force management and by community groups - as a stick to beat us with.

There was deep resentment among many officers about the accusations of racism levelled against the police generally and those which they personally faced on the streets. Quite independently of each other, they recounted situations which they believed they had approached with scrupulous professionalism to be greeted with the wearily familiar taunt 'You're only picking on me because I'm black'; and my two co-researchers observed this themselves on at least one occasion during the fieldwork in the case study areas. The publicity surrounding the first PACE returns (see footnote 14) had added considerably to

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16 One such incident involved a young Asian.
these sensitivities. Certainly my suggestion in a discussion group with a group of detectives that, if they were behaving fairly the figures might help them to prove this, was greeted with scorn. One summed up the generally cynical view of the group, saying that the police could use the figures to justify what they were doing but others would use the same figures to justify allegations of police discrimination. An Inspector in another area told me that the figures would simply be manipulated by certain groups to make the police 'look bad.'

3. The figures could be used to prove that we are behaving fairly - especially if senior management were prepared to use them to demonstrate that black people are, indeed, more likely to show up in police statistics because they are more involved in crime (and street crime in particular).

Those who held this view tended also to hold the most overtly negative attitudes towards black people (and often towards their own senior management). They had, however, been much encouraged by the launch of Operation Eagle Eye in July 1995 which was intended to check the rise in street robbery (or 'mugging') in London. Unpublished figures collected from data held on divisions had shown that well over half of all victims - and in some places as many as 80 per cent - described their assailants as black. Recognising that the operation would disproportionately target this minority, the Commissioner sent a letter17 inviting key

17 The letter read:

'Early in August I shall be launching an important police operation to combat street robbery and I think it is important to tell you about it. This is to invite you to a briefing...

When I talk about crime figures, I always add a health warning to the effect that we should really simply use them to identify trends. In London over the last two years, the trend has shown a reduction in reported crime. However, within that trend there is another which gives me cause for concern. That is that crimes of violence against people showed a marked an unacceptable increase.

Most crimes of violence are committed by people who are well known to their victims, but there is a worrying upward trend in the number of street robberies - the kind of offence we generally call 'mugging' and which nearly always involves some form of violence.

It is a fact that very many of the perpetrators of muggings are very young black people who have been excluded from school and/or are unemployed. I am sure I do not need to spell out the sensitivity of dealing with this crime problem which is, of course, much more than just a police problem.'
black people in the capital to discuss the implications with him. His initiative generated considerable controversy and was covered under newspaper headlines such as 'Met chief breaks taboo to reveal most muggers are black' (Daily Telegraph), 'Condon tackles black muggers' (The Times) and 'Most muggers are black says top cop' (The Sun).

Officers who took this third position on ethnic monitoring tended to interpret the Commissioner's initiative as a vindication of their point of view and were probably more willing to air their opinions about black involvement in crime as a consequence. Typical are the comments made to me by a constable and two Inspectors from different areas of London:

'If 99 per cent of people committing robberies are black - and in an area like this they are - then you would expect to find 99 per cent of the stop/searches to be of black people.'

'I don't know if I see any point in doing it really - unless they can put that towards crime or persons committing crime because it has been proved that more street robberies are committed by IC3-type people\(^{18}\), but "they" are loathe to say that 60 per cent of a certain type of crime is committed by a particular group - just that "x" per cent of arrests involved members of that group and that it is "disproportionate".'

'We knew for a fact it was all IC3s that were getting stopped because it was them that was doing it.'

This last comment was a reference to street robbery, although the same inspector had also made a similar argument about drug dealing, concluding that, in a certain area, 90 per cent of the drugs-related stops were 'bound' to be of black people. He also bemoaned the fact that the police were 'brilliant' at collecting information but failed then to use it in a 'positive way' (i.e. to support the argument that the disproportionate numbers of black people in the police statistics simply reflected their disproportionate involvement in crime).

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18 i.e. black people, using the Police National Computer classification which is based on six categories (White European, Dark European, Afro-Caribbean, Asian, Oriental, Arab).
4. Ethnic monitoring may be able to help us defend ourselves against unfounded accusations of racism - whether routine and knee-jerk or politically motivated - but where we do have a problem it will help us identify where it is happening, who is responsible and how to stop it.

This view encapsulates the classic arguments in favour of ethnic monitoring. It was broadly held by senior management, although a surprising number of officers at this level explicitly held to one of the two previous arguments, while others took a very guarded line in interviews which did not betoken enthusiasm. Inevitably, though, many senior managers who supported this case for monitoring were driven by priorities which, for them, were far more pressing; and some may, however unconsciously, shy from pursuing the possible implications of ethnic differences in the data.19 With one or two notable exceptions, therefore, the officers who had espoused this argument with the greatest enthusiasm were often not best placed to fill the role of 'policy entrepreneurs' in their forces. They tended to be: a) officers with a community relations brief and (depending on the management structure within the force) little influence on day-to-day operational policing; and b) force statistical officers, some of whom were civilians.

SUMMARY AND DISCUSSION

The impetus towards introducing a national system of ethnic monitoring by the police gathered unprecedented momentum from about 1991. Some (though by no means all) of the pressure was generated by Home Office officials and senior police officers who co-opted s95 of the 1991 Criminal Justice Act to this end, imbuing its very non-specific terms with such very specific meaning that to describe their enterprise as creative seems hardly adequate. The arguments advanced more generally

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19 I was reliably told of one force in which the overall stop and search figures had shown parity between whites and minorities but, once unpacked, revealed a marked over-representation of black people. The largest minority was Asian and, with the support of the Chief Constable, the force had actively promoted what hitherto had appeared to be good relations with the various groups. The Chief Constable personally intervened to block an initiative to publish the disaggregated figures on the grounds that, since there was no apparent demand for them, it was unnecessary to risk damaging those relations.
by these and by other influential actors in this process clearly imply an expectation that such statistics will 'measure' whether or not the police treat minorities fairly and equally. It is also intended that the police figures will open onto a bridge spanning the whole of the criminal justice system through to the far side of imprisonment and 'measuring' fairness at each stage. For the present, though, only a very limited range of police decisions are being monitored under a system which became mandatory on all forces in April 1996.

However, longer experience of ethnic monitoring of other public services should sound several notes of caution. This suggests: that it may take a considerable time before the data are reliable; that data quality, coverage, analysis and use may vary within the same organisation; and that monitoring can easily lapse into an exercise in data collection for its own sake. Whether or not police ethnic monitoring will avoid these pitfalls is too early to say; but the likelihood of its success may strongly be influenced by three important sets of factors in the organisational context into which it has been introduced.

- There are major differences between (and within) forces in: a) their policies and practices, including their use of different powers available to them; b) the quality, coverage and comparability of the statistics they collect generally; and c) the ethnic make-up of their local populations. In particular, only a handful have ethnic minority populations at or above the national average (which is itself under 6 per cent); and nearly two thirds of the black population - who have been the major focus of concern in the debate about 'race' and crime - lives in the Metropolitan Police area.

- Policing priorities increasingly reflect the need to meet objectives set nationally and supplemented, where necessary, by further objectives set in response to the main concerns local populations. The imperative to meet these objectives is experienced at all levels within forces and it coincides with a drive towards more 'intelligence'-led policing. It is uncertain where, whether and to what extent ethnic monitoring will mesh with these over-riding concerns.
For the most part ethnic monitoring is seen as irrelevant at best; at worst, it is resented and/or feared as a stick deliberately designed to beat the police with. Also, those who actually support it do so for three main reasons: because they believe it will vindicate their claims to treat all groups fairly; because they expect the figures to prove that there are ethnic differences in levels and patterns (and, specifically, that this will vindicate their higher rates of stop and arrests of black people); and because they see it as a way of pinpointing and rooting out discrimination. Those in senior management positions who take the third view, however, are likely to have other demands on them which are more pressing than to ensure the effective introduction of ethnic monitoring; and some may - however unconsciously - be wary of the hornet's nest it may stir up, not only in the local political context but, more immediately, within the force itself. Below this level, the other main enthusiasts within the police tend to occupy posts which give them little leverage on the operational mainstream.

It is against this historical, political and organisational background that the thesis now turns specifically to consider the ethnic monitoring of PACE stop/searches, arrests and cautions. It does so using a range of empirical data I have generated or been given access to over the last three years in the course of my work in the Home Office on the introduction of police ethnic monitoring.
Chapter Four
Stop and Search

THE SIGNIFICANCE OF POLICE STOPS

Of the three main aspects of policing covered by the ethnic monitoring requirement of 1996, the question of stops and searches has attracted by far the greatest interest - from the police, politicians, the media and community groups alike. The stopping of ethnic minorities (with or without a search) has also been covered more extensively than any other by previous research on ethnic minorities and the criminal justice system (for an overview see FitzGerald 1993). And it has attracted this degree of interest because the rate at which black people are stopped by the police, along with the quality and content of these encounters has been seen as a major factor in shaping black-police relations. Similar concerns have rarely been expressed in relation to the stopping of whites or Asians and it is evident that many have come to regard stops as a form of police harassment of black people which has taken on a symbolic significance almost akin to the 'Sus' laws.

Most discussion of this subject, however, has failed to take account of the marked differences in the extent to which different forces use their powers of stop and search. The Metropolitan police has always relied much more heavily on these powers than any other force and in 1995 was responsible for nearly half (46 per cent) of the national total of recorded searches under s1 of PACE (White 1996). Together with the City of London, it was one of fourteen forces with a rate of 1001 or more stop/searches per 100,000 population. Only two other forces in this group - Leicestershire and Greater Manchester - had significant ethnic minority populations. Few other forces reached even half the Met rate. In particular, seventeen forces had rates of 301 to 600 stop/searches per 100,000 population and these included all of the other forces with higher than average ethnic minority populations (that is, the West Midlands, West Yorkshire, Thames Valley and Bedfordshire.) A further

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1 Thus, 'Swamp 81', the operation which triggered the Brixton riots of that year was based on the police's use of their stop and search powers.

2 See, for example, Carol Willis's 1983 'The Use, Effectiveness and Impact of Police Stop and Search Powers'
four forces - none of them with significant ethnic minority populations - had rates which were lower still.

Further, inasmuch as police ethnic monitoring is intended ultimately to illuminate the treatment of minorities within the criminal justice process, it is important to bear in mind that only a small proportion of stop/searches results in an arrest; and, whatever their overall use of the PACE power, this pattern varies little between forces. Yet it is also noticeable that the number of recorded stop/searches has increased sixfold from 1986 (when the national total was 109,800) to 690,300 in 1995 but the 'yield' in terms of arrests has fallen steadily from 17 per cent overall to 12 per cent. Nonetheless, inasmuch as some forces have much higher rates than others of stop/searches per 1000 population (see Table 4:1), the arrests which result from these encounters may contribute more to their total arrest figures than they do in forces where the power is used only sparingly.

It is in this context that the HMIC requirement to monitor PACE stop/searches was first introduced in 1993. Even though the published figures shown in Table 4:1 do not distinguish between different ethnic minorities they consistently show that, overall, ethnic minorities are stopped and searched more frequently than whites - although the pattern varies considerably between forces.

Questions about interpreting the picture shown by Table 4:1 are discussed in the final section of this chapter; but the figures have been seen as the first 'official' proof that concerns about the disproportionate stopping of black people were justified (see Chapter Two). This has in turn fuelled interest in the 1996-97 figures which, by providing a breakdown which distinguishes stops of black people from those for other minorities, are expected to paint an even starker picture. Forces who have already provided this type of information have tended to confirm this expectation. In the capital, for example, the ratio of 2.5 ethnic minority stops to one of a white person 'unpacks' to a figure of 4.4 for stops of black people and 1.2 for stops of Asians; and in Leicestershire the semblance of parity in the HMIC returns breaks down again in the case of black people where stops are more than five times the rate for whites.
The starting point of this chapter is to clarify what in principle is covered by the PACE figures. It then looks at what the figures cover in practice, including a) the factors which make it inevitable that the profile of the 'population' stopped and searched under PACE will be very different from the population at large and b) factors which influence the recording of stop/searches. In the light of this, it looks at the question of interpreting ethnic differences shown by the figures by reference to the material generated in the course of the research.

**WHAT ARE THE PACE FIGURES INTENDED TO COVER?**

Prior to the Police and Criminal Evidence Act 1984 the police nationally had powers to stop and search for drugs and firearms. s1 of PACE added to these the power for a police constable to

> 'detain in order to search any person, vehicle or anything which is in or on a vehicle, in any place to which the public has access, if he or she has reasonable grounds for suspecting that stolen or prohibited articles will be found. Any such article found during a search may be seized.'

The term 'stolen articles' is self-explanatory but 'prohibited articles' are usually defined in terms of

> 'articles made or adapted for use in the course of or in connection with a burglary, theft, taking a motor vehicle without authority or obtaining property by deception or intended by the person having it to be used by him (sic) or some other person'

and

> 'offensive weapons made or adapted for causing injury to persons'.

The latter include sharp bladed knives and items which are, of themselves, innocent but are intended by the suspect or another person to cause injury.

The PACE figures cover both stop searches under the original powers (i.e. for drugs and firearms) and those provided by s1. All are regulated by Sections 2 and 3 of PACE, which require a record to

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3 The relevant legislation is contained in s23 of the Misuse of Drugs Act 1971 and s47 of the Firearms Act 1968.
be made of such searches and which specify how they should be exercised. The codes of practice governing the Act, commentaries on these and related training materials attempt to clarify the term 'reasonable grounds' without actually defining it, emphasising that what constitutes 'reasonable grounds' may depend on the circumstances in each case; but the bottom line is that there must be an 'objective basis' for the suspicion. The usual examples of the type of grounds which will provide this objective basis are

',..where information has been received such as a description of an article being carried or of a suspected offender; (where) a person is seen acting covertly or warily or attempting to hide something; or (where) a person is carrying a certain type of article at an unusual time or in a place where a number of burglaries or thefts are known to have taken place recently'.

(Code of Practice 1995)

At the same time, strong emphasis is placed on what does not constitute such grounds, thus

'Reasonable suspicion can never be supported on the basis of personal factors alone. For example, a person's colour, age, hairstyle or manner of dress, or the fact that he is known to have a previous conviction for possession of an unlawful article cannot be used alone or in combination with each other as the sole basis on which to search that person. Nor may it be founded on the basis of stereotyped images of certain persons or groups as more likely to be committing offences'

(ibid.)

Neither the stop nor the search is legal without 'reasonable grounds'; but a written record must be completed only if a search takes place and it is this written record (in London, Form 50904) which is the basis of the PACE figures. Before moving from a stop to a PACE search, the officer involved must give the person concerned (i.e. the individual who will be searched or the person in charge of the vehicle to be searched) the following information:

- the officer's name and the name of the police station to which he is attached;

A separate form (5091) is used for searches of unattended vehicles.
the object of the search;
- the grounds on which the search is being conducted; and
- notice of the person's right to a copy of the search record on the spot or at the police station named within a year.

This last requirement, however, is qualified: it may be omitted in cases where 'it appears to the officer that it will not be practicable to make a record of the search'. The guidance offered on this is

'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, eg in situations involving public disorder' [and, by implication, situations in which the officer perceives the threat of public disorder]

'The records must be completed as soon as practicable, on the spot unless circumstances (eg other immediate duties or very bad weather) make this impracticable.'

The forms themselves vary in design from force to force and from time to time. All, though, are carried on a small tear-off pad about a quarter the size of a normal (A4) sheet of paper. At this size there is space only for the bare minimum of information required under PACE, viz:

- the name of the person searched or (if withheld) a description
- a note of the person's ethnic origin
- when a vehicle is searched, a description, including the registration number
- the object of and the grounds for the search and its outcome
- the date, time and place
- a note of any resultant injury or damage to property
- the identities of the officers involved.

The reverse side of the form is available for entering additional notes.
PACE returns, then, record *searches* but not necessarily stops except insofar as these precede the search (though see the discussion below about recording practices). Other searches, may take place which do not come under the firearms and drugs legislation as extended by s1 of PACE, although it is unlikely that members of the public caught up in these encounters will be aware of the distinction. These non-PACE searches are of two types - searches which take place under other legislation and 'voluntary' searches.

The other two main other pieces of legislation which permit searches of this type are s60 of the Criminal Justice and Public Order Act 1995; and s13a of the Prevention of Terrorism Act. The conduct of searches under these powers is governed by sections 2 and 3 of PACE, including the requirement to make a written record; but neither requires 'reasonable grounds'. The Criminal Justice and Public Order Act allows for random searches for offensive weapons etc in order to prevent serious incidents of violence in a defined locality. It may be used only for a specific, finite period and only when authorised by a senior officer$. The PTA power applies similarly to searches for articles used in terrorism. The ethnic monitoring requirement of April 1996 relates only to stops and searches under the Firearms and Misuse of Drugs Acts and s1 of PACE. For practical purposes, though, the search power under other legislation adds little to the total figure: the Criminal Justice and Public Order Act and the Prevention of Terrorism Act have been used in this way by only a minority of forces (see White 1996).

The question of 'voluntary' searches is a much greyer area which is discussed in more detail in the next section. For the present it should be noted that it is permissible for any officer to speak to any person without needing 'reasonable grounds' for suspicion. On a strict interpretation, the reference in PACE to 'detaining' implies, in some sense, that the person might not have stopped if the constable had not exercised the PACE power. By extension, the safeguard that the officer should be able to justify the use of the power on specific, objective, 'reasonable grounds' is required precisely because of this implication of coercion. The guidelines make clear that, for a search to be conducted using the

$ The power was invoked in only 17 of the 43 forces in 1995, with the Metropolitan Police accounting for 1,397 of the total 2,439 searches recorded and Greater Manchester the next highest user with 484 (Home Office 1996).
PACE power, these grounds must have been present from the outset. Where they are absent, however, some form of search may nonetheless take place on a voluntary basis. For example, if the officer asks what is in someone's bag or in the boot of their car, they may open it to show them. The initial training of constables in London covers the point thus:

'The general power to stop and search requires that an officer has reasonable grounds for suspicion in order to be lawful. These grounds, which are necessary for the exercise of the initial power to detain, may be confirmed or eliminated by questioning a person detained for the purposes of a search. However, the reasonable grounds cannot be retrospectively provided by such questioning during detention or by the person's refusal to answer any question put to him (sic). In other words, you must have reasonable grounds from the outset, although the grounds may change or be eliminated as a result of questioning. If, however, a person voluntarily stops and answers your questions and as a result of this you reach a decision to search, this is permissible.' (emphasis added)

(Metropolitan Police)

The Code of Practice also emphasises that

'In these circumstances an officer should always make 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.'

WHAT SHAPES THE PACE FIGURES IN PRACTICE?

While the previous section has described what PACE stops and searches cover in principle, there is an extensive literature describing the extent to which they depart from this in practice, the circumstances in which this tends to occur and the reasons for this. This has recently been well summarised by my colleague, David Brown, in 'PACE Ten Years on: a Review of the Research' (Brown 1997); but the main factors which appear particularly relevant to the concerns of this thesis are as follows.

A recent study of stop and search in one area of London (Young 1995) strongly makes the case that, in meeting their obligation to prevent and detect crime, the police will inevitably target certain sections of the population and not others. The notion of 'democratic suspicion' whereby all citizens
should be assumed equally likely to offend is, the author argues, a nonsense. In short, to expect the police to operate on this basis would put large sections of the population unnecessarily (and unfairly) under suspicion as well as being grossly inefficient. One would not, therefore, expect the profile of those stopped and searched by the police to match that of the population at large. Not only is it unsurprising that young men are disproportionately stopped relative to old ladies - it would be a matter of concern if the reverse were the case. However, it is far more difficult to define who is likely to be caught under the power if it is exercised properly; and this, of course, makes it especially difficult to be sure of how far patterns of ethnic difference are predictable (and legitimate) or to what extent they are a cause for concern.

Two sets of factors were identified in the course of the research which appear to have an important influence on the PACE statistics and which may, to some extent, affect the ethnic profile of those searched. Both have been covered in the general research literature (see especially Brown 1996b for an overview); but they have rarely informed the discussion of ethnic statistics. The first can broadly be termed 'operational' and the second 'administrative'.

Linked in part with the notion of 'democratic suspicion' - and contrary to the image often conjured up in discussion - PACE stop/searches (henceforth 'searches') are not random. In practice, they are shaped in three main ways which partially reflect their legal basis. Many searches are conducted in the context of specific, targeted operations; many others are 'intelligence' led; and they vary by time and place. In our present state of knowledge, it is not possible to estimate what proportion of the total are accounted for in either of the first two ways; but it seems likely that the majority could be attributed to 'intelligence'. This term may be used very loosely but it increasingly provides a guiding principle for day-to-day policing and is often referred to in policing objectives.

'Intelligence'
The most obvious form of intelligence which provides officers with the 'reasonable grounds' for a PACE search comes from crime reports which focus attention on areas where incidents have occurred and, sometimes, descriptions of suspects connected with these incidents. Much police patrolling
activity is reactive and - in particular - tends to be driven by the crime reports which are relayed by radio from central control rooms to officers on patrol. This pattern has recently come under critical scrutiny by the Audit Commission in a report entitled 'Streetwise' which observes:

"Currently, patrol effort in many forces can be characterised as "fire-brigade policing". It is highly reactive and patrol officers spend a significant proportion of their time - up to 60 per cent in some areas - dealing with incidents and their aftermath."

(Audit Commission 1996 p.5)

However, the research provided examples of a number of additional ways in which forms of intelligence other than crime reports could influence patrolling, both formally and informally. All forces keep central lists of 'prominent nominals' - individuals who are the focus of particular observation at any time because of their suspected involvement in crime locally; the names on the list change regularly but there will be a second, longer list of individuals who have either just come off the core list of Prominent Nominals or who are shaping up to enter it. In addition, Local Intelligence Offices at divisional and/or subdivisional level within forces build up information on a wider range of individuals who may be involved in offending locally and of people known to associate with them. The sources of this information are diverse but much comes from officers on patrol. It includes details which may be provided on the reverse side of the 5090 PACE forms. More important sources, though, are notes recorded by officers in their pocket books, including notes on other stops and on checks made on the Police National Computer to see whether individuals who have attracted their attention have criminal records. Before going out on patrol, teams are briefed on a range of items, including recent incidents in the area and individuals to watch out for. More informally, it is common for teams to swap intelligence while out on patrol almost as a form of professional gossip - who has been seen with whom, which offenders have recently been released from custody etc.

In fact, the sharing of 'intelligence' is patchy and the quality of the information available to officers

6 5090s (of which suspects are entitled to request a copy for up to a year) are usually held by the LIO once the basic details on the front of the form have been collated in central records.
on patrol leaves a lot to interpretation and discretion. One of the reasons for this is the briefing process itself. This can vary from one relief to another within the same station and may be affected as much by differences in approach between those responsible for the briefings as by the information available to them. The following descriptions from reports by HMIC in two different areas in 1995 are typical:

'HMI attended a number of operational briefings for uniform patrol staff, and in the main found these to be traditional and poor, with little emphasis on intelligence, priorities and performance; little more than postings and refreshment times.'

and

'HMI attended a number of routine operational briefings during the Inspection at which individual officers were tasked. Generally speaking the briefings allocated individual officers to a core posting with little or no guidance on what was expected of them or current local priorities. These briefings were accompanied by an unstructured run through the local intelligence log and recent messages and circulations.'

(emphasis added)

However, another factor militating against intelligence-sharing may actually be an exacerbation of competitiveness between officers as the 'performance culture' takes hold. If 'intelligence' has always been used as a type of currency, its value is immeasurably increased where officers' 'scores' are measured one against another in league tables which are posted openly on notice boards for all to see.

These factors are reflected in criticisms by the Audit Commission which describes both the briefing and debriefing process as leading to:

'...reduced commitment to gathering and sharing intelligence. Although quantity does not matter above quality, some Local Intelligence Officers are being starved of the raw data needed to construct quality indices on local criminals and their habits; there is evidence that

7 For a full discussion see Fielding 1995, especially Chapter 9.

8 In one force outside our fieldwork areas where this and other similar incentives were routinely used one officer said openly in front of his team mates that, if he received a piece of prime intelligence just before going on leave for several days, he would not pass it on but hope to capitalise on it personally when he returned.
patrol officers also believe that not enough intelligence is being collected and disseminated.' (emphasis added) (op. cit. p. 40)

One consequence of this, it concludes, is that

'Unless they have been assiduous in briefing themselves, or the force has succeeded in cascading strategic objectives to the level of individual officers, many officers will default to doing what interests them or what they consider to be important.'

Yet the very emphasis given to these criticisms and increasing references in, for example, local policing plans reinforce the impression that this intelligence-led approach to patrolling is likely for the future to increase rather than decrease, with possible consequences for the policing of minorities which are picked up later in this chapter.

Observations in the course of the fieldwork for this research illustrated this problem of unfocussed patrolling when the police are not in reactive mode. In these circumstances, according to the Audit Commission, police attention is likely to be 'orientated towards traffic offences (for example defective vehicles or disqualified drivers) or alternatively the officer will drive around in response mode, waiting for the call to the next job.' Relatively speaking - and certainly in the view of the Commission - these activities are non-strategic and inefficient. However, it would be wrong to assume that they run counter to local policing priorities and represent a waste of patrol time; and they are still 'intelligence-led' to a considerable degree. This is most obviously true of the pursuit of disqualified drivers; and officers do not drive around completely aimlessly 'waiting for the next call', they may also use the time proactively and will usually draw on 'intelligence' (in its broadest sense) to do so. In practice, unless they chance on an incident on the street which claims their interest, their attentions are most likely to focus on that section of the population defined by 'intelligence' as being of particular interest to the police.

A simple example would be that, finding themselves in response mode in a particular neighbourhood, a patrolling crew will have a completely arbitrary choice of which direction to take at a junction. If one direction will take them past the home of a known 'villain' they will decide they may as well take a look - even, possibly, as one officer put it, 'let him know we're keeping an eye on him'.

102
Being a likely object of police attention should not of itself make anyone a legitimate target to be searched. However, it seems almost inevitable that a much higher proportion of the people who fall into this category are likely to be searched than of the population at large. Thus analysis on one division for the Met Working Group suggests there may be very high levels of stopping of 'prominent nominals'. Of 46, six were recorded as having been stop/searched 25 times or more; and the average was eight.

**Time and place**

The third operational factor which appears to bear heavily on the pattern of searches is their timing and location. A special survey of four London divisions undertaken for the Stop and Search Working Party showed that PACE searches in the period of one month occurred as follows:

<table>
<thead>
<tr>
<th>Time</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 a.m. to 2 p.m.</td>
<td>11.5%</td>
</tr>
<tr>
<td>2 p.m. to 10 p.m.</td>
<td>41.5%</td>
</tr>
<tr>
<td>10 p.m. to 6 a.m.</td>
<td>46%</td>
</tr>
</tbody>
</table>

Very much smaller numbers of the population are likely to be on the street between 10 p.m. and 6 a.m. than at any other time. So the chances of individuals who are out at that time being searched is very much higher (relative to other times) than the figure of 46 per cent suggests; and this is probably driven by two factors. For officers on patrol it will be a relatively quiet time with fewer crime reports to respond to and more opportunity to be proactive. This 'mismatch with demand' is referred to thus in the Audit Commission report:

> "...16 per cent of operational patrol officers are on duty at 7 p.m., when workload is peaking, while 11 per cent are on duty during the quietest period, in the early hours of the morning. Almost one in ten BCUs [Basic Command Units] had the most officers available for patrol.

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10 In discussion with officers from a wide range of forces one plausibly suggested that rural forces like his own had a much lower rate of searches because they had hardly any night patrol cover.

11 The Basic Command Unit (as the name implies) is the main sub-unit of organisation within a police force and may sometimes (as in the Met) be referred to as a 'division'.
The mismatch between incidents and resources is explained in part by the practice of double-crewed patrol cars at night (for reasons of officer safety).

(op. cit. p.29)

In the fieldwork areas, patrols were double-crewed at night unless insufficient staff were available. One particularly striking finding from a late turn in one of the areas covered by Rae Sibbitt was that nearly every one of the people seen on the street in the early hours of that morning was 'known' to the police. A point of debate in the interpretation of PACE, though, was what sort of activity would justify using the PACE power at night which might not during the day, bearing in mind that the guidance specifically refers to 'an unusual time' in the context of 'reasonable grounds'. The following exchange between a PC and a probationer was illuminating on this point:

PC: You'd want to stop someone with no socks on.
Probationer: No socks on?
PC: Yes - especially if they've got them in their pockets.
Probationer: In their pockets.... why's that grounds for suspicion?
PC: Well, it's burglary: they wear socks on their hands to prevent fingerprints. Same with gloves. You should always search someone with gloves on.
Probationer: Gloves? That's a bit dodgy isn't it?
PC: Not at three o'clock in the morning.¹²

With regard to the question of location, a point frequently made was that searches would be far more common in certain areas than others. The guidance specifically refers to areas in which there have recently been burglaries or thefts, although we found some uncertainty about whether the combination of being in such an area at an unusual hour itself constituted 'reasonable grounds' for a PACE search. At least as important, though, are particular shopping centres and places of entertainment which may often attract people in large numbers from outside the division (and even the force) and where searches may involve groups rather than lone individuals. The implications of this are further unpacked in the next section; but for the present it should simply be noted that the numbers of stops may vary quite markedly from one police beat to another for entirely legitimate

¹² (See also, for example, Rubinstein 1973).
reasons. In one of our areas, the PACE figure for twenty regular uniformed patrol teams over one month ranged between none and 25. In another area, the yearly total for eighteen beats had a low of 212 and a high of 1,784.

**Recording practices**

In addition to these broadly 'operational' influences, three inter-related administrative factors come into play which may further shape the picture which emerges from the PACE records (Brown 1997) and we observed all of them in the course of the research.

The first is that a proportion of PACE searches goes unrecorded for a variety of reasons. Despite the guidance, many 5090 forms appear not to be filled in at the time of the search. One incident from our fieldwork is worth citing in this context. It illustrates the difficult circumstances in which officers are required to make this record - circumstances in which fears for personal safety and the demands of negotiating a tense situation in order to prevent it from escalating must inevitably take precedence over the formal requirement to fill in a PACE slip. Andy Zurawan's notes read:

>'A call was received regarding a domestic incident where there was a possibility of violence... As we approached, a young male IC1/3 (sic) was seen leaving the property with two large bags over his shoulders in a hurry, with a woman shouting obscenities at him from the window above. X [Officer One] called out to him but he ignored his calls. At that point X and Y [Officer Two] (closely followed by me) got out of the car to question him about the incident. As X began talking to him he started making movements towards his front pockets. I jumped back thinking he had a weapon and because I was standing right in front of him. Y held back his hand to stop him from going to his pocket and they informed him that they were going to conduct a search. Y told him that by going for his pockets he was making all of us nervous. Y conducted the search. By this time the guy was getting pretty angry and was mouthing off about not wanting any police brutality. He allowed the search and a PNC check was carried out on him. He was offered a copy of the search record. During this time the woman above was still shouting at him, telling him in no uncertain terms that he was not welcome there. X and Y suggested that maybe he shouldn't go back to the house for a while as this might aggravate the situation between himself and his girlfriend further. No further action was taken.'

The guidance also recognises that officers may not complete a record because of calls to other duties. But, in addition to these permissible exemptions, it was very apparent that officers have no strong
personal incentive to make a record. This is especially so where the search was unproductive but the
encounter passed off smoothly so no further police action is required and no repercussions are
anticipated. On the other hand, where the search 'yields' an arrest, the paperwork completed for the
arrest is the basis for any subsequent processing and there is little incentive to duplicate effort by
completing the 5090 also. The second of our London fieldwork areas did a spot check and discovered
that the 5090 had not been completed for 30 per cent of the arrests which resulted from a PACE
search. A PC in another area - more forthright than many I spoke to but by no means atypical - put
it thus

'If I can get away without filling in a piece of paper I will.'\textsuperscript{13}

Senior management emphasise that, despite these temptations, officers are instructed to complete
5090s for all relevant searches and gave the impression that completion rates have improved
considerably. This is tentatively confirmed by David Brown (op.cit) who compares the marked rise
in the police figures between 1988 and 1992 with the rate indicated by the British Crime Survey. It
is also possible that the HMIC performance indicator and the 1996 monitoring requirement are
beginning to generate a greater incentive for officers to 'cover themselves' by recording. In some
places, increased vigilance by supervisors and line managers is having an impact. This is usually
exercised in the name of Quality Control; and the research yielded numerous instances where the
practice had been adopted of sending incomplete forms back to the officer responsible (often via their
line manager). This was usually initiated by personnel responsible for entering the details onto the
database. Until relatively recently, they would usually have left fields blank or (especially in the case
of ethnic appearance) simply imputed for themselves. However, such checks largely apply in instances
where records have been made; and this, arguably, could add to the incentive not to record, thereby
avoiding such scrutiny.

A further powerful incentive to record - and one which has ramifications for other forms of recording,

\textsuperscript{13} For further discussion of police aversion to such paperwork, see also Manning (1977) and Fielding (1988).
including arrests - was undoubtedly the impact of Performance Indicators and Local Policing Objectives whose growing influence was referred to in the previous chapter. On the ground these are often a cause of resentment for two main and inter-related reasons. Officers feel that no recognition is given to activities in which they are routinely involved which are very time-consuming and some of which may represent an important investment in community relations terms. The second was described in one area as causing a lowering of morale. As officers saw it, their performance was under increasing scrutiny: they got no positive feedback from senior management but were singled out for criticism where local objectives were not being met. A further and rather more positive incentive in this context was the widespread perception that the activities officers recorded directly influenced the allocation of funding and resources.

Further complicating the question of whether all PACE searches are recorded is that many forces (or divisions within them) seem to include some PACE stops on 5090s in addition to the searches, even though the Act only requires the search to be recorded. In some instances, officers would mark 'stop only' on the form; but the extent of this practice remains unclear. It may vary between officers and/or between areas; and where it happens there is no way of knowing whether stops-without-searches are being recorded with the same degree of consistency (or lack of consistency) as stops-with-searches.

'Voluntary' searches

The second administrative problem concerns the question of 'voluntary' searches. The Codes of Guidance originally issued in conjunction with PACE have been reissued in part to clarify the point; but discussions and direct observation throughout this research suggests that the dividing line between a PACE search and one which is 'voluntary' is still a point of debate not only between individual officers but even between forces. In one of my Holly Royde workshops with a group of officers from a wide range of forces in 1995, some said that their forces did not recognise the

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14 One evening I was with two officers who spent over an hour dealing with a domestic dispute, arranging to get the female party to hospital and bringing the male party in for questioning. We then spent a further three hours trying to find someone to take care of the man's nine-year old son. It was a frustrating and distressing incident which they handled admirably, but they deeply resented the idea that those three hours 'counted' for nothing in the measurement of police effectiveness or their own professional rating.
possibility of a 'voluntary' search: all searches had to be conducted under PACE. Many simply accepted that an unknown proportion of searches would never be recorded because they were voluntary. But other forces were trying to develop systems for recording 'voluntary' searches as well as PACE searches in order to capture the totality of these encounters with the public in their statistics. An experiment along these lines was taking place in one of the fieldwork areas but the addition of stops recorded as 'non-PACE' accounted for only about five per cent of the total. Rae Sibbitt and Andy Zurawan observed more than one such 'voluntary' search. Typically, the police would stop a car and - especially where the driver was already known to them and the encounter was free of tension - the interchange would go something like:

Officer: Is it OK if I have a look in your car mate?  
Driver: Yeah.

The search would be treated as 'voluntary' because of the assumed consent of the individual.

Such incidents may occur more frequently with traffic stops since officers have the power under the Road Traffic Act to stop any vehicle without needing 'reasonable grounds'; but the RTA does not provide a power of search. Once having stopped the vehicle using the RTA power, therefore, it would seem that any search must of necessity be 'voluntary' since the exercise of the PACE search power requires 'reasonable grounds' from the point of stop. However, most of the examples officers gave us of searches they treated as 'voluntary' - inasmuch as they felt it unnecessary to record them - were footstops. Here it must be acknowledged that, in real-world terms, there is a conflict for officers. To meet the procedural requirement for treating the search as voluntary, the person searched must be aware that they have a right to refuse. Yet informing them of that right may de facto formalise an encounter which both parties would probably prefer to keep low key.

*Lack of clarity about the PACE power*

Finally, the question of recording and of the distinction between 'voluntary' and PACE searches are in themselves related to some extent to the third administrative problem. Officers who undertake searches are often simply very hazy about the PACE provision. In a discussion group I held with four
beat officers in one of the pilot study forces, a sergeant asked each to explain the search powers provided by PACE and the conditions for using them. Only one made no mistake in his reply - and he had just revised the Act in preparation for a forthcoming exam.

In sum, the view of officers on the ground and direct observations in the course of the fieldwork confirm that the problem of under-recording persists and that what is recorded is not recorded consistently. Despite efforts which have been made since 1984 to clarify the PACE requirement and the increasing incentives to comply with the recording aspect of it, confusion remains, especially with regard to 'reasonable grounds' and the question of 'voluntary' searches. The situation still resembles that described by Bottomley et al in 1989 and summarised by Brown as follows:

'...whether searches are formally recorded may be attributable more to a variety of contingent factors than to legal requirements: for example, failure to negotiate consent to a search, the need for officers to safeguard themselves where a search leads to an arrest, or the recording of searches for intelligence purposes. They conclude that there is a large grey area between exercise of the PACE stop/search powers and true consensual searches, in which searches are done outside of PACE procedures with the cooperation of the suspect but without informed consent. There is a threat to the safeguards for the suspect in such cases: since the principles under which the PACE rules are applied are unclear and uncertain (despite the aims of the legislation), it is unlikely that a set of "correct" rules will be internalised and implemented by officers.'

(op. cit.)

ETHNIC DIFFERENCES

The chapter so far suggests that interpreting PACE statistics depends on three 'nested' questions:

1. Which individuals are most likely
   a) to be the objects of police suspicion and
   b) to be available for stopping and searching in the places and at the times when PACE searches are most likely to occur?
2. How do the police exercise the power?
3. How are PACE searches recorded?

It is also apparent that we do not have clear answers to any of these questions. Interpreting ethnic differences in PACE data, therefore, can only be speculative; but, for that reason, exploring these questions with regard to minorities may shed light on the searching of all ethnic groups.

Ethnicity and 'suspiciousness'

Leaving aside the question of searches connected with specific, targeted operations, it seems that young males are more likely to attract police attention than any other group. This is especially true where they match descriptions received from the public of suspected offenders or where they are 'known' through various forms of intelligence to be actively involved in offending locally (or associated with those who are). Descriptions of suspects will strongly influence the pattern of reactive policing; but other forms of intelligence may come into play at times when there is more scope to be proactive.

While there is no significant difference in the gender distribution of young people from different ethnic groups, the younger age profile of the minorities has already been noted as well as the variations between the different minorities (see Chapter Two). Analysis for the Met-CRE working party by one Met division found that the largest number of searches were of men in the 16 to 20 age group. These accounted for 45 per cent of searches of males, followed by 18 per cent and 17 per cent respectively for under-15s and those aged 21 to 25. Andy Zurawan's analysis in the second of our London divisions gave an average age of 20 for whites and Asians and 21 for black people searched. Recognising the implications of the skewed age-profile of the search population, from the outset the Met has, wisely, given figures per thousand population based on the population aged 15 to 29. These have still persistently shown over-representation of black people; but the ratio of white to black is 1 : 3.5, by comparison with 1 : 4.5 if the calculation is based on the full age range.

With regard to the descriptions of suspects, a random check run for me on the Crime Information
System in the first of our London divisions in mid 1996 showed that, over the previous seven weeks, the ethnic appearance of suspects reported was: 250 IC1 (white), 372 IC3 (black) and 19 IC4 (Asian). The Eagle Eye data for the three month period from December 1995 to March 1996 were much starker again. These cover reports of snatch thefts, robbery of personal property and assaults with intent to rob. They related in this period to 361 offences for which 561 suspect descriptions were recorded (reflecting the fact that such offences are often carried out by two or more offenders). Some 14 per cent of descriptions were of white suspects and 80 per cent of black.

Three main concerns have been raised about the ethnic patterns set up by this type of 'hard' intelligence. They concern: the accuracy of victim or witness recall; whether incidents involving minorities are more likely to be reported to the police than those involving whites; and whether the ethnic profile would be the same for the full range of crimes since, in the majority of cases (about two thirds), the victim will not have seen the person responsible. Any ethnic bias at this reporting stage might, indeed, unfairly skew the profile of those who are brought in to the criminal justice process. However, the police cannot be held responsible for this: in reactive mode, they will properly and necessarily respond to the information they are given.

Police activity in proactive mode, though, is (as we have seen) shaped by a wider range of types of intelligence, some of which are much softer than others. Informed gossip, anecdote and casual observations are essential to the intelligence on which much policework depends and which was described earlier in the quote from the Audit Commission as 'the raw data to construct quality indices of local criminals and their habits'. To some extent this intelligence is shaped - consciously or otherwise - by perceptions built up over time, which are reinforced by being shared with colleagues and confirmed, in turn, by experience. As has already been illustrated in the previous chapter, the research repeatedly yielded examples of common sense understandings of ethnic differences in

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13 A striking example was a local drug dealer observed on patrol one evening. My police companions deliberately drove past slowly several times and looks of mutual challenge were exchanged. I was given details of where he kept his drugs and, even, his unsavoury sexual habits - all of which seemed plausible to me from his thoroughly menacing appearance. On probing, though, I discovered that no drugs had ever been found on him and he had no convictions of any sort against him. The information I was given was all 'based on intelligence'.

111
patterns of criminality. Some of these clearly derive from victim and witness descriptions; they are reinforced by the everyday experience of apprehending offenders; and they are reflected ultimately in the prison statistics - see Chapter Two. Thus burglary was commonly seen as a 'white' crime and street robbery as a 'black' crime.

This type of generalisation, though, can lead to a collective view of whole groups which borders on stereotyping. These views may be positive as well as negative; but a positive view of one group can, in turn, be used to reinforce a negative view of another. The white majority may be collectively viewed as dividing into a few, very broad subgroups, with the main split between those who are 'respectable' and those who are not - or even between likeable villains and offenders who were the object of intense moral opprobrium. Minorities, on the other hand, seem less likely to benefit from even these crude subdivisions. Rather, they may be thought of en bloc as representing one or the other.

'We have a lot of Jewish groups although they don't give us much...well, we don't come across them much in terms of crime. I don't know why. Maybe they're more law abiding....'

(Inspector, case study area)

'The Japanese and the Chinese, culturally speaking, are very respectful. With black people we often prepare ourselves for the abuse in advance, or the knives (which is again a cultural thing).'

(Chief Inspector, different case study area)

The day-to-day business of responding to crime reports, collective memories of the riots and the experience of hostility - both as individuals and as a group - combined to produce a collective view of black people which was negative rather than positive. One Chief Inspector spoke with concern about the views of many colleagues. As he saw it, in 'the organisational culture', the evidence of over-representation of black people in street robbery was generalised to the whole of crime; and the

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16 One custody suite sergeant complained:

'Why can't we have someone really nasty in here? Then we could all go home feeling much better.'
experience of Brixton, Broadwater Farm etc' generated anxieties which were reflected on the street
in officers' dealings with black people. A spiral had set in he felt, 'of mutual suspicion, aggression and
hostility which it will be difficult to break.'

Collective views of Asians were less clear-cut; but they were no longer seen as relatively
'unproblematic' groups whom the police encountered - if at all - almost exclusively as victims of
crime. The Rushdie affair and other, local political developments, particular problems in investigating
intra-community crime, the events in Bradford of summer 1995, the growth of vigilantism, the
accumulating experience of aggressive behaviour and hostility towards the police among younger
Asians and perceptions of their increasing involvement in crime pointed to the development of new,
and more negative views of Asians especially in areas where they were the predominant minority. This
was reflected in the second of our Met divisions. Although Asians were perceived to be wary of
reporting crimes committed by their own members to the police, older 'community leaders' had begun
to raise concerns with senior officers whom they trusted about the behaviour of some of their young
people. Meanwhile, officers on the ground were becoming more aware of groups of young Asians
'hanging around', apparently 'up to no good'. *None* of these parties, however, (the 'community
leaders', the senior officers or their more cynical colleagues on the ground) was apparently aware of
the age profile of the area shown by the 1991 Census in Figure 4:1.
Thus, by the time of the fieldwork, the relatively large black group who in 1991 had been aged 16 to 29 were by now 21 to 34 and the group now aged 10 to 20 was only about half the size. Yet there was a 'bulge' in the Asian population aged 5 to 15 at the time of the Census which, imperceptibly, had moved into the 10 to 20 age range by 1996, potentially doubling the numbers already on to the streets from the age cohort above. Once this 'bulge' has passed through to adulthood, the proportion of teenagers will again be similar in the black and Asian groups; but it seems possible that by then the collective police view of its Asian population may have changed irrevocably.

Although the fieldwork provided plenty of evidence of these collective views of minority groups - it would be an unwarranted generalisation to imply that they were universal. Nor does the fact that they are widely held imply that officers behave in any way unprofessionally because of them. However,
it seems possible that officers will be more receptive to 'intelligence' which goes with the grain of these perceptions and will, in turn, generate more of the same. Conversely, they may look more sceptically at 'intelligence' which is counter-intuitive. Thus they may identify behaviour as suspicious when they observe it in people they are already inclined to suspect. The same behaviour on the part of anyone else might pass unnoticed or be interpreted as innocent.

'Availability' for stopping

Turning to the question of the times and locations of searches, there is evidence to suggest that young black people, at least, are more likely than whites to be 'available' for search than whites for at least three reasons. Many police officers we spoke to were aware of these reasons at a commonsense level even if they lacked the hard evidence with which to justify their perceptions. One is that black young people - as well as some of the Asian groups - have much higher levels of unemployment than whites (see Chapter Two). They may, therefore, be on the streets during the daytime because they have nowhere else in particular to go and they may be out later at night because there is nothing to get up for in the mornings. The numbers of these young unemployed who are 'available' to be searched may also be swelled by the disproportionate numbers of black pupils excluded from school. In 1993-4 official statistics show that black children were more frequently excluded from English secondary schools than any other group, with the rate for black Caribbeans six times that for whites (OFSTED 1996). Importantly also, compared to the Asian groups, black people (of all ages) are far more likely to go out on two or more evenings per week. The 1994 British Crime Survey shows that, of males aged 16 to 25, 54 per cent of whites in London went out three or more evenings per week but the figures for Asians were lower (46 per cent for Indians, 32 per cent for Bangladeshis and 28 per cent for Pakistanis). The figure for young black men was 64 per cent.

It is more difficult to comment on whether black people are any more likely to be found in areas where searches are most likely since we know so little about where searches are most likely to take place - except that there are wide variations between and within forces. At the broadest level of analysis, black people disproportionately live in London where the PACE power is most extensively used and this will, of course, significantly influence the national picture. On the other hand, the West
Midlands (which has the second largest proportion of the black population) uses the power only sparingly; but the important point is that black people appear disproportionately to be searched in all areas - irrespective of the extent to which the police use their PACE power.

**Implications for estimating 'proportionality'**

The research, though, confirmed that it is difficult to estimate this 'disproportionality' by comparing the ethnicity of those stopped with their presence in the local population. Andy Zurawan's analyses of arrests following searches suggest that in the division in question around 45 per cent of whites came from addresses outside the division, with a figure for blacks of nearly 60 per cent. Similar figures were produced in the context of the Met Working Party in another London division, where 50 per cent of all searches of whites were of people from outside the area, with a figure of 58 per cent for searches of blacks. Taking this analysis down to beat level, it emerged that only a tiny proportion (16 per cent of whites and 10 per cent of blacks) were actually stopped on the beat where they lived.

Therefore, it is technically safer to calculate 'over-representation' for figures at force level than at divisional and beat level; for the majority of searches may be assumed to be of people who are resident in the force area - even if the searches take place outside the divisions where they live and almost never in their own neighbourhoods. But, in real terms, (even if age is controlled for) the research suggests that force-level comparisons of PACE figures with local populations are relatively meaningless for two reasons:

1) PACE searches are very unevenly distributed across force areas (and this may be even more true of forces with a mixture of rural and urban areas). This uneven distribution continues down to beat level where this difference may be even more pronounced than the difference between forces. However, the fact that these variations seem to affect all groups almost

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17 Fielding asserts that 'Crime is a close-to-home activity; a high percentage of all types of crime occur within four miles of the criminal’s residence, and much within one to two miles' (Fielding 1995 p.12). This is not inconsistent, however, with the idea that it does not occur in the criminals’ immediate neighbourhood - nor with the rule of thumb which appears to underlie the pattern of police stops, summed up by one officer as 'They don't shit on their own doorsteps.'
equally, suggests that there are good operational reasons for them and that they contribute little, if anything, to 'explaining' ethnic differences. Thus, in one Met division, the 1995 figures for the beat with the highest number of searches was 1,463 whites to 111 blacks; for the beat with the lowest, they were 146 and 26 respectively.

2) The beat, therefore, is the most meaningful level for analysis; yet the proportion of those searched (of any ethnic origin) where the search takes place in the neighbourhoods where they live is so small that comparisons with the local population are irrelevant, not to say invalid.

**Ethnic patterns in recorded PACE searches and resulting arrests**

The second - and critical - question about whether the police exercise their powers equitably between the groups who come to their attention remains difficult to answer, especially since we do not know whether the figures are complete and whether there is any ethnic bias in recording. One fairly crude measure of equity would be equity of outcome in terms of arrests; but this is by no means straightforward for several reasons. Only a minority of searches of any group results in an arrest but the 'yield' may vary considerably according to the original reason given for the stop; and a further problem of interpretation arises if the reason for the arrest is different from that for the stop. (For example someone stopped may turn out to be in breach of bail, a warrant may be out for their arrest, or they may be arrested on public order grounds rather than because the search turned up evidence of the original grounds for suspicion.) By far the most common reasons for searches are 'stolen property' and 'drugs' - though the order in which they appear may vary by area, reflecting local crime problems and policing priorities. Least common are searches for firearms. Andy Zurawan's divisional analyses in Table 4:2 illustrate the very different extent to which these produce arrests.
Table 4: 2
Arrests by grounds for search
(Fieldwork Area 1995)

<table>
<thead>
<tr>
<th>Grounds for Search</th>
<th>N searches</th>
<th>N arrests</th>
<th>Arrests as % of searches</th>
</tr>
</thead>
<tbody>
<tr>
<td>Going equipped</td>
<td>872</td>
<td>70</td>
<td>8.0</td>
</tr>
<tr>
<td>Drugs</td>
<td>1731</td>
<td>139</td>
<td>8.0</td>
</tr>
<tr>
<td>Firearms</td>
<td>32</td>
<td>4</td>
<td>12.5</td>
</tr>
<tr>
<td>Other</td>
<td>34</td>
<td>5</td>
<td>14.7</td>
</tr>
<tr>
<td>Stolen property</td>
<td>1274</td>
<td>234</td>
<td>18.4</td>
</tr>
<tr>
<td>Weapons</td>
<td>297</td>
<td>48</td>
<td>16.2</td>
</tr>
</tbody>
</table>

In any area, therefore, it may be important to know not only whether there are differences in the original grounds on which different groups are searched but also to know about the proportion of arrests of different groups by the original grounds for the search and also by reason for arrest. With the limited data available, it was only possible to explore this for the largest categories of search. Table 4:3 suggests that there are some ethnic differences in the pattern of searches. Asians, for example are more likely to be suspected of drugs offences. However, this does not seem to be unwarranted inasmuch as Asians stopped on these grounds have a higher arrest rate than whites. Indeed, any question of unwarranted suspicion in the context of drugs searches arises with regard to the black group whose arrest rate looks much lower. It is, though, tempting to infer too much from such tables. The numbers of arrests of those searched for drugs were 76 white, 43 Asian and only 15 black; but we do not know how many of these arrests were actually for drugs offences. Certainly it would be unwise to try drawing any inferences from the ethnic breakdowns for the remaining search categories.
Table 4:3
Ethnic composition of searches and % arrested as a result
(Fieldwork Area 1995)

<table>
<thead>
<tr>
<th></th>
<th>% of searches by group</th>
<th>% of those searched arrested</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>White</td>
<td>Black</td>
</tr>
<tr>
<td>Going equipped</td>
<td>62.5</td>
<td>15.7</td>
</tr>
<tr>
<td>Drugs</td>
<td>53.2</td>
<td>15.3</td>
</tr>
<tr>
<td>Stolen property</td>
<td>62.1</td>
<td>20.1</td>
</tr>
<tr>
<td>All</td>
<td>58.2</td>
<td>17.6</td>
</tr>
</tbody>
</table>

Arrests, then offer only a very crude and uncertain measure of equity, even in areas where numbers are large enough for analysis. It is, though, worth bearing in mind that officers know that recorded searches are increasingly open to scrutiny. There is no obvious reason why - if they were consciously discriminating - they would provide evidence which could be used against them. Nor is there reason to assume that conscious discrimination occurs on any significant scale - even were it possible to conceal it. One of the most important findings of the Hood report (see Chapter Two) was that the large differences in sentencing outcomes for the black offenders in his sample compared with whites were explained by factors other than ethnicity. Moreover, inasmuch as some discrimination was apparent at the aggregate, statistical level, in practice this meant that only a minority of individual cases were affected. For the majority of cases Hood analysed were treated equitably and the decisions of the majority of sentencers were not open to question. By analogy, police officers, whatever their personal views, have no incentive to behave unprofessionally out of simple malice. As one of the most cynical inspectors I interviewed put it:

"There's no doubt we still have a small minority who are racist; but I've never seen people stopped just because they're black. Why do it if you're only going to get the wrong people?"
Clearly, if there is discrimination, it is important to be able to track it down; and the monitoring data should, in principle, facilitate this. However, it is worth reporting the results of an initiative which ran in parallel with our fieldwork. This has - albeit unintentionally - provided corroboration for the thesis that the black-white disparity in the PACE data is too large to be explained by direct discrimination and is, therefore, unlikely significantly to diminish. Bernie Grant, the MP whose parliamentary question first put concerns about the official figures on the political agenda, publicly joined his local police commander in launching a local initiative to address the problem of the disproportionate stopping and searching of black people in the force area. All officers who conducted a PACE search were required to give the person concerned a leaflet informing them about the nature of the police power and their individual rights. The total figure for the year of the experiment (from July 1995 to June 1996) was 3,533. This was a drop on the 4,966 recorded in the previous year (to June 1995), although it is by no means certain that this can be attributed to the experiment since the drop from the June 1994 figure of 7,539 was much larger. What is striking, however, is that the proportion of black people searched in each year was similar - 45 per cent in the year of the experiment, compared with 44 per cent in the twelve months previously.

Overhanging the data, though, is the question of how fully they capture all searches. If we assume that an unknown proportion of all the searches which take place is not recorded (for whatever reason) it would be important to know whether the ethnic balance is the same for those which are recorded and those which are not. There is no way of knowing this; but I and my colleagues were told repeatedly (throughout the pilot study, in our case study interviews and in other discussions with police officers) that stops of black people were more likely to be recorded than those involving whites. Senior managers were less likely to acknowledge this; but none went so far as to contradict it. The reasons invariably given were to cover one's back for fear of a complaint and (in part related) because the stopping of black people was often more confrontational so any search, therefore, was less likely to be 'voluntary'.

120
'If you stop someone you get no problem from you just say "cheerio" and it's not recorded; but ethnic minorities are more likely to complain. they'll say "it's only because I'm coloured" and you get very defensive under those circumstances.'

'With regard to IC3s, for cultural or whatever reasons, stops tend to be a little less friendly. So there's more chance of triggering the "you've only stopped me because I'm black" syndrome. In that situation officers will look after Number One by recording the stop.'

Very much less frequently we heard that black searches might increasingly be less likely to be recorded since officers had become aware of the sensitivity of the PACE figures and were wary of having the finger of discrimination pointed at them. However, it is uncertain that - in the absence of feedback on their performance - that officers are aware of the overall pattern of their use of the power. This is hardly surprising when, in a large town in one of the areas covered by Rae Sibbitt (admittedly a force which used the power very sparingly), beat officers averaged one recorded PACE searches every three months. In one pilot force there had been some political fall-out when the first years figures were published. I was told that, as a result, officers seem to have become even more anxious to cover their backs by recording even more of the individual incidents in which they searched black people. They were apparently unaware of the likely impact of this on the aggregated records: the following year's figures showed an inexplicable rise for ethnic minorities of nearly ten per cent.

Interpreting the PACE data

In trying, nonetheless, to interpret the ethnic patterns in stops which are recorded, the figures are often wrongly treated as though they represented individuals and as though each represented a discrete event. With the exception of the analysis for prominent nominals referred to earlier, the research revealed no examples of forces trying to analyse their data by checking:

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18 Dixon et al in 1990 suggested the national figures then available showed an average of less than one recorded search per officer in a year.

19 Ironically, Brown's summary of Bottomley usefully reminds us that - if it is the case a record is more often made where a black person is stopped, this, in principle, means that black people's rights are being better safeguarded than those of whites.

121
the number of individuals searched over a given period;
- the average number of searches per individual (by ethnic group); and
- the extent to which the searches arose from stops or two or more people.

Analysis of the BCS data for London, however, confirms that black people are disproportionately stopped overall relative to whites - that is, irrespective of whether this was followed by a search (FitzGerald and Hale, forthcoming). However, that disproportionality is not as marked as figures based on searches alone would suggest for two reasons:

- black people in London are also much more likely than whites to have been stopped more than once in the previous year; and

- black people who are stopped are also much more likely than whites to have been searched.

Our analysis treats footstops and vehicle stops separately and gives results for men only. Over the previous year (from January 1993) 2.3 per cent of white respondents had been stopped, compared to 5.3 per cent of black men. For vehicle stops, the figures rose to 15.7 per cent and 25 per cent respectively. Combining both types of stop gives a ratio for individuals of about 1 white stopped to every 1.7 black men. However, the average number of footstops per 100 respondents was 3.4 for whites and 12 for blacks, while the corresponding figures for vehicle stops were 25.8 and 62.1. So the disparity is much greater in the ratio based on numbers of stops. For one stop involving a white man there were about 2.5 stops involving black men.

Turning to those stops which were followed by searches, these appear to be much higher among those stopped on foot than in vehicles; but the base numbers for whites are too low in both instances to allow inter-ethnic comparisons.20 By combining both types of stop, though, and adding in the

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20 Only eight white men were actually stopped on foot and three of these were searched; but it is worth noting that 46 per cent of the 23 black men stopped were also searched. In the case of vehicle stops, only four of the 61 white men stopped in a vehicle were searched; but the fact that 16 black men were searched out of 85 (18.5 per cent) at least suggests that they may be searched at more than twice the rate of whites.
results for female respondents, it was possible to estimate the ratio of stop/searches for the capital in 1993. This suggested that six black people are searched for every one white - a starker disparity than shown by the police figure of four to one. The BCS numbers for London are relatively small (785 white and 664 black respondents in all) so the estimate cannot be viewed as definitive. Nor is it certain that BCS respondents' understanding of a 'search' will accord with the police's. The further question arises, moreover, of whether black respondents may have been more likely to interpret police scrutiny as a search whereas white respondents - whose experience of these encounters was, in any case, less conflictual (see below) - were less likely to put this interpretation on it.

The BCS estimate, however, clearly runs counter to the thesis that black searches are over-recorded. In part, this may be because black people are more likely to have been stopped with others\(^{21}\) - especially if, as was suggested during fieldwork interviews, when a group search takes place, a record is sometimes made only for one individual. At best, though, controlling for this would bring the figures nearer to parity. If, indeed, the accounts officers gave of their own (technically irregular) recording habits and those of their colleagues is true, some further explanation is needed. One possibility, in addition to the unanswerable question about different interpretations of the term 'search', lies in the uncharted territory of 'voluntary' searches. The discussion earlier of the power of stop under the Road Traffic Act implies that a much higher proportion of vehicle than foot searches may be 'voluntary' since drivers may not, initially, have been stopped under PACE, so a PACE search is not an option. The BCS suggests that about twice as many people have been searched in a vehicle as on foot; but our divisional analysis of 47 arrests following searches suggested that, in the PACE records, footstops may predominate slightly over vehicle stops. If it is true generally that a large proportion of searches take place following an RTA stop but if, at the same time it is also true that the PACE figures over-state the extent to which black people are searched - then the 1 to 6 estimate from the BCS (which covers both PACE and non-PACE searches) would suggest that the rate at which black people are 'voluntarily' searched is even higher than the rate at which they are searched under PACE.

\(^{21}\) 52 per cent of white men stopped in a vehicle had been with others at the time, whereas the figure for blacks was 66 per cent.
SUMMARY AND DISCUSSION

The PACE figures tell us little about overall ethnic differences in the majority of cases dealt with by the criminal justice system, since they yield only a very small proportion of these cases. They might, in principle, tell us something about policing activities vis-à-vis different ethnic groups at the critical point of entry to the system; and from this it may be possible to draw more general inferences about other policing activities (such as arrests) whose ‘yield’ is more significant. The reason for the intense attention they have received, however, is that they are taken as a surrogate measure for police stops of minorities. It is stops as such which are symbolically important for two reasons - most dramatically, because they have been the trigger for several major disturbances and, at a more everyday level, because of claims that repeated stopping by the police is a regular experience for black people which is tantamount to harassment.

Yet the PACE figures as such are seriously deficient in their ability to throw light on any of these concerns - and may possibly even be misleading - if they are taken in isolation and interpreted at face value. Their main limitations are as follows.

Police stop/searches in total account for only a tiny proportion of the encounters which help shape public perceptions. Nearly 20 per cent of respondents to the British Crime Survey in 1994 had been stopped by the police; but only 2 per cent had been searched. Also, inasmuch as searches do contribute to perceptions of the police, it is very uncertain what proportion of all searches are picked up in the PACE figures. This research suggests that a large minority may follow stops under the Road Traffic Act and will necessarily be treated as ‘voluntary’; but a further, unknowable, proportion may also go unrecorded for a variety of reasons. These include: the fact that other policing tasks take higher priority; a preference to avoid formalising situations which have been successfully negotiated by virtue of keeping them as informal as possible; and the quagmire of the PACE regulations which makes it tempting, where possible, to avoid making a record rather than risk getting caught out for
Moreover, the PACE figures tell us almost nothing about the quality of these encounters. Yet this influences community relations far more than the actual number of these encounters or whether they meet formal requirements of which the public are, for the most part, unaware. My own BCS analysis (FitzGerald and Hale, op.cit.) shows that the majority of people stopped in vehicles (of all ethnic origins) were very or fairly satisfied with the way the police had handled the incident - irrespective of whether they had been stopped on previous occasions. Satisfaction was lower for footstops; black people were more dissatisfied than whites; and those who were searched following the stop were more likely to be dissatisfied. But the main factors which explained levels of satisfaction were whether the police gave a reason for their action, whether they were polite and whether those stopped felt they listened to what they had to say (see also Bucke 1995).

It seems very unlikely that the pattern of ethnic differences shown by the figures will change radically. Fully comprehensive recording might reduce the proportion of searches on black people by bringing more whites into the frame. However, unless the power itself was used less, the actual number of searches on black people would probably stay about the same; and even if it was used less, the relative proportions of each ethnic group would probably stay fairly constant. If individual officers were consciously abusing their search powers, it seems unlikely that they would record this. From the PACE records, it should be possible to pick up the over-zealous use of the power against particular groups; but that would not in itself mean that the power was being used improperly.

Location, time of day, the availability of different groups to be searched in these places at these time, compounded by police notions of 'suspiciousness' are the main factors which shape the ethnic pattern.

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22 An Inspector responsible for Quality Assurance said that he had often challenged officers on the legality of their searches as recorded on the 5090. When they talked the incident through, however, they could often give perfectly good grounds for their actions - even though the minimum of detail on the form did not appear to justify them.

23 Too much cannot be read into the data from one year to another; but it is worth noting that the figures for 1994 in Table 4:1, overall, represent an increase on 1993 for both whites and minorities. However, the rise was 19 per cent for stops of ethnic minorities compared to 39 per cent for stops of whites. The pattern, moreover, was replicated in the majority of forces (For details, see FitzGerald and Sibbitt, forthcoming).
of the PACE statistics. But 'suspiciousness' is not directly driven by prejudice of any sort. It derives most immediately from 'intelligence' (in all its forms) and from the accumulation of individual and collective police experience over time. This is not to say that prejudice may not come into play. It may influence officers' interpretation of those experiences; and it may determine which items of intelligence are taken most seriously and acted on.

For, in all of this, it is essential to bear in mind the role of police discretion. The police enjoy a very large degree of individual discretion in decision making; but the power this gives them is, perhaps above all, the power not to act. Fielding usefully summarises the situation as follows (albeit with specific reference to arrests):

"Goldstein's classic article established that the police are nearly alone among bureaucracies in that the degree of discretion is greatest at the lowest level, and that decisions by officers in contact with the public are marked by "low visibility", thus being invisible to supervisors and effectively "unreviewable". This is especially true when they have decided not to arrest. Lustgarten asserts that Goldstein's point reflects the more fundamental fact 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"...Subject to the broad restraint of civil and criminal liability...."they act within an almost infinite range of lawful possibilities"

(Fielding 1991 p.128)

The implications of this and - in particular - the possible differential use of this power vis-à-vis different groups are explored more fully in the final chapter. However, it does mean that when officers decide to take action against particular individuals this may raise questions about why they decided to act rather than take the option of doing nothing; but it would not necessarily imply that the action taken was unprofessional or in technical breach of their powers. Further, the case of stop and search implies that those powers may be actively used disproportionately against certain sections of the population in large part because the focus of police attention is so narrow. The expectations born of experience and intelligence (possibly reinforced further by prejudice) may, in effect, blind the police to suspiciousness more generally.
Democratic suspicion is clearly a nonsense; yet the implication here is that the police might find it fruitful to broaden their expectations of who may and who may not be worthy of suspicion. The civil liberties implications of this may appear to make the proposition hardly worth exploring - except that the real question which it raises is this. Even if the police were suspicious of a broader range of people - would they choose to act on those suspicions equally towards everyone within that range?
Chapter Five
Arrests and Cautions

Arrests play a far more important role than stop/searches in determining who is and who is not brought in to the criminal justice system. Almost as important, though, is the police’s choice between the three options available to them for disposing of the selection of individuals brought into their net through arrests. One is to take no further action (NFA), such that the arrest effectively amounts to a more serious form of police stop. Another is to caution them, which (in principle at least) is a formalised way of diverting them from the criminal justice system but which may adversely affect them if they come to the attention of the system again. The third is to charge them with an offence for which (subject to the approval of the Crown Prosecution Service) they may subsequently be prosecuted through the courts.

Arrests are the subject of mandatory ethnic monitoring by the police. Information on whether there are ethnic differences in the disposal of those arrested is limited, though, since the monitoring requirement applies only to formal cautions: that is, for the present, the figures will give no indication of what proportion of arrestees who are not cautioned are released without any action being taken against them and what proportion are charged (still less successfully prosecuted).

The research yielded less material on arrests and cautions than on stop/searches - whether from original or from secondary sources; and this itself further reflects the symbolic importance stops have assumed in the ‘race’ and crime debate. Arrests, though, like stop/searches, may result from reactive or proactive policing. They too seem increasingly likely to be intelligence-led, just as their patterns will also tend to be shaped by formalised policing objectives. In that sense, many of the factors referred to in the previous chapter are likely to be relevant also to ethnic differences in arrests - including police notions of 'suspiciousness'.

Again, however, it is important not to leap into trying to interpret ethnic differences in the data available without some appreciation of the issues surrounding the interpretation of figures for arrests and cautions generally.

128
Although arrest figures are routinely collected by the Home Office from all forces, in practice, relatively little use is made of arrest data alone, either nationally or locally. Arrest data do not, for example, routinely appear in the annual compendium of 'Criminal Statistics for England and Wales' (HMSO); and local force objectives concerned with tackling crime usually focus on detection rates while local management information tends to be concerned with clear-ups. Clear-ups comprise only those arrests where the suspect was subsequently charged or cautioned; and they are boosted significantly by offences for which no arrest has been made but which are cleared up by other means, including crimes admitted during visits to offenders after they have been sentenced for something else.

Potentially, one of the most important sources of information on arrests is the HMIC, whose Performance Indicators for 1995/6 include:

- Number of persons arrested/reported for notifiable offences per 100 police officers
- Percentage of persons arrested/reported for notifiable offences prosecuted
- Percentage of persons arrested/reported for notifiable offences dealt with by other means
- Percentage of persons arrested/reported for notifiable offences subject of no further action.

Chapter Three, though, has already rehearsed the problems HMIC has identified with some of the data they receive in force's PI returns; and arrest data appear to be a prime example of the concerns currently under scrutiny in the Inspectorate's review of PIs. Certainly, HMIC have never yet published the arrest figures they have collected from forces either in total or on a force-by-force basis; and the reason for this is that the variability of the data between forces, including in the definitions they use, makes comparisons unsafe.

With limited information on arrests as such, we know still less about the proportion of arrests which lead to any further action; and what there is tends mostly to come from special, one-off, local studies.
It is apparent both that arrests are much more common for some types of crime than others and that they account for widely differing proportions of total clear-ups depending on the type of crime. Thus, in the Met, between 1994 and 1995, there were 12 arrests per 100 notifiable offences; but the clear-up rate for all notifiable offences was 22 per cent. Not all of these arrests will have led to further action; so it can safely be inferred that arrests overall account for under half of all clear-ups. Clear-up rates were highest for crimes of violence (at 67 per cent) and the corresponding figure for arrests (30 per 100 recorded offences) is also high. Relative to the figures for all notifiable offences, though, it suggests that the proportion of crimes of violence are cleared up by means other than arrest is actually higher than average (that is, well over half). At the other end of the spectrum, only 14 per cent of recorded robberies were cleared up; but there were 12 arrests per 100 robberies. Thus (with the exception of the miscellaneous and somewhat exceptional 'other' category) clear-ups for robbery in the capital seem to depend more on arrests than any other notifiable offence.
<table>
<thead>
<tr>
<th>Offence</th>
<th>Number recorded(1)</th>
<th>Arrests per 100 recorded offences(1)</th>
<th>Percentage of recorded offences cleared up(2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violence against the person</td>
<td>42679</td>
<td>30</td>
<td>67</td>
</tr>
<tr>
<td>Sexual offences</td>
<td>6820</td>
<td>26</td>
<td>64</td>
</tr>
<tr>
<td>Robbery</td>
<td>26139</td>
<td>12</td>
<td>14</td>
</tr>
<tr>
<td>Burglary</td>
<td>166120</td>
<td>6</td>
<td>20</td>
</tr>
<tr>
<td>Theft and handling stolen goods</td>
<td>394344</td>
<td>12</td>
<td>16</td>
</tr>
<tr>
<td>Fraud and forgery</td>
<td>32472</td>
<td>26</td>
<td>43</td>
</tr>
<tr>
<td>Criminal damage</td>
<td>159854</td>
<td>7</td>
<td>15</td>
</tr>
<tr>
<td>Other</td>
<td>8777</td>
<td>79</td>
<td>91</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>837205</strong></td>
<td><strong>12</strong></td>
<td><strong>22</strong></td>
</tr>
</tbody>
</table>

(1) Commissioner's Annual report 1994/5
(2) Criminal Statistics for England and Wales
* Figures from (1) cover the period April 1994 to March 1995; (2) relate to the calendar year 1994.

Reference has been made in the previous chapter to Brown's useful summary of research into the operation of the 1984 Police and Criminal Evidence Act (Brown 1997). This also outlines the main areas of debate in the limited research literature on arrests as such. It shows that arrests are the main route in to the criminal justice process for the vast majority of suspects rather than the alternative route of a summons. Beyond that, however, many important questions remain unresolved. There is some dispute among researchers about the extent to which arrests meet the requirement of 'reasonable suspicion' that an offence has been committed and about the strength of the evidence in which officers ground these suspicions. Associated with this is the question of the extent to which arrests result from
information received from the public - including victims of crime - and how much they are generated by proactive policing. There is also considerable variation between forces in the extent to which arrests result in no further action or draw suspects more deeply into the criminal justice process; and there is further debate about the reasons for this.

Phillips and Brown’s own study of entry into the criminal justice process (forthcoming) sheds light on some of the questions raised by earlier research. It provides information on more than 4,000 people detained in ten police stations in England and Wales between September 1993 and March 1994, six of which were in three Metropolitan areas (two in each), thus providing some opportunity for in-force comparisons. The offences for which suspects had been arrested tended to vary between stations, reflecting local patterns of crime. However, 13 per cent of the sample had not been arrested in connection with a criminal offence: they were detained mainly for reasons such as breach of bail, immigration offences or as a place of safety measure. Another 13 per cent were arrested for more than one offence, typically the original grounds for arrest along with a further offence committed in the course of the arrest or which came to light subsequently. (Thus an arrest for affray might lead to a further arrest for assaulting a constable; or an arrest for burglary might result in a further arrest for related theft and handling offences.)

Particularly important in the context of the present discussion are Brown’s findings on the related questions of: the circumstances which led to arrests; and the balance of proactive to reactive policing. Overall, nearly three quarters of arrests resulted from reactive policing - nearly 30 per cent in response to calls put out from control rooms, only slightly fewer from information which came directly to patrols from members of the public and 16 per cent happened when officers came across incidents in progress. Of the remainder, 13 per cent of arrests were made on the basis of surveillance work or the investigation of an offence; and 11 per cent resulted from stop and search. However, there was considerable variation between stations, with proactive policing accounting for 32 per cent at one end of the scale and only 18 at the other, differences which Brown suggests reflect not only
differences in local offence profiles\textsuperscript{1} but also 'real differences in policing tactics'.

Brown's study does not cover the earlier stage of search prior to arrest; but published force level figures (White 1996) show considerable variation in the proportion of recorded PACE searches which result in arrests. Matched with (unpublished) data for total arrests held by the Research and Statistics Directorate of the Home Office, further marked inter-force differences emerge. Table 5:2 omits the Met, where figures for total arrests are available only for notifiable offences (whereas the PACE figures cover arrests of all types); but it illustrates the considerable range in the 'yield' from PACE searches and in the contribution this makes to all arrests - even among forces which record the most extensive use of these powers.

\textsuperscript{1} A high proportion of arrests at the station where only 18 per cent resulted from proactive policing related to shop thefts reported by stores.
### Table 5:2
Arrests from PACE searches as a proportion of all arrests

Selected forces 1995*

<table>
<thead>
<tr>
<th>Force</th>
<th>PACE searches</th>
<th>Arrests following PACE search</th>
<th>Arrests as percentage of PACE searches</th>
<th>All arrests</th>
<th>PACE arrests as percentage of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of London</td>
<td>4625</td>
<td>1092</td>
<td>23.6</td>
<td>6028</td>
<td>18.1</td>
</tr>
<tr>
<td>Cleveland</td>
<td>12539</td>
<td>910</td>
<td>7.3</td>
<td>31174</td>
<td>2.9</td>
</tr>
<tr>
<td>Greater Manchester</td>
<td>49234</td>
<td>5724</td>
<td>11.6</td>
<td>109650</td>
<td>5.2</td>
</tr>
<tr>
<td>Northumbria</td>
<td>32285</td>
<td>3431</td>
<td>10.6</td>
<td>71676</td>
<td>4.8</td>
</tr>
<tr>
<td>Surrey</td>
<td>14878</td>
<td>1836</td>
<td>12.3</td>
<td>15307</td>
<td>12.0</td>
</tr>
<tr>
<td>Warwickshire</td>
<td>6642</td>
<td>709</td>
<td>10.7</td>
<td>15772</td>
<td>4.5</td>
</tr>
<tr>
<td>West Mercia</td>
<td>12024</td>
<td>1909</td>
<td>15.9</td>
<td>40878</td>
<td>4.7</td>
</tr>
<tr>
<td>England and Wales</td>
<td>690343</td>
<td>80985</td>
<td>11.7</td>
<td>1651354</td>
<td>4.9</td>
</tr>
</tbody>
</table>

* Forces with at least 8 stops per 1000 white population in 1994-95

What remains unclear, however, is the extent to which these variations reflect real inter-force differences in the contribution stop/searches make to overall arrests; for they are likely to be driven (at least in part) by inter-force variations in the recording of PACE searches, or by the problems already noted with force arrest data, or both. For that reason, Brown's figures may be more accurate inasmuch as they were collected on the same basis in all forces and their count of PACE searches in
relation to arrests is likely to be more complete than the published figures. Yet he too shows variation, even within forces; so there are three possible reasons why his figures for arrests resulting from searches are higher than the estimated national average shown in Table 5:2. These are: police under-recording of PACE searches; higher arrest rates from searches at the stations he sampled than the overall rate for the forces in which those stations were located; and a combination of these two.

Ethnicity and Arrests

The research evidence on ethnic minorities and arrests summarised in evidence to the Royal Commission on Criminal Justice (FitzGerald 1993) reflects the relative paucity of more general research on arrests. A major source has been the Met data, as published ad hoc so far in two Home Office Statistical Bulletins (Home Office 1984, 1989). Both these and other sources have consistently shown higher arrest rates for black people relative to whites in proportion to their presence in the population at large, whereas the rates for Asians tend to be lower. The impact of socio-economic and demographic factors has not been rigorously explored; but some sources have suggested that the disparity between black and white arrests is greater still in the younger age group and in areas with relatively few black people.

Phillips and Brown's study of entry into the criminal justice system (op. cit.) again casts new light on some of these questions and it is useful to consider these in conjunction with the data currently available from the Met (Cotton and Povey, forthcoming). Figures for arrests in London shown in Table 5:3 relate to notifiable offences only; and they are subject to a further important limitation in that they cover only those arrests which resulted in further action. That is, they may not fully reflect the overall pattern of arrests by ethnic group. Moreover, this limitation is singularly frustrating since if it were possible to set the available figures in the context of the overall pattern it could indicate whether minority arrestees were more or less likely than whites to have no further action taken.

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2 As noted in the previous chapter, under-recording of PACE searches may in part be due to officers' failure to complete a PACE slip in addition to recording an arrest resulting from a search.

3 This important limitation has been insufficiently appreciated in the literature to date (including my own study for the Royal Commission) since it was not hitherto made explicit in the Home Office Bulletins referred to.
Subject to these caveats, though, the Met data are uniquely important. Since the first Statistical Bulletin twelve years ago, the number of arrests shown per ethnic group has consistently pointed to an over-representation of black people and an under-representation of Asians relative to their presence in the London population which was around 8 per cent in 1991 (see Table 3.2). They have also consistently replicated patterns of ethnic differences between different categories of offence which in some respects pre-figure the prison statistics. Relative to their numbers in the population, black people have been over-represented in all categories of arrest; but the over-representation is particularly marked for robbery where they account for the majority of those arrested in two of the three years shown.

4 As with the stop/search figures, it is important always to remember that these relate to individual arrests rather than to individual people. A Leicestershire Constabulary report on their ethnic monitoring data (Leicestershire 1996) gives a figure of 254 arrests of black young adult males in 1995/6. If each of these events had related to a different individual, 93 per cent of the relevant black population would have been arrested in one year. Further research showed that the figures related to 139 individuals, 35 per cent of whom had been arrested more than once. According to Census data, this represented 51 per cent of young black adult males in the county - still a very high proportion, but nearly half that originally inferred from the arrest figures as such.

5 It will also be noted that the proportion of arrestees whose ethnic origin was not recorded not only varies between offence group, it has also been steadily growing over the years. This is matter of some concern; but it does not significantly call into question the overall pattern shown consistently by these data.
<table>
<thead>
<tr>
<th>Offence group</th>
<th>Year</th>
<th>N (000s)</th>
<th>White</th>
<th>Black</th>
<th>Asian</th>
<th>Other</th>
<th>Not recorded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violence against the person</td>
<td>1990</td>
<td>17.4</td>
<td>65</td>
<td>22</td>
<td>6</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>1992</td>
<td>14.0</td>
<td>59</td>
<td>23</td>
<td>6</td>
<td>5</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>1994</td>
<td>12.5</td>
<td>53</td>
<td>23</td>
<td>6</td>
<td>5</td>
<td>14</td>
</tr>
<tr>
<td>Sexual offences</td>
<td>1990</td>
<td>2.4</td>
<td>69</td>
<td>17</td>
<td>6</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>1992</td>
<td>1.8</td>
<td>57</td>
<td>21</td>
<td>7</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>1994</td>
<td>1.6</td>
<td>52</td>
<td>21</td>
<td>7</td>
<td>7</td>
<td>13</td>
</tr>
<tr>
<td>Robbery</td>
<td>1990</td>
<td>3.0</td>
<td>42</td>
<td>50</td>
<td>4</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>1992</td>
<td>2.7</td>
<td>44</td>
<td>47</td>
<td>4</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>1994</td>
<td>2.8</td>
<td>32</td>
<td>56</td>
<td>3</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>Burglary</td>
<td>1990</td>
<td>12.6</td>
<td>73</td>
<td>20</td>
<td>3</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>1992</td>
<td>11.3</td>
<td>65</td>
<td>20</td>
<td>3</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>1994</td>
<td>9.4</td>
<td>64</td>
<td>22</td>
<td>3</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>Theft</td>
<td>1990</td>
<td>53.1</td>
<td>70</td>
<td>16</td>
<td>6</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>1992</td>
<td>46.2</td>
<td>65</td>
<td>17</td>
<td>5</td>
<td>7</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>1994</td>
<td>47.0</td>
<td>62</td>
<td>19</td>
<td>5</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>Fraud and forgery</td>
<td>1990</td>
<td>8.9</td>
<td>60</td>
<td>24</td>
<td>8</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>1992</td>
<td>8.5</td>
<td>53</td>
<td>26</td>
<td>7</td>
<td>5</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>1994</td>
<td>7.8</td>
<td>49</td>
<td>28</td>
<td>8</td>
<td>6</td>
<td>9</td>
</tr>
<tr>
<td>Criminal damage</td>
<td>1990</td>
<td>13.9</td>
<td>77</td>
<td>14</td>
<td>4</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>1992</td>
<td>10.9</td>
<td>70</td>
<td>15</td>
<td>4</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>1994</td>
<td>10.7</td>
<td>65</td>
<td>16</td>
<td>3</td>
<td>3</td>
<td>12</td>
</tr>
<tr>
<td>Other offences</td>
<td>1990</td>
<td>5.5</td>
<td>64</td>
<td>25</td>
<td>4</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>1992</td>
<td>4.9</td>
<td>56</td>
<td>26</td>
<td>5</td>
<td>5</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>1994</td>
<td>5.5</td>
<td>59</td>
<td>24</td>
<td>6</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>Total offences</td>
<td>1990</td>
<td>116.9</td>
<td>69</td>
<td>19</td>
<td>5</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>1992</td>
<td>100.1</td>
<td>62</td>
<td>20</td>
<td>5</td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>1994</td>
<td>97.4</td>
<td>59</td>
<td>22</td>
<td>5</td>
<td>6</td>
<td>9</td>
</tr>
</tbody>
</table>
Nor can the overall pattern of black over-representation be explained by age. Povey shows that the age group most frequently arrested were 10 to 20, accounting for 34 per cent of notifiable offences in 1994. Nine per cent of the Greater London population aged 10 to 20 were black and 12 per cent Asian at the time; but they accounted respectively for 25 per cent and 6 per cent of arrests in that age group. (Arrests of whites were 60 per cent of the total although whites made up 68 per cent of the relevant population.)

In Brown's sample, black people comprised 13 per cent of all arrestees but their representation was slightly higher in arrests for notifiable offences, at 14 per cent. This is lower than the Met figure of 22 per cent, although the main reason for the difference is probably the lower proportion of black people in the populations from which his sample was drawn. However, the pattern by offence type within this is broadly similar, with very high levels of over-representation in particular for robbery where black people in Brown's sample accounted for 46 per cent of those arrested.

Brown also found that black people were more likely to have been arrested than whites and Asians as a result of being stopped and searched. They accounted for 18 per cent of this type of arrest, compared with 13 per cent of the total; and this pattern was true even in the 17 - 20 age group where fully a quarter of all arrests were the result of stop/searches. It is not possible to make exact comparisons with the Met since arrest data by ethnic group are available in London only for notifiable offences, whereas the PACE arrest data cover both notifiable and non-notifiable offences. Nonetheless, if the number of PACE arrests per 100 notifiable arrests is in any way indicative, Table 5:4 would suggest that higher proportions of black people and Asians in London may be brought into the net through stop and search than whites.

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6 Two of Brown's ten police stations were in London, two more were in the West Midlands and two in Greater Manchester. In each case one of the pair was in an area where the minority population was predominantly Asian, as will have been the case for his Bedfordshire site; and the proportion of minorities overall will have been lower than average in the remaining three.
Table 5:4  
PACE arrests and arrests for notifiable offences  
MPD 1994

<table>
<thead>
<tr>
<th></th>
<th>Arrests following PACE search</th>
<th>Arrests for notifiable offences</th>
<th>PACE arrests* per 100 arrests for notifiable offences</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>20223</td>
<td>57588</td>
<td>35.1</td>
</tr>
<tr>
<td>Black</td>
<td>9359</td>
<td>20994</td>
<td>44.6</td>
</tr>
<tr>
<td>Asian</td>
<td>2066</td>
<td>4945</td>
<td>41.8</td>
</tr>
</tbody>
</table>

* N.B. These arrests cover both notifiable and non-notifiable offences

It must still be borne in mind, though, that stop/search arrests only account for a minority of all arrests; and Brown does not report any marked ethnic differences in the other main sources of arrest. On the other hand, he does show that significantly higher proportions of both black and Asian arrestees have no further action taken against them. This was true of a quarter of the black sample and nearly a third of Asians compared with only about a fifth of whites. Yet these differences were not directly attributable to ethnicity: of several other deciding factors, the most important were the type of offence and whether it was admitted. Thus NFAs were more likely in cases where the police had insufficient evidence to charge without further investigation unless the suspect acknowledged their responsibility; and this tended to vary between offence categories. Only 44 per cent of black suspects (and 48 per cent of Asians) admitted the offence compared to 58 per cent of whites. Additionally, robbery was the offence for which the evidence was most likely to be insufficient for the police to charge without an admission.

Ironically, the only one of our case study areas which had begun systematically to grapple with the question of ethnic monitoring of arrests was the force with the smallest ethnic minority population. All items of ethnic information were collated into a report to an Equality of Service Monitoring Group, set up in line with the recommendations of the ACPO-CRE working party report of 1993.
referred to in Chapter Three. Arrest information was collated by force statistical officers trawling the custody records on each of the four BCUs at the end of each month to provide an ethnic breakdown for the following:

- total arrests for notifiable offences
- total other arrests
- total arrests (notifiable offences) cautioned
- total arrests (notifiable offences) NFA and refused charge
- total arrests (notifiable offences) delayed charge - bail
- total arrests (notifiable offences) disposed of by other means - informal action
- PACE stop/search - number of arrests resulting from searches, by reason for arrest.

Each of these categories was further broken down by age range (Youth, Young Adult and Adult). Results to date had shown over-representation of black people and, to a much lesser degree, of Asians in the arrest data relative to their presence in the county as a whole. Black people formed 1.2 per cent of the total population and Asians 1.5 per cent in 1991 but they accounted for 3 per cent and 1.7 per cent respectively of arrests in a six month period in 1994. Numbers were small, however, with a total of 227 black arrests and 129 Asians; and total figures for recorded PACE stop/searches were 68 black and 23 Asian, most of which would not have resulted in an arrest. Clearly this limited the scope for any useful further breakdown by offence type and/or disposal.

In sum, the Met data have long established ethnic difference in arrest data which seem likely to be replicated elsewhere: black people are over-represented relative to their presence in the force population and there are further differences in the types of offence for which different groups are arrested, with strikingly high figures for black suspects in the robbery category. However, the few forces which have begun trying to look systematically at the 'meaning' of ethnic differences in their figures are finding themselves confronting much wider problems with arrest data.
**CAUTIONS**

*Variations in cautioning practice*

Where further action follows an arrest, the option to caution is available to the police only in certain circumstances. The suspect's eligibility will depend largely on the seriousness of the offence, their offending history, whether they admit the charge and whether the victim is willing for them to be cautioned. Cautions are a much more common form of disposal among younger suspects (who are less likely to have previous cautions or convictions and may be involved in more minor forms of offending). There is, however, scope for discretion within these criteria. This is reflected in the variation in force practice and policy on cautions. There are differences between forces (both overall and by offence category) and even within the same force from one year to another. These variations cannot be accounted for solely in terms of variations in the type of crime the force is dealing with or the age structure of its local offending population. In 1994, for example, the proportion of males between 10 and 18 cautioned for indictable offences (excluding motoring) as a percentage of all those found guilty or cautioned was 66 per cent overall; but the average for England and Wales masks a range between forces from only 44 per cent to 85 per cent. For adults (aged 21 and over) the average was only 25 per cent; but again it was much higher in some forces - reaching 37 per cent in two - than in others (with a lowest rate of 10 per cent.) (HO 1995). The analysis by Patrick Collier of the means of disposal in 16 forces and the Metropolitan police between May 1994 and October 1995 provides the figures in Table 6 which further illustrate the variation in the use of cautioning over time, by type of offence and between forces.
Table 5:5
Use of caution by selected police forces May 1994 - October 1995
(Males, all ages)

<table>
<thead>
<tr>
<th></th>
<th>16 Non-Metropolitan forces*</th>
<th>Metropolitan Police**</th>
</tr>
</thead>
<tbody>
<tr>
<td>All notifiable offences</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1994</td>
<td>22</td>
<td>21</td>
</tr>
<tr>
<td>1995</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Robbery</td>
<td>7</td>
<td>6</td>
</tr>
<tr>
<td>Drugs</td>
<td>23</td>
<td>31</td>
</tr>
</tbody>
</table>

* Figures given as a percentage of all arrests and offences reported
** Figures given as a percentage of arrests only

(Source Home Office Statistical Findings 2/96)

Research published in 1990 (Evans and Wilkinson) showed that the threshold below which offenders have no further action taken against them was set at different levels and for different reasons at force and at sub-divisional level. Compounding the difficulties which this creates for interpreting any national figures is the use of informal warnings by a growing minority of forces as an alternative to the caution. The proportion of cases in which this happens, though, is not clear since informal warnings are not recorded consistently - if at all.

Of the cases observed by Brown (op.cit.) 17 per cent were cautioned; but the proportion varied by seriousness of offence and between police stations, with further observed differences related to the socio-demographic characteristics of the suspects. Only 6 per cent were cautioned for offences classed by Brown as 'serious', compared with 30 per cent of 'less serious' cases; and the differences between stations in part reflected the type of offences they dealt with. However, this did not entirely explain local variations: cautioning rates for burglary, for example, were 2 per cent at one station and
19 per cent at two others. Predictably, young people were much more likely to be cautioned (with an overall rate of 38 per cent for juveniles); but suspects who were unemployed when they were taken into police custody were noticeably more likely to be charged instead. Although a much higher proportion of those who admitted the offence were cautioned than those who denied it, the many other factors which come into play still meant that only 28 per cent of those who admitted were disposed of in this way. Interestingly 5 per cent also were cautioned despite denying the offence; but a much higher proportion who denied the offence (36 per cent) had no further action taken against them than those who admitted it (7 per cent).

Immediately following the completion of Brown's fieldwork, however, a Home Office Circular (18/94) introduced changes to cautioning policy which might in principle have changed the picture he observed. The circular aimed primarily to reduce cautioning overall (by curtailing its use after the first caution and in 'inappropriate cases') but it also tried to achieve greater consistency between forces in the use of formal cautions and to improve recording practices. It was followed up early in 1995 by detailed guidance from ACPO's Crime Committee. This recognised the lack of consistency both between and within forces; and it proposed the use of specified gravity factors as a more objective (and, implicitly, standardised) approach to cautioning. A preliminary evaluation of the impact of these initiatives (Evans and Ellis forthcoming) suggests that cautioning overall has, indeed, gone down; but it shows little evidence of change in the extent of local variation.

Part of the reason for area and sub-area differences - and one of the reasons why they remain so entrenched - is the multi-agency approach to cautioning which has strongly reinforced the localisation of this particular area of police decision-making. Not all forces consult other agencies to the same extent before cautioning - reflecting the disposition of local agencies towards involvement with the police and vice versa; but, especially for the purpose of cautioning young people, systems of quasi-joint decision making have become well established, involving the police in many areas with other local stake-holders and, in particular, social services departments. These arrangements (usually in the form of juvenile cautioning panels or fully-fledged juvenile bureaux) will per se compound local variation - especially where a force (as often happens) covers a number of local authorities. But they
may also make it more difficult significantly to change police practice unilaterally without jeopardising the relationships on which such arrangements depend.

Ethnicity and cautioning

Research to date on ethnic differences in cautioning is scant, and derives from three or four local studies dating back as far as 1978 (see FitzGerald 1993). All - with one exception - fail to take account of whether or not defendants admitted the offence. They have consistently found that black juveniles are significantly less likely to be cautioned than whites. However, reference has already been made to the most recent (CRE 1992) which covered juvenile cautioning in seven police forces. This found that the differences effectively disappeared in the one force which controlled for admissions, since twice as many black defendants as whites denied the offence.

Brown's finding of ethnic differences in admission rates has already been mentioned; and his overall finding of slightly lower cautioning rates for minorities is therefore unsurprising. Sixteen per cent of his black suspects were cautioned, compared with 19 per cent of whites; and, although the figure for Asians was lower still (14 per cent), a higher proportion of Asians had no further action taken against them7. Only 20 per cent of his juvenile sample were initially referred to the officers responsible for deciding whether to pass the case to the juvenile panel and a major deciding factor in this was admission (although 20 per cent of those referred had, in fact, denied the offence). Yet, of 40 black juveniles who had admitted their guilt, only 2 (5 per cent) were referred to the panel, compared with 56 out of 233 whites (24 per cent). It is difficult with relatively small numbers, however, to take full account of all of the other factors which - even if the offence is admitted - may militate against a caution, even for juveniles.

The West Midlands police had published data on ethnicity and cautioning in a report profiling young offenders in the force area which it produced jointly with the Pobation Service and the local

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7 Figures for Asians were 31 per cent, compared with 25 per cent of black suspects and 21 per cent of whites.
authorities (West Midlands Joint Data Team 1995). This provides a raw breakdown of the proportion of young offenders in each ethnic group who were cautioned - the 'core diversion rate'. It then gives an 'adjusted diversion rate' which takes account of: the nature of the offence; offending on bail/arrest on warrant; admission of the offence; and divisional policy (since divisions may refuse to caution for offences which are a matter of particular local concern). The core rate for all young offenders in the West Midlands in 1995 was 47 per cent; but the adjusted rate was 87 per cent. The ethnic breakdown is only presented in graphic form; but the 'core' rate is clearly much higher for Asians relative to whites and that for black young offenders is much lower; yet the 'adjusted rate' appears to iron out the black/white difference and to leave Asians only marginally more likely to be cautioned than the other two groups. It should, however, be noted that this pattern was not consistent throughout the sub-areas within the force and separate analyses are not presented for different offences.

For the purposes of the ethnic monitoring research, the Met gave me access to figures for juvenile cautioning of different ethnic groups in 1993. The scope these provided for more detailed analysis has yielded important new insights into the relationship between the type of offence for which juveniles have been arrested, admissions, and outcomes. Of a total sample of 16,798 juveniles ethnic origin was not known in 2,196 cases. If these cases are not proportionately spread across all ethnic groups, this could, of course, introduce bias into results based on the remaining 87 per cent of the sample. We have no way of knowing the spread; but it is important to remember that this question overhangs all of the discussion which follows. Fifty nine per cent of the sample were recorded as white, 20 per cent as black and 6 per cent as Asian; and the overwhelming majority of these were males (80 per cent and 83 per cent in the case of white and black suspects, rising to 91 per cent of the Asians). The black sample were the least likely to have no previous cautions or convictions and the most likely not to admit the offence. A much higher proportion of black juveniles were also charged rather than being cautioned or having no further action taken against them; but the results for Asians were broadly comparable with those for whites. The gap between black cautioning rates

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8 It is also difficult to ascertain the numbers in each ethnic group. Nor is it clear what proportion of young offenders overall were captured by the baseline data information; and no information is given on the proportion of the sample for whom ethnicity was not recorded.
relative to whites reduces dramatically when account is taken of whether the offence was admitted — although it does not entirely disappear — whereas it opens up further for Asians.

Table 5:6

Juveniles arrested in MPD 1993

<table>
<thead>
<tr>
<th></th>
<th>White</th>
<th>Black</th>
<th>Asian</th>
</tr>
</thead>
<tbody>
<tr>
<td>No previous cautions or convictions</td>
<td>62.9</td>
<td>57.4</td>
<td>72.3</td>
</tr>
<tr>
<td>Offence not admitted</td>
<td>54.0</td>
<td>69.8</td>
<td>45.6</td>
</tr>
<tr>
<td>Charged</td>
<td>19.8</td>
<td>38.2</td>
<td>20.8</td>
</tr>
<tr>
<td>Caution (all)</td>
<td>66.0</td>
<td>47.6</td>
<td>67.3</td>
</tr>
<tr>
<td>Caution (offence admitted)</td>
<td>69.7</td>
<td>63.5</td>
<td>80.9</td>
</tr>
<tr>
<td>NFA</td>
<td>11.7</td>
<td>13.1</td>
<td>10.8</td>
</tr>
<tr>
<td>Number</td>
<td>9856</td>
<td>3397</td>
<td>1080</td>
</tr>
</tbody>
</table>

As with the data published by the West Midlands, it would be easy simply to infer from Table 5:5 that the remaining differences once admission is taken into account are explained by whether suspects had any previous cautions or findings of guilt. However, in addition to the factors already cited which formally determine whether a caution can be given, Brown identifies a number of other considerations which also come into play on a discretionary basis within the limits of these formal requirements.

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9 Others include custody officers' view of the likely court outcome, of the impact on the victim and of the remorse shown by the suspect.
Further analysis of the Met data shows that ethnic differences in the offences for which they were arrested also have a significant effect on overall levels of cautioning. The differences broadly mirror those for total arrests (see Table 5:3) although, in the case of juveniles, they are based on all arrests including those for non-notifiable offences. Given the importance of offending histories and the different patterns of offending among females, Table 5:7 compares like-with-like by restricting the analysis to male juveniles with no previous cautions or convictions. It also gives figures only for offences where the number of black juveniles was 50 or more. With the exception of 'other' offences, the main crime category for all groups is 'theft and handling' where arrests of Asians are higher relative to other offences than they are for white and black juveniles. Whites appear to be more involved in burglary; and, again, the proportion of black arrests for robbery is strikingly higher than for either of the other groups.

Table 5:7

Juveniles with no previous offending history
Arrests by offence type and ethnicity
(Males only, Met 1993)

<table>
<thead>
<tr>
<th>Column per centages</th>
<th>White</th>
<th>Black</th>
<th>Asian</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violence against the person</td>
<td>7.4</td>
<td>8.4</td>
<td>3.8</td>
</tr>
<tr>
<td>Robbery</td>
<td>1.6</td>
<td>10.5</td>
<td>3.8</td>
</tr>
<tr>
<td>Burglary/ going equipped</td>
<td>12.0</td>
<td>9.1</td>
<td>8.6</td>
</tr>
<tr>
<td>Theft/ handling</td>
<td>29.5</td>
<td>32.8</td>
<td>37.5</td>
</tr>
<tr>
<td>Other notifiable offences</td>
<td>7.5</td>
<td>4.4</td>
<td>7.0</td>
</tr>
<tr>
<td>All other offences</td>
<td>32.0</td>
<td>29.7</td>
<td>30.9</td>
</tr>
<tr>
<td>Number</td>
<td>4011</td>
<td>1172</td>
<td>640</td>
</tr>
</tbody>
</table>
Each of these offences has a different likelihood of resulting in a caution - even where the offence is admitted and all other things (such as the suspect's criminal history) are equal - and this will have an impact on overall cautioning outcomes for different ethnic groups simply because, as Table 5.7 has shown, the proportion arrested within each offence category varies from one group to another. Robbery (which is the offence group in which black juveniles are most strongly over-represented) is per se much less likely to attract a caution (for any ethnic group) than burglary or theft. However, the chances of different ethnic groups receiving a caution will also vary within each of these offence categories inasmuch as the pattern of differential admission rates obtains even among juveniles with no previous offending history. Again black juveniles have lower admission rates than whites in all three categories - and this is especially marked in the case of robbery. Asians also have lower admission rates for robbery and burglary (although their numbers in these categories are small); but they are comparable with whites in the main offence category which is theft and handling of stolen goods as Table 5.8 shows.

Table 5:8

Admissions and cautions by offence type and ethnicity

(Male juveniles with no previous offending history)

<table>
<thead>
<tr>
<th></th>
<th>White</th>
<th>Black</th>
<th>Asian</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robbery</td>
<td>57</td>
<td>25</td>
<td>32</td>
</tr>
<tr>
<td>% of offence</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>group cautioned</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% admitting</td>
<td>60</td>
<td>33</td>
<td>50</td>
</tr>
<tr>
<td>Burglary-going</td>
<td>87</td>
<td>76</td>
<td>70</td>
</tr>
<tr>
<td>equipped</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% of offence</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>group cautioned</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% admitting</td>
<td>81</td>
<td>68</td>
<td>69</td>
</tr>
<tr>
<td>Theft/handling</td>
<td>96</td>
<td>88</td>
<td>94</td>
</tr>
<tr>
<td>% of offence</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>group cautioned</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% admitting</td>
<td>89</td>
<td>76</td>
<td>88</td>
</tr>
</tbody>
</table>
One would expect, with previous offending already controlled for in this subsample, that once account is taken of admissions, cautioning rates level out within offence categories. Yet, as Figure 5.1 shows, this happens in the case of theft/handling and burglary. Yet in the case of robbery cautioning rates remain markedly lower both for black and Asian juveniles with no previous offending history (and who have admitted the offence) than they do for whites. The fact that arrests for robbery are already so much higher among the black group will, therefore, have a major impact on the extent to which they get tracked in to the criminal justice process rather than filtered out at the cautioning stage (see Figure 1 in Chapter Two).

**Figure 5.1**

Cautions: male juveniles in MPD
(Offence admitted + no previous)

![Bar chart showing cautioning rates for theft, burglary, and robbery by race and previous offending history.](chart)

10 The apparent slightly lower rate for Asians is based on relatively small numbers and should not be regarded as significant.
Finally, the Met data also afford some insights into the related question of other forms of disposal, although these are fairly limited even within a data set of this size. They confirm the overall pattern noted earlier of higher prosecution rates (and correspondingly fewer NFAs) for more serious offences. Of the subsample analysed in this instance (that is, males with no previous findings of guilt and who did not admit the offence) just over 60 per cent had no further action taken against them where the arrest was for theft or handling; but for robbery the figure was only 23 per cent. Unfortunately, numbers in most offence categories are too small to break them down further by ethnic origin in this way, with the exception of the largest group - that is those arrested for theft/handling. Of the subsample of 132 whites in this category, 64 per cent (85) had no further action taken against them while the corresponding figure for the 94 black arrestees was 55 per cent (52). Without detailed knowledge of individual cases, it would be possible to infer either that the police were more punitive in the case of the black juveniles and/or (following Brown) that the evidence against them was stronger. However, it is still worth noting that, in the case of robbery - where the NFA average of 23 per cent is already largely driven by black arrestees - the NFA average for the black group as such was actually slightly higher, at 26 per cent. There is no obvious reason to suppose that the police would be more punitive against black juveniles in some offence categories but less so in the case of robbery; so one is left to infer - however tentatively - that these 21 black young people who had no previous convictions were arrested for robberies for which the evidence against them was especially weak.

Clearly, once one begins to unpack the figures systematically in this way, they do not lend weight to any *prima facie* assumption of significant discrimination in cautioning overall. The case of robbery, however, is the exception to this and raises a number of questions. These have wider implications which are explored in the next chapter.

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11 The base number for Asians is too small safely to make comparisons for that group.
SUMMARY AND DISCUSSION

Arrest data have been little used in official statistics for two main reasons. The first - which reflects their limited value at national level is that they are collected on very different bases between forces. The Home Office team was alerted to this problem in the course of evaluating the pilot trials and took the opportunity to standardise returns once monitoring became compulsory by narrowing the information required to a specific range of arrest categories. Problems of interpretation seem set to remain for some time, however. The information will not be broken down by offence category; and inter-force comparisons will be meaningless unless they, like the stop/search data, are shown as a rate per 1000 population. Even then, many of the same problems will obtain of comparison with local populations, along with the many unknowns which attach to the reasons for any observed ethnic differences. In the case of arrests, these difficulties will be compounded for at least the first two years by the fact that the Met will be unable to provide data even on the range of arrests specified but only, as now, on arrests which resulted in some further action. This will create a major deficit in the ethnic data because of the proportion of ethnic minorities overall - and of black people in particular - who live in the capital.

The second reason arrest data are so little used locally is that, in the context of the performance culture, they constitute only a proportion of the total clear-ups which forces overall use to measure whether they are meeting their objectives. Yet individual officers are also becoming ever more performance-conscious (see Chapter Three); and for many their arrest rate will be a significant yardstick - if not the main criterion - by which they may increasingly perceive themselves to be judged. This seems likely to amplify any existing ethnic bias (however unconscious); and it could impact especially on robbery since arrests as such may contribute more significantly to meeting overall force objectives for this offence than for most others. All the evidence suggests that the impact of this would fall more heavily on the black population than on other ethnic groups.

Ethnic data on cautioning are, in turn, likely to be at least as difficult to interpret as on arrests. Some of the reasons for this are similar to those which will beset interpretation of data in the other two
areas of monitoring - in particular (as with stop/searches) the very different cautioning practices between forces. Beyond this are two further major limitations to the national returns which could leave them open to inferences which are misleading or even dangerous. One is that supplementary information will not be available to control for the proportions of those arrested in each ethnic group who were actually eligible for a caution because they admitted the offence. The other is that it will be impossible to tell what proportions of those who were not cautioned were respectively NFAd or prosecuted.

Locally - where it may be possible to make the cautioning data more meaningful by placing them better in context, the ethnic patterns they show may still raise more questions than it is possible to answer; for many factors other than admission of the offence come into play in determining who gets cautioned and, even where information is available on these, the actual numbers involved may make it impossible to control for these statistically in most forces. Indeed, for important sub-categories - such as analysis of cautions by offence type - numbers could still defeat the most sophisticated multivariate statistical approaches even in large forces with substantial minority populations. Yet the new analysis presented in this chapter highlights both the general necessity of subjecting the cautioning figures to this type of scrutiny and the specific possibility that the extent to which different groups are cautioned for robbery (relative to other offences) may be far more significant than has hitherto been appreciated.

These issues - along with those previously raised about the interpretation of the stop/search figures - are taken up in the next chapter. This revisits the outstanding questions in the 'race' and crime debate described in Chapter One and looks again at the gaps in the answers identified in Chapter Two in the light of the research material presented in the thesis so far. It concludes by giving critical consideration to the extent to which police ethnic monitoring may contribute to filling those gaps.
Chapter Six

The truth at last.....?

This thesis was submitted before publication of the first 's95' ethnic monitoring returns from police forces; but internal access to the data which have been submitted to the Home Office since April 1996 had yielded no surprises. That is, police ethnic monitoring have simply confirmed long-standing patterns of ethnic differences in British criminal justice data. That is, overall, black people are over-represented in comparison with their proportions in the population at large; and Asians are not. Chapter One summarised the different approaches taken by previous commentators to 'explaining' the differences and identified four main strands to these, as follows:

1. Discrimination by the criminal justice system
2. Structural factors
3. 'Cultural' factors
4. Some combination of the previous three.

Chapter Two then described the relevant statistics and research findings published to date. Despite their many limitations, they tend to point strongly towards the fourth explanation. However, there is no consensus on the weight which attaches to each of the three elements in this combination; and the nature and dynamics of their interactions remain largely unexplored.

Chapters Three, Four and Five have focussed mainly on the introduction of police ethnic monitoring but this has generated material which allows us to revisit these 'explanations', shedding some new light on each and tentatively pointing to ways in which they may interact. Given that the focus of the research (i.e. police ethnic monitoring) is centrally concerned with the question of discrimination, this final chapter begins by re-examining the structural and cultural arguments as the context for reviewing the role of discrimination. This approach raises more questions than it answers; but it does permit us to look again at the more theoretical approaches described in Chapter One. It would be tempting to indulge in a detailed and critical evaluation of the previous literature in the light of the complex picture which emerges even from the limited evidence available. For that real-world complexity is only dimly reflected - and, in some cases, seriously
distorted - by some of the theories on offer. My main concern, though, is with the possibility of finding real-world solutions to problems whose history cannot be re-written and whose dynamics are social, political and economic forces over which policy makers and practitioners alike may have little or no control. This is not to write off theory and certainly not to dismiss everything that already exists as irrelevant to the real-world. Rather, by combining, refining and building on those elements of existing critiques which offer the 'best fit' with the real world, it is possible to draw some preliminary conclusions about the processes at work and to identify some of the key issues facing not only policy makers and practitioners but researchers as well. In the light of these understandings, the chapter concludes by trying to answer the central question which hangs over the introduction of police ethnic monitoring - that is, whether and to what extent it is likely to realise the expectations which have been raised that it can a) identify discrimination if it is occurring and b) ensure that it is tackled effectively.

THE MAIN 'EXPLANATIONS' REVIEWED

1. STRUCTURAL FACTORS

The socio-economic and demographic characteristics of different ethnic groups

Chapter One has described how many commentators have genuflected in the direction of socio-economic explanations for the over-representation of black people in crime statistics, in view of the known strong correlation generally between socio-economic factors and offending (Dahrendorf 1985, Box 1987, Farrington et al. 1986) - even though this has sometimes led them directly into difficulties in trying at the same time to explain the apparent under-involvement of Asians. They have employed these explanations fairly loosely, however, and the implications of the specific (and often contrasting) socio-economic circumstances of different minority groups have not yet been fully explored in the context of the 'race' and crime debate.

Structural factors, though, go beyond immediate socio-economic circumstances. They have an important demographic component; and I would additionally argue that the relationship with patterns of criminal behaviour has, a time dimension which has largely been overlooked. This
time dimension, moreover, is doubly important since it is related also to the 'cultural' factors discussed in the following section and adds significance to the links between the two. For the correlation between the criminal activities of individuals and the economic cycle (Field 1990) are only one dimension of the association between socio-economic factors and crime: the relative fixity of the historic position of different groups from one revolution of the economic cycle to the next needs also to be considered.

Chapter Two has already pointed up important differences between the various minorities in terms of the main socio-economic indicators, especially those concerned with employment (i.e. SEG and unemployment). However, in order to appreciate the association with the crime statistics currently available, to hypothesise about possible links with underlying patterns of ethnic offending and to consider the likely implications for the future, it is necessary to go beyond these two measures. That is, account needs to be taken of the many additional socio-economic factors where there are differences between the different minorities themselves, as well as differences between each minority and the diverse (but undifferentiated) 'white' majority:

The 1996 publication by the Office of National Statistics (ONS) entitled 'Social Focus on Ethnic Minorities' contains a comprehensive snapshot of ethnic diversity which lists the basic statistical facts trawled from a range of the main existing sources. There are separate sections on: population structure; cultural identity; geographical distribution; families; homes; victims and offenders; education; economic activity; type of employment; unemployment; income; resources; health; and lifestyles.

Taking all these factors together, it would possible to produce distinctive thumbnail sketches of each of the main groups. To do so is, however, potentially dangerous for two reasons. One is that there is a fine line between descriptions based on group averages and cruder forms of stereotyping. Few members of any group, including - and perhaps especially - 'whites', would recognise themselves from such a composite picture. It reduces individuals to a statistical norm,

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1 Though there are no acknowledgements, I can claim credit for a significant input to the structure and content of the ONS report. While preparing this thesis, I provided much of the interpretation of the data, especially with regard to the sections which cover demographic, socio-economic and criminal justice statistics.
obliterating the diverse permutations of, for example, gender/age/class/area of residence/family of origin/current living arrangements/educational experience and employment status; and these, in turn, say nothing of the individual differences of temperament, personal circumstances and life experience which mean that no two people sharing a set of socio-economic and demographic characteristics will be 'the same'. The other objection is that collapsing groups in this way to a statistical norm composited around a single, arbitrary variable implicitly denies what the different groups share. For most of these characteristics cross-cut all groups, even though the balance between them may be different, such that individuals will often have more affinity with some members of other groups than with many individuals in their 'own'. Thus, a white and a Bangladeshi girl of the same age attending an inner-city comprehensive, each with a father unemployed long-term will have far more in common with each other than either would have with the privately educated wife of a diplomat from the same group.

Nonetheless, since the criminal statistics show crude patterns of difference on an aggregated ethnic 'group' basis, it is appropriate systematically to explore the extent to which these averages might be expected to change if allowance was made for the relevant socio-economic and demographic differences between the groups. Certainly, socio-economic and demographic factors need to be controlled for before reaching for the two ethnic-specific explanations for these patterns (i.e. discrimination and cultural factors). In the case of victimisation, it has been shown that most ethnic differences effectively disappear once such controls are applied. Moreover, many of the remaining 'ethnic' differences in victimisation do not obtain for the group as a whole: they are often accounted for by the experience of subgroups (defined, for example, by age, gender, or area of residence), often in interaction with other variables (FitzGerald and Hale 1996).

Ideally one would want to construct a statistical model which could indicate the extent of any disparity between the patterns observed in the criminal justice statistics and those one would expect from the characteristics of the different groups.

The three key components of the model would be:

- Age and levels of relative deprivation.
Other relevant social factors.
Area of residence.

The rationale for including the first of these in a model to predict likely involvement in crime is self-explanatory. The second would attempt to capture at least some of the factors which are known to compound (or to offset) the likelihood of delinquency which would be predicted by the first. However, many - if not most - such factors cannot be captured in socio-economic terms\(^2\); it would probably be important here to allow for relevant gender-related differences between groups since the criminal justice figures relate overwhelmingly to the male section of any population.

The third element in the model reflects a factor whose central importance has been largely neglected to date in the discussion of 'race' and crime. The BCS analysis repeatedly highlights the role of area of residence as an explanatory factor in explaining ethnic differences in victimisation (FitzGerald and Hale op. cit.) and this has again emerged strongly from the research presented here in connection with offending. Despite all that is known about the differences in criminal justice policies and practices from area to area\(^3\) and the growing evidence of differences in criminal justice outcomes for different ethnic groups between areas\(^4\), no attempt has yet been made systematically to explore the impact of these differences on groups whose geographic distribution is so very uneven.

One would not expect that the model would show a complete fit between these characteristics and

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\(^2\) For example, formative emotional experiences, the type and consistency of discipline within the family, relations with delinquent or non-delinquent peers are among important factors shown to be correlated with delinquency - though, as with socio-economic factors, they do not determine it. (see Utting et al 1995).

\(^3\) The phrase 'justice by geography' coined with regard to the variation in juvenile cautioning practices more than ten years ago (Tutt and Giller 83) still has resonance.

\(^4\) Here Hood is especially relevant. In the West Midlands, he found parity of treatment for all groups at the Crown Court centre which dealt with the majority of the cases in his sample: so the average residual 'ethnic' effect in sentencing once relevant factors are taken into account is driven by apparently much higher levels of bias in other centres (op. cit. 1992). Although limited, the cautioning data from the same area reported in Chapter Five of this thesis tends to confirm these patterns of sub-area variation.
the criminal justice profile of any subgroup within the population since it could not take into account, on the one hand, the many factors which influence levels of delinquency and, on the other, the many factors which shape the criminal justice statistics. However, measuring the gap between these 'observed' and 'expected' rates for different groups would be a useful starting point for defining the most profitable areas for further work.

Clearly, constructing such a model would be a major enterprise in its own right and is well beyond the scope of this thesis. So, despite the dangers of the thumbnail sketch referred to above, therefore, it is worth recapping on some of the key differences between the main ethnic groups of concern to this thesis and whose significance such model might usefully test more scientifically. Many of the basic data are contained in a further, four volume publication by ONS which analyses in detail the picture of the different ethnic groups which emerges from the 1991 Census (ONS 1996 and forthcoming). The second of these volumes, entitled 'The Ethnic Minority Population of Great Britain', is edited by Ceri Peach and the summary at the end of his introductory chapter is especially relevant and worth quoting at some length:

'The socio-economic position of the nine ethnic categories differs significantly. The Chinese, Other-Asian, Other-Other, Black African and Indian men are strongly represented in Class I (the professional group). Advantages and disadvantages are not uniformly distributed across all variables, however. Pakistanis, for example, who are poorly placed in terms of socio-economic class and unemployment, stand out strongly in terms of owner occupation of homes and self-employment. However, there are some groups who do consistently well in terms of socio-economic well-being and some who do exceptionally badly. The Indians, Chinese and Other-Asians are among the groups of high performers, well-educated, property-owning and professional.'

As the case of the Pakistanis already hints, though, it is possible to slice these differences in different ways and thereby to produce very different pictures of which groups are most like each other.
Depending on whether the criteria for categorisation are social or economic, the grouping of ethnicities differs considerably. The key social differences come between those groups who might be considered encapsulated and those with an open structure. The Indians, Pakistanis, Bangladeshis and Chinese show traditional family patterns. Single person households are rare. There are few ethnically out-married households and few single-parent households, while extended families are significant. Self-employment is above average. The Black groups have a more open and assimilated social structure. Single parent households with dependent children are common. Ethnically mixed households are frequent and multi-family households are rare.

However, if the applied criteria are economic rather than social, the Asian social group becomes split into contrasting sections. The Indians and the Chinese occupy a much more advantageous position than the Bangladeshis and the Pakistanis. The Indians and Chinese have above average professional percentages and relatively low unemployment rates. The Black social group is similarly divided between the more professional Black-Africans and the more manual Black-Caribbeans and Black-Others.

Peach also acknowledges two sets of gender differences which have important economic implications for the respective economic profiles of the three poorest groups.

Religion and gender intersect to designate Bangladeshi and Pakistani women as the least participant groups in the formal labour market... At the other end of the scale, all three Black groups have the highest level of participation [i.e. relative both to other minorities and to whites].

Moreover, in striking contrast to the pattern in all other groups, Black-Caribbean women have 'a higher socio-economic profile than Black-Caribbean men.'

There are many points of detail on which one might quibble with Peach's typology - and many others one might wish to add or unpack; but it serves its present, illustrative purpose well except for the omission of any reference to age differences and geographic distribution. These are, in fact, covered elsewhere by Peach and, because of their importance, his coverage is worth touching on here before exploring what the model might show.

Reference has already been made to the importance of differences in age structure between ethnic
groups and details provided in Table 2:2; but Peach presents these data in the form of age pyramids (op.cit. pp 12-13) which illustrate more vividly the fact that four groups in particular have abnormally large bases of young people - that is, where those aged under 25 in 1991 outnumbered those above that age (op. cit. pp. 12 and 13). These ranked as follows in order of the total size of the group: Pakistanis; the Other-Other group; Black Others; and Bangladeshis. The chapter on Pakistanis notes that, although it may be beginning to fall, 'the Pakistanis' high level of fertility [is] such that to date their birth rate has been running at approximately double replacement level (Ballard, in Peach, op. cit. p. 129). The 'Other-Other' group is amorphous and not relevant for present purposes (though see footnote 5). The Black Other group is also heterogeneous and it is difficult to tease out its component parts; but the majority appear to be of mixed black/white origin. This is the group with by far the widest base and Owen comments on its 'extreme youth.. with the numbers of pre-school age children greater than the numbers aged 5-9 and 10-14, suggesting that [its] rate of growth is accelerating' (Owen, op. cit. p. 72). Of the Bangladeshis, Eade comments '... the numbers of Bangladeshi children born in Britain [i.e. by no means all] doubled from 16,000 to 32,000 between 1981 and 1985-87 and doubled again between 1985-87 and the 1991 Census'. He forecasts that the rapid rise in this population is likely 'to continue for some time' because its overall age structure is so young and large numbers 'will be approaching marriageable age.. during the next 10 years' (Eade et al. op. cit. pp 150 and 152). It should be remembered that, at the time of writing, six of those 10 years had already elapsed. Inasmuch as the projected future growth of any of these four groups will affect their numbers in the criminal justice system, it will be more significant currently than it was in 1991 and is likely to become more so in the near future.

With regard to geographic distribution, Peach takes his analysis considerably beyond the question of the urban concentration of the minorities (and the variations within this) remarked on in Chapter Two. He stresses that 'unlike the USA, there are no towns or cities in which ethnic minorities constitute a majority and this is also true at district level'; but he echoes Brown over

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7 Of the children in this group, 44 per cent were shown to be living in households with a white head and black partner (or vice versa); but a further 27 per cent lived in households with white heads and white partners, a high proportion of whom, Owen speculates (plausibly in my experience) may be white women who 'have had a child in a relationship with a black man and then gone on to another relationship with a white man once the first partnership has ended', suggesting that over 70 per cent may be of mixed race of black-white origins. (Owen, op.cit. p.70)
a decade earlier (see Chapter Two) in drawing out the fact that

'A very high proportion of the ethnic minority population is concentrated into a relatively small number of districts, which, in turn, contain a small minority of the White population... for the Indians, Black-Caribbeans, Black Africans, Pakistanis and Bangladeshis, about 70 per cent are found in wards which contain less than 10 per cent of the population.'

(Peach, op. cit. p.14)

The likely criminal justice implications of ethnic differences in socio-economic and demographic characteristics

Unpacking the ethnic differences outlined in Chapter Two in the light of Peach's overview provides the following pointers to the level of involvement by different minority groups (and of subgroups within these) which one might expect to observe in the criminal justice statistics simply on the basis of their socio-economic and demographic characteristics.

The black group overall is younger than the white population (although the proportions in the age groups of most interest for current purposes are not significantly different) and it is on average much more disadvantaged. There are, however, exceptions within this. The Black-Caribbean group is the most comparable minority with the whites in terms of age structure but has always been and remains relatively deprived. It is still the dominant subgroup within the overall 'Black' category but seems to be actually declining in size, due to some combination of: increasing mortality; emigration on retirement; merging with the white population into the Black-Other category in the younger age ranges; and an undercount of young men in the Census. The black African component tends to be more highly qualified and is also very young; but the Census undercount of this group is thought to be exceptionally high and those omitted seem especially likely to include illegal immigrants and others (such as refugees) whose socio-economic position is likely to be very marginal. Hard facts are, of course, very difficult to obtain; but anecdotal

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8 This also significantly affected the count of young Pakistani and Bangladeshi men. For a full discussion see Simpson, in the first of the ONS volumes (Coleman and Salt 1996).

9 Daley, in Peach (op.cit p. 49) refers to an estimate that 15 per cent of African men aged 20 to 24 were not recorded and that this rose to 17 per cent in the 25-29 group.
evidence suggests that these numbers may have grown further since the Census was taken. The Black-Other component is, on average, relatively deprived and is one of the youngest and the fastest growing of all the groups.

Bearing in mind the limitations due to problems of enumeration referred to in the previous paragraph, the following additional factors related to the second element in the model may also be significant. Average levels of economic and educational attainment within the dominant Black-Caribbean group are boosted by the rates for females. That is, the level of disadvantage among black males is higher than may at first be apparent. There are much higher levels of single parenthood among both the Black Caribbean and Black Other groups: 57 per cent of Black-Caribbean children aged 16 and under (and those who had stayed on in education to 18) and 51 per cent of Black Other children lived in lone parent families in 1991, compared to 17 per cent of white children and less than 10 per cent in the Asian groups (ONS 96 p.20). The fact that women headed the vast majority of these household will per se contribute to lower black household incomes although this may be offset to some extent by higher levels of economic participation among black females. With regard to possible criminal justice implications, however, this may in turn be offset by the implicit reduction in scope for surveillance by parents of the whereabouts and activities of their children and the ability to accompany them at a police station or at court on occasions when the presence of a parent may influence a decision one way or another (see section on discrimination below). The much higher proportion of single young men and of school exclusions in the younger age groups also suggest that the Black Caribbean group in particular will be more likely than their peers from other groups to be 'available' as objects of police attention (see Chapter Four).

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10 In the first of the London fieldwork areas I was told that local people had become aware in the past couple of years of a growing number of French Africans who had drawn the attention of the police. Their immigration status was unknown and they were, of course, inflating police records of the 'Black' group relative to the enumerated local population.

11 66 per cent and 58 per cent respectively of Black-Caribbean and Black-Other women with children under 5 were economically active, compared to 46 per cent of whites (ONS op.cit p.41)

12 The self-reported offending study referred to in Chapter Two was part of a wider study of the lifestyles of young people. Unpublished results in response to questions about parental supervision are instructive. Those aged under 16 were asked whether their parents knew a) where they were and b) who they were with when they went out in the evenings. Numbers are small for black respondents aged under 16 (29); but the proportion saying 'always' to both questions (50 per cent and 43 per cent respectively) was noticeably lower than for whites in the same age group (64 and 59).
Finally, with regard to the 'other relevant' social factors in the model, it is worth considering the possible implications of the levels of 'integration' of both Black-Caribbeans and the Black-Others. Rates of inter-ethnic union are higher than for any other ethnic group, including whites. A much higher proportion of both men and women work in public sector jobs where equal opportunities policies are likely to have created a more ethnically mixed work-force than the private sector. This means that, in comparison to the Asian groups, they are less likely to be concentrated in ethnic 'niches' in the private sector (including in businesses owned by - and often mainly serving - co-ethnics). Indeed, as Peach (above) implies, the majority of the white population lives in areas where there are very few people from ethnic minorities and they are much less residentially 'encapsulated' than the Pakistanis and the Bangladeshis (see below). Together, all of these factors suggest that the Black Caribbean and Black Other groups are the most 'integrated' of all main ethnic groups considered here. That is, these black people will, on average, have very many more contacts with whites than whites, on average, will have with them. Moreover the number and the range of black contacts with whites will be very much greater than contacts between Asians and whites. This suggests that black offending is more likely to be inter-racial than for any other group. As such, it is likely in general to excite the attention of the majority and, specifically, to be more susceptible to any ethnic bias in crime reporting (see Chapter Two).

Inasmuch as anything can usefully be said about the impact of area of residence, the thesis has made frequent reference to the fact that nearly two thirds of the black group overall lives in London. Policing traditions and practices which may be particular to the Metropolitan police, therefore, will impact very disproportionately on this group, although it is important to recognise that further, significant diversity between and within divisions will be masked in any apparently distinctive Met-wide pattern. Certainly this London effect will have a dramatic impact on the rate at which black people nationally are recorded as being stopped and searched under PACE; for the Met figures are not only well in excess of any other force, they nearly match the total for all the

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13 For example, of Census respondents who were married or cohabiting, 32 per cent of black males and 23 per cent of black females had partners from other groups compared with only 1 per cent each for whites. Figures for the Asian groups were slightly higher than for whites but all were under 10 per cent.

14 The rate for Indians will be higher than that for Pakistanis and Bangladeshis; but rates of inter-marriage are much lower than for black people, implying lower levels of social contact generally.
rest put together (see Chapter Four). Less measurable is the effect of living in areas which may simply be more densely policed than others and where *de facto* the chances of coming to the attention of the police will be higher (see, for example, Cicourel 1968). The figures for London (see Table 3:1) already suggest that this may be the case for black people and this hypothesis seems also to be supported by my own unpublished analysis of a question asked in the 1988 BCS but not subsequently. This indicated that a quarter of black respondents had personally seen a police officer within the last three days, compared with 14 per cent of whites (and 18 per cent of the combined Asian group). On the other hand, it should always be borne in mind that concern has largely centred on the Black Caribbean group and by extension (and increasingly for the future) the Black Others. In 1991, 58 per cent of Black Caribbeans lived in London while 55 per cent of the Black Other group actually lived elsewhere; but the overall 'black' figure for London was pushed upwards by the Black Africans, where fully 77 per cent of those enumerated lived in the capital. Although still largely urban based, the Black Others also tended to be more dispersed than the other two black groups outside London (Owen, op.cit. 93).

The Asian group is not only as internally diverse as the 'black' group, it is starkly polarised in socio-economic terms and the group at one of these poles (the Indians) is actually larger than all three 'black' groups combined while the two groups at the other pole (the Pakistanis and Bangladeshis) are, together, nearly as large as the total Black group and they are growing rapidly.

In terms of their socio-economic characteristics, the Indians may be assumed to be more comparable with whites than any other group. They are, however, the largest of all the groups and, as with whites, there are distinctive subgroups within this total; and some of these Indian subgroups share many of the characteristics of the Pakistanis and Bangladeshis, although they tend to be longer settled. Nonetheless, their basic socio-economic profile suggests that, taken as a groups, their rates of offending would appear in the model as no higher than those of whites (also taken as a group), except inasmuch as their age profile is younger. Yet 'other factors' suggest a degree of 'encapsulation' which would tend actually to lower the 'expected' rate in ways which

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15 My forthcoming BCS analysis with Chris Hale, however, finds that black people are no less likely to be stopped and searched outside London. This suggests that records of PACE searches are kept more assiduously in the capital than by provincial forces - possibly because the latter resented this aspect of PACE in particular, seeing it as a sledgehammer to crack a London nut.
are explored in more detail below with regard to the Pakistanis and Bangladeshis.

The geographic distribution of the Indian population also in part reflects its greater affluence. Although a third lives in London, nearly three quarters of these live in outer London rather than the inner city areas (which is where the majority of the black and Bangladeshi population of the capital are found). Robinson points out that, of the main minorities, the Indians 'have the highest percentage of their population in non-Metropolitan districts (over 31 per cent), are well represented in non-metropolitan cities and have an above average presence in other urban areas and rural areas' (in Peach op. cit pp 103-104). Thus, although the Indians tend to be more socially encapsulated than the black groups, they are less physically encapsulated than the two other 'Asian' groups. However, this also means that the Indians live in lower crime areas than the other main minorities. These are likely to be less intensively policed; so, given that criminal activity by Indians may be relatively low anyway, where it does occur, it may be less likely to come to police attention.

The socio-economic profile of the Pakistani and Bangladeshi populations de facto makes them a much more obvious cause for concern in the criminal justice context than the Indians. This is compounded by their age structure, although two important points are worth noting here. As has already been emphasised, it is only recently that much larger numbers than previously have come into the peak age group for offending: in 1991 43 and 47 per cent of these groups respectively were aged under 16. The other is that the numbers may increase considerably in the future: by

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16 Of the 1992 BCS sample, 11 per cent of whites lived in ACORN 'high crime risk areas'. Figures were 43 per cent for Indians and 58 per cent for black respondents, rising to 61 per cent and 66 per cent respectively for Pakistanis and Bangladeshis (FitzGerald and Hale 1996).

17 This compared with 30 per cent of Indians, 29 per cent of the black group overall (but only 22 per cent of Black Caribbeans), and 19 per cent of whites.
1991 there were already 280,000 Pakistanis and Bangladeshis aged under under 16, whereas the combined total in this age range for all the black groups was only 261,000.

It is possible nonetheless that the these socio-economic and age characteristics may have less effect on the Pakistanis' and Bangladeshis' showing in any criminal justice statistics than might be expected. For they may, to some extent, be offset by factors in the second element in the model in terms both of family structures and of 'encapsulation'. It is true that Pakistani and Bangladeshi families tend to be much larger than average and extremely overcrowded (ONS 1996 op. cit. pp. 19 and 26) and this would normally tend to predict higher levels of delinquency. However, Pakistani and Bangladeshi households also contain a higher proportion of adults than in any other group, except for the Indians. Like the Indians again, the proportion of children living in single parent households is much lower than average; much higher proportions of those over 16 are married than in any other group and their mean age at marriage is much lower\(^{18}\). By contrast with the Indians, rates of female economic participation are lower than for any other group (at 20 per cent overall for Bangladeshis and only slightly higher for Pakistanis in 1995) and the proportion of working mothers was only about a third of that found among Indian women (ONS op. cit. p.39). The combined effects of these family characteristics seem likely to contribute to higher levels of surveillance of the young people in all three Asian groups; and this is borne out by unpublished findings from the Youth Lifestyles Survey (see footnote 12) where much higher proportions than in the black and white groups said that if, at age 15, they went out in the evening, their parents always knew both where they were going and who they were with. Table 6:1 combines the responses from the under 16s with the over 16s; and the lower rates shown previously for black respondents aged under 16 disappear (whether as an effect of hindsight or of some particular characteristic of the black sample). However, the combination gives much larger numbers in all the minority groups and this adds to the robustness of the findings in respect of the Asian groups which is of particular interest here.

\(^{18}\) Pakistani and Bangladeshi men are the only group whose mean age at marriage was under 26 in 1991 (ONS op cit p.22).
Table 6:1
Parents' knowledge of children's whereabouts

<table>
<thead>
<tr>
<th></th>
<th>White</th>
<th>Black</th>
<th>Indian</th>
<th>Pakistani</th>
<th>Bangladeshi</th>
</tr>
</thead>
<tbody>
<tr>
<td>When you go/went out in the evening (aged 15) do/did your parents.....</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>..... always know where you're going</td>
<td>56%</td>
<td>55%</td>
<td>77%</td>
<td>77%</td>
<td>76%</td>
</tr>
<tr>
<td>..... always know who you're with</td>
<td>51%</td>
<td>48%</td>
<td>71%</td>
<td>75%</td>
<td>66%</td>
</tr>
<tr>
<td>N</td>
<td>1342</td>
<td>191</td>
<td>245</td>
<td>243</td>
<td>127</td>
</tr>
</tbody>
</table>

Source: Home Office: Youth Lifestyles Survey (unpublished data)

The Pakistani and Bangladeshi groups are also the most 'encapsulated' of all the minorities, with higher levels of residential segregation than any others and the lowest rates of inter-marriage of any minority at all ages (though it should also be noted that this remains relatively rare for the Indian group as well). Rates of self-employment are also high in absolute terms - extraordinarily so for groups who are among the poorest of any\(^{19}\); and the proportion of adults speaking English is markedly lower than for the Indians, although this seems to be true mainly of women and older men (ONS 1996 p.13). Although there is no evidence from the BCS that rates of crime reporting among the Pakistanis group is lower than for others, it seems very likely that the most encapsulated members of this group may not have been covered by the Survey since it did not use interpreters. Just as the black offenders may be more involved than any other group in inter-ethnic crime because of their level of 'integration', it seems equally likely that offending among the Pakistanis and Bangladeshis may be intra-ethnic and under-reported not least for this reason. Certainly the evidence from the second of my fieldwork areas in London and discussions (at Holly Royde and elsewhere) with officers from other forces suggested that the under-reporting of intra-ethnic crime and problems of investigating it when it came to light were becoming an increasing matter of concern in forces with significant Asian populations. If this is true, it would de facto

\(^{19}\) In the 30-44 age range, self-employment rates for economically active Asian men in 1991 were: Indian 26 per cent; Pakistani 30 per cent; and Bangladeshi 29 per cent. The corresponding figure for whites was 16 per cent (Ballard in Peach, op. cit. p.139).
mean that the offenders from these groups would (disproportionately) be unlikely ever to show up in criminal justice statistics.

There are, then, strong similarities between the Pakistani and Bangladeshi group and they are often lumped together for statistical purposes, especially since the numbers of Bangladeshis in sample surveys will often be too small for separate analysis. However, the major difference between them for purposes of this discussion is that the largest group (the Pakistanis) is much less concentrated than any of the other minorities in London. Around 19 per cent of the total lived in the capital in 1991, with a similar proportion in the West Midlands and only slightly fewer (17 per cent) in West Yorkshire. Of the Bangladeshis, by contrast, not only do more than half live in Greater London, nearly half of these again lives in a single borough. That is, for nearly a quarter of the total Bangladeshi population, their experience of policing may be driven by the policies and practices of a single division of the Metropolitan force and may be very different from that of the Pakistanis.

PACE stop/search figures are again the only (very crude) indicator currently available of the possible implications of these differences in the geographical distribution of the Pakistanis and Bangladeshis. As Table 4:1 shows, the West Midlands and West Yorkshire are both forces with recorded rates of stop/search which are lower even than the provincial average. Stops of whites were less than one fifteenth of those in the capital in the same year and those of minorities one twelfth and one twentieth respectively\(^{20}\) and this suggests that, all else being equal, Pakistanis overall would have much lower rates of stop and search than other minorities simply as a result of where they live - with the knock-on effects this may have in terms of overall arrest rates (see Chapter Five). For the Bangladeshis, on the other hand, the picture may be entirely different. Unpublished data produced by the Metropolitan police suggests that the use of the PACE power in 1995 was much higher overall in the Division covering the area in which the Bangladeshis are most heavily concentrated than for London as a whole. (Details are contained below in Table 6:3 in the section on 'Discrimination' which discusses the ethnic breakdown within this total.)

\(^{20}\) This difference between the two forces - which are identical in their recorded stops of whites - may be explained by the inflationary effect of stops of black people in the West Midlands where their proportion in the local population is three times that in West Yorkshire (see Table 3:2).
In sum, the argument made here is:

a) that it is imperative to take socio-economic and demographic factors into account in trying to explain ethnic differences in criminal justice statistics

but

b) this account needs to be set in the context of the area differences in policing policies and practices highlighted in Chapters Four and Five of this thesis, not only in relation to PACE searches but arrests and cautions also.

Bearing in mind that the criminal justice statistics relate mainly to the male section of any group, we already know enough to make some sensible assumptions about the implications of a) for the ethnic differences one would expect to find in these statistics if all else were equal. These should, in principle, be testable through the statistical model proposed - although it is not clear that information is yet available on differences in policing policies and practices at sufficiently refined area levels to provide the necessary further controls at b).

Broadly speaking the Black-Caribbean and the Black-Other elements within the generic 'Black' group are, on average, heavily marked by both socio-economic and demographic characteristics which would predict higher levels of involvement in crime. There is little evidence of any characteristics which might mitigate these effects. Rather, family circumstances and much higher levels of 'integration' with the white mainstream of society may exacerbate them. The pattern is already well established among the Black-Caribbean group whose demographic 'bulge' at the peak age for offending came toward the end of the 1970s and beginning of the 1980s21 but the pattern for the future will be increasingly driven by a 'Black-Other' group which is British born, very young and growing fast. It is largely of mixed race origin and less London based than the Black-Caribbeans. The effect of the Black-African group on the figures now and for the future is more

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21 The 1991 Census shows a cohort of 28,419 Black-Caribbean males aged 25 to 29 (i.e. those who would have been 15-19 in 1981), compared with only 21,308 in the age group above and 22,599 in the age group below. The 15-19 age group numbered only 15,326 by 1991; so the 'bulge' in the black Caribbean group at the peak age for offending came in about 1981 and the numbers currently may only be about half of what they were at this peak.
difficult to define and has to date received far less attention than it may merit. It too contains a large proportion of young people and may grow in importance for the future, with a significant impact on the figures for the 'Black' group in the London area. The socio-economic profile of those Black-Africans who were enumerated in the Census suggests that they will be less involved in crime and could, therefore, be keeping the 'Black' average down. On the other hand, nothing is known of the size or the criminal activities of those Black-Africans who were not enumerated. If, as seems possible, their immigration and economic status is marginal and their number is growing, especially in the capital, they could drive up the 'Black' figure quite significantly in two main ways. One is that they may have higher rates of criminal involvement than the other two black groups; and the other is that their inclusion in criminal statistics for the Black group will distort comparisons with the enumerated population (especially at local level), suggesting an exaggerated degree of Black 'over-representation'.

Overall criminal justice figures for Asians will tell us very little since the 'Asian' group is dominated by the Indians. With the exception that the Indian group is younger than the white, their socio-economic and demographic characteristics on average combine to predict relatively low levels of criminal involvement. In contrast, the Pakistani and Bangladeshi groups share many of the economic disadvantages of the Black Caribbean and Black-Other group and may actually experience them more intensely. The full impact of these, however, may in part be offset by other social factors, including the much higher than average family responsibilities carried by men in these groups from a very early age, by a lower proportion of crime within the group coming to the attention of the police in the first place and by closer family surveillance of young people. Even if it were possible to tell what was happening from the existing criminal justice statistics, the age profiles of these groups suggest that one would have expected to pick up any significant 'over-representation' only in the last few years. If there is such a trend, though, it is likely to increase (possibly quite markedly) for the future; and this may already be signalled by the higher proportion of Pakistani young offenders relative to adults shown in the unpublished prison statistics in Table 2:7.

We can say far less on the critical question of the impact of area differences in policing and more general criminal justice policies and practices in conjunction with differences in the relevant socio-
economic and demographic characteristics of the different groups. Broadly speaking, any 'national' profile of the Black group will largely be shaped by the policies and practices\textsuperscript{22} of the Metropolitan police (and, in particular, those divisions with the highest levels of contact with black people). For the 'Asian' group 'national' profiles would be required for each of the three groups separately. That for the Bangladeshis would again strongly reflect the Met and (to an even greater degree than for the Black group) particular divisional patterns within this. The Pakistani figures, on the other hand, would be shaped as much by policing in the West Midlands and West Yorkshire as by patterns in London. Only the Indian profile would come near to being a truly 'national' picture comparable to some (limited) extent with that for whites.

2. 'CULTURAL' FACTORS

Three inter-related concepts need to be considered in discussing the role of 'cultural' factors with regard to ethnic minorities, criminal activity and criminal justice statistics. These are: the nature of 'culture' \textit{per se} in the specific context of ethnicity; the interaction of culture (thus conceived) with structural factors; and the influence of society at large and (in particular) its institutions on the development of the 'cultures' of different ethnic groups.

\textit{Notions of 'culture' and ethnicity}

The terms of the debate about the role of 'cultural' factors in explaining ethnic differences in criminal statistics were set from the outset by the conservatives referred to in Chapter One. That is, academic commentators from this perspective and their political and popular counterparts have shared the view that the propensity for criminality (or for different styles of criminal activity) somehow \textit{inhere} in different ethnic groups. The terms in which these views are expressed vary between extremes of stridency and subtlety depending on their source. Only the crudest, however, have advanced biological explanations (i.e. 'race') for these differences; for the most part, they are linked to notions of 'culture' (i.e. 'ethnicity') - perhaps because the 'race' and crime debate in Britain originated in an era when the retreat from biological to cultural racism was already well

\textsuperscript{22} One ironic corollary of this, however, has been pointed out to me by my colleague Chris Kershaw. This is that the presence of black people in forces with relatively low crime clear-up rates could actually depress their showing in any national picture.
As the debate over ethnic monitoring implies (see Chapter Three), the liberal and radical protagonists in the debate were ambivalent about engaging with notions of ethnic difference at all until well into the 1970s and therefore, perhaps, less than confident in debating the meaning of such differences in criminal justice statistics. That is, they have effectively been pushed into this particular arena on terms set by the conservatives; and they have felt obliged to do so for two main reasons. The first is in order to counter what they perceive to be the dangerous - and often wilful - stereotyping implicit in the conservative argument. The second is that the accumulated evidence does, indeed, point to ethnic differences which cannot readily be explained away either by socio-economic factors or by discrimination. For example, as this thesis has repeatedly illustrated - whatever their 'real' rate of involvement in crime relative to other groups - all the available sources have consistently shown black people's involvement in robbery (compared to other forms of offending) to be much higher than that of their white counterparts.

As Chapter One describes two broad types of response to the conservative argument. Liberals have effectively offered alternative arguments based on notions of ethnicity. These are more benign than the criminal-prone group profiles offered by the conservatives; but (as Lea and Young's explanation for 'Asian' crime rates cited in Chapter One illustrates) these often have a similar potential for stereotyping. As such, they have sometimes attracted as vitriolic criticism as the conservatives from the radicals, although this appears to be driven as much by ideology as by a demand for greater intellectual rigour. For the latter, in turn, have tried to make a virtue of necessity by interpreting apparently disproportionate criminal activity by black groups in two ways. In one version, it is a statistical artefact produced by discriminatory policing and, possibly, manipulation of the figures, both of which are examples of state oppression (Carr-Hill 2000).  

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23 As Reiner puts it:

"Lea and Young have been subject to a torrent of criticism, accusing them of capitulating to "the weight of racist logic" and of lending sociological credibility to police racism"... In this plethora of vituperative criticism there is no serious attempt at a rebuttal of Lea and Young's argument. Any such engagement with the issue of explaining the black arrest rate as the outcome of anything but a protean and all-pervasive racism is dismissed as "empiricist haggling over official crime statistics"."

(Reiner 1992 p.164)
1988). In another version criminal activity is portrayed as a form of political action - even if the radicals are forced to concede that the political motive is not always conscious (see Hall et al 1978, as cited in Chapter One).

Insofar as criminologists have need to draw on the 'race relations' literature to establish concepts of 'culture' which are relevant to the debate about ethnicity and crime, they have not been well served. For much of the debate here\(^24\) has centred on: defining real (as opposed to 'imagined') 'ethnicity' in relation to 'race'; on quibbling over what range of shared group attributes should be included in the definition; and on identifying the situations in which ethnicity has greater or lesser salience (whether for groups or for individuals). This last, although it is not central to our immediate concerns, is at least potentially of some relevance to the 'race' and crime debate; and Yinger's contribution to Rex and Mason's 1986 collection of essays on 'Theories of Race and Race Relations' seems especially useful in its definition of 'ethnicity' (see Chapter One). That is, an ethnic group:

"...exists in the full sense when three conditions are present: a segment of a larger society is seen by others to be different in some combination of the following characteristics - language, religion, race and ancestral homeland with its related culture; the members also perceive themselves in that way; and they participate in shared activities built around their (real or mythical) common origin and culture."

(Yinger 1986 p.22)

The definition coined by Bulmer is not dissimilar:

'Ethnicity is a more inclusive concept than that of race. An "ethnic group" is a collectivity within a larger society having real or putative common ancestry, memories of a shared past, and cultural focus on one or more symbolic elements which define the group's identity, such as kinship, religion, language, shared territory, nationality or physical appearance.'

(Bulmer 1986 p.54)

Yet - critically in the present context - Bulmer omits the first condition laid down by Yinger which is the way in which the group is seen by others in the larger society. Missing, in turn, from Yinger's is an element which is implicit in his first condition and which underlies much of the
discussion of ethnicity - though it is frustratingly rare to find it explicitly recognised. That is, ethnicity (and the 'cultural' characteristics which attach to it) is not a static and immutable property: its very essence is that it is constantly shaped and reshaped from one generation to the next and from one set of historic, economic, political and social circumstances to another both at the macro (international and national) level and at the micro level of the local authority or even neighbourhood. Hall captures some of this in rather grandiloquent terms with the following 'view of cultural identity' among the Caribbean diaspora:

'... as well as the many points of similarity, there are also critical points of deep and significant difference which constitute "what we really are"; or rather - since history has intervened - "what we have become". We cannot speak for very long with any exactness, about "one experience, one identity", without acknowledging its other side - the rupture and discontinuities which constitute, precisely, the Caribbean's "uniqueness". Cultural identity, in this sense, is a matter of "becoming" as well as of "being". It belongs to the future as much as to the past. It is not something which already exists, transcending place, time, history and culture. Cultural identities come from somewhere, have histories. But like everything which is historical, they undergo constant transformation.'

(emphasis added)

(Hall 1990 p.225)

A further corollary of Yinger's definition is that the shaping of minority identities - precisely because it is interactive - may itself modify the environment to which it is adapting. This is captured in some of the literature on culture in terms of the arts and popular culture (see for example Back 1996) but is more rarely acknowledged in the political literature other than in terms of struggle and contest. Yet societies themselves and their institutions are constantly in the process of change; and the forces at work in shaping that change may include their interactions with minorities\(^\text{25}\) - depending on the length, the intensity and the nature of their contact with them.

In the context of the 'race' and crime debate, we cannot avoid the question of cultural factors which have been such a major source of comfort to the conservatives and such a major source of discomfort to the liberals. Yet we also need to avoid the simplistic interpretations offered by either

\(^{25}\) It would be instructive, for example, to look at a major institution in an area with a significant ethnic minority population in terms of changes over the last 25 years in: the language used to refer to minorities; recruitment and selection procedures; and the food served in the canteen.
- not only because of the dangers of stereotyping, but in order again to do justice to the complexity of the real-world situations with which we are concerned. A starting point may be to take some of the notions of adaptation and reaction which underpin the radical position; but the end point is not to politicise (or even romanticise) the type of anti-social activity whose immediate damage to its victims may at least be matched by the longer term damage to the groups from which the perpetrators come. In short, my approach to the question of 'cultural' explanations is based on five main premises:

- Ethnicity is not a 'thing', it is a process.

- The direction of the process is shaped by a range of forces in the particular environment in which an ethnic group finds itself.

- The process may also have an effect on the environment in which it takes place.

- The collective experience of the process may be at least as important to outcomes as any collective set of references which the group originally brought to the process.

- Experience of the process at the level of individuals and subgroups may differ very significantly from any collective account.

This approach, then, emphasises two sets of 'ethnic' characteristics - the different groups' adaptation over time a) to their particular structural position and b) to their experiences of interaction with the wider society and its institutions (including its criminal justice system). In both instances it is assumed that changes in the wider environment may have an influence on this process of adaptation. Any values, practices and expectations particular to the group will also have some influence; but it is essential to remember that these values, practices and expectations will also change over time and that the nature and direction of that change is often determined by the wider environment. That is, the present cannot be understood primarily by reference to some generalised (and often simplistic) characterisation of those values, practices and expectations in the past and in different social, political and economic circumstances. The main key to
understanding lies in the process of adaptation since the point of immigration and the combination of internal and external influences which have shaped it.

**The interplay of 'cultural' with 'structural' factors**

Thus the structural factors covered in the previous section have a particular - and central - relevance to the 'cultural', to the point where it is often difficult to disentangle the two. Family structures and area of residence, for example, may to a considerable extent reflect culturally based preferences. Patterns of employment, in turn, may reflect some combination of the job opportunities available to the immigrant generation; but job opportunities themselves may either have dictated the immigrants' area of settlement or been dictated by them and a further factor which will (to some degree) have come into play is the skills they brought with them, including their levels of fluency in English. Exclusion from employment and other opportunities by the indigenous population may have been partially offset by opportunities directly offered by co-ethnics (within families and more widely) or by access to ethnic markets. Subsequent, wider economic developments may in turn have affected developments including, for example, the decline of the textile industry on which the Pakistani group were so dependent, employment opportunities in the public sector which disproportionately affect the black groups, and - more apparently ethnic specific - the collapse of BCCI which affected not only considerable numbers of large and small Asian businessmen but those they employed (and their dependents) also.

There is no room here to explore the full criminal justice implications of the influence of their structural position on the 'culture' of each of the ethnic groups with whom we are concerned. Much of what can usefully be said without lapsing into dangerous generalisations has already been covered in the previous section which discussed structural factors *per se*. It is only worth adding

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26 This will apply especially in the case of immigrants recruited directly into certain employment sectors, including those West Indians who first came into public health and transport and different Asian groups into certain industries. Both will have triggered a certain chain migration in which further recruitment was largely initiated among co-ethnics and which, thereby, further reinforced the pattern.

27 It should be remembered, though, that some commentators allege that the dependency of many Asian businesses on BCCI reflected the obstacles they had encountered in the mainstream of British banking.
to these the following two sets of observations.

Many of these structural factors (employment sector, unemployment, large families, single parent families, area of residence etc) *disproportionately* characterise certain minorities; but in *numerical* terms they affect very much larger numbers of the majority population. Thus my earlier analysis of the 1991 National Prisons Survey found that there was far greater similarity in the socio-economic characteristics of white and black (British) males sentenced to prison than between the averages for the same groups in the population at large (FitzGerald and Marshall 1996). To focus on the criminal justice implications of these structural factors *only* for minorities, therefore, as Lustgarten implies in his critique of Scarman (see Chapter One), is mistaken to the point of being perverse.

On the other hand, the previous section brings out that the particular *configurations* of these structural factors varies between groups in ways which are so distinctive that they may be conceived of as 'ethnic' *per se*. Moreover this squares with the notion of ethnicity as process inasmuch as these configurations shape opportunity structures differently (Merton 1957, Cloward and Olin 1960). One implication is that these will also shape the groups' opportunities for crime differently: not only will they influence levels and patterns of crime they may also determine the likelihood of these crimes coming to the attention of the police. This observation is so unoriginal that it seems hardly worth making *except* for the fact that it so rarely seems to have been applied in Britain to the case of ethnic minority involvement in crime. It has been acknowledged largely in the context of passing attempts to explain differences between figures for 'black' and 'Asian' crime based on official statistics (Lea and Young, op. cit.28). These have short-circuited (and, to mix a metaphor, could even backfire) precisely because of their failure a) sufficiently to differentiate within these broad groups in terms of their structural position and the effects of this over time and b) to acknowledge the particular limitations of official statistics on offending by these groups. Some ethnographic studies have tried to explore the issues with regard to individual groups (Robins 1992), although their specific focus on criminality rather than its context may limit

28 Thus also, more recently:

*The theory that Afro-Caribbeans but not Asians are singled out for discriminatory treatment by crime victims and the police does not fit with the wider picture of racial discrimination and disadvantage in Britain*

( Smith 1995)
their contribution to the debate. Adequately to explore this topic would require a full-scale comparative study such as that conducted of poor Latino, black and white youths in three separate neighbourhoods of New York by Mercer Sullivan which explicitly

"...situates the undifferentiated "subcultural delinquents" of previous studies in specific local contexts of economic opportunity and social organization"

and asks

"..not just whether different individuals choose to invest in education and training and whether they choose crime or employment as their sources of income but also how these choices are conditioned by the social environments of the neighbourhoods in which they grow up and by the relationships of those neighbourhoods to the education system, the labour market, and the criminal justice system

(Sullivan 1989 p.15)

Interactions with the wider society and its institutions

A comparative, fully contextualised study such as that suggested above should not only identify the actual offending patterns of different ethnic groups (and their relationship to official statistics), it should aim to track the role of the interactions over time between the different groups with society at large and its criminal justice institutions in particular. That is, it would fully recognise Yinger's first condition of ethnicity by focussing on the ways in which society and its institutions have viewed these groups as 'different' over time in the context of crime and criminal justice. It would give at least as much emphasis to the ways in which the views of the majority shape (and are shaped by) interactions with minorities as it would on the views of the minorities themselves.

In our current state of knowledge, it is easier to trace the outline of what such a study might uncover with regard to interactions between the black group of Caribbean origin with the criminal justice system than for any other ethnic minority. Chapter One describes the history of the early concerns about relations between the immigrant generation and the police. These were perceived in the first instance (the 1950s and 1960s) in terms of police attitudes towards and treatment of this group; but a descending spiral seems then to have set in where cause and effect become ever more difficult to disentangle. Distrust and public criticism of the police seem to have increased among this group, carrying over to and amplified within the second generation as young
people began to come in larger numbers to police attention at the end of the 1970s and beginning of the 1980s. These reached a critical peak (as this chapter has shown) which coincided with the first major riots on the British mainland since long before the Second World War. Meanwhile, the police and the media alike had moved during the 1970s to a well-publicised view of heightened black involvement in crime and, in particular, in street robbery. These mutual perceptions were powerfully reinforced in turn by the experience of the riots of the first half of the 1980s, all of which were immediately triggered by police action involving black people.

The actual events which shaped these mutual perceptions took place in a very limited number of areas, mainly in London. In terms of the riots, Brixton and Tottenham are perhaps the main symbolic locations in London although they have their provincial counterparts - Toxteth in Merseyside, St Pauls in Bristol and Handsworth in Birmingham. But the images they created nationally were probably very powerful indeed; and several personal memories from the late 1970s and early 1980s serve to illustrate the points I wish to make about legacy of that period.

During the period of the Scrap Sus campaign, a black community worker expressed to me his concerns (and those of colleagues) that boys as young as eight and nine were playing at being in detention centre since this was the lot of the only role models they knew. I was at that time personally acquainted with black young men in a hostel for homeless young people (and de facto already very disadvantaged in terms of support networks and opportunity structures). Picked up for 'Sus', they began to take the line 'If they [the police] can do that to me when I've done nothing, next time I may as well do something'. At around the same time I was the victim of an attempted mugging which I reported. Before I could offer a description of my assailant, I was asked by the police officer 'Was he black?'. It was a different officer, though, investigating a burglary of my home, who volunteered the opinion reported in Chapter One '[Street robbery] is what they're good at: they're just very quick with their hands.'

A couple of years later I delivered my cousin's son back to his home in an all-white London suburb at the height of the Brixton riots. His family was watching television coverage of events.

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29 One in particular, a young man of fairly limited intelligence, cried himself to sleep regularly after his arrest and compounded his plight by failing to pay his fine, reasoning that he didn't have to pay for an offence he hadn't committed in the first place.
with evident consternation and I was struck by the realisation that for my cousin and her
neighbours, her entire social milieu and, indeed, the majority of the white population of the
country, these were almost the only images they had of black people - and they would probably
remain among the most powerful.

Shortly afterwards, I was involved in the development of race relations training at the
Metropolitan Police College where the majority of new recruits at that time also came from areas
where they had no direct, personal experience of social contact with black people. These young
people were full of natural apprehension about the challenges of the job they were taking on and
(like my cousin’s family) would similarly have been exposed to the same recent, dramatic images
of policing the capital where they would meet many experienced colleagues who were (as Chapter
Three has described) bruised, battered and defensive in the light both of the experience of the riots
and of the many criticisms of the police handling of them. On the streets, many faced heightened
sensitivities - and often outright hostility\textsuperscript{30} - in their first encounters with black people. Yet these
same black people were themselves often bruised and battered by the riots, by the heightened
perceptions that all of them were not merely ‘criminal’ but violently so, by the police’s role in
reinforcing these perceptions and by the increased hostility and suspicion the police displayed
towards them. Far from dissipating, these mutual tensions were reinforced three years later by the
experience of Tottenham.

The research reported on in this thesis took place ten years and more after the riots. By this time,
the negative views of the police held by black people were well-documented: already by 1988, 81
per cent of black people aged 16-24 did not believe the police treated everyone fairly and 67 per
cent thought they did not give black people equal treatment, compared to 51 per cent and 10
per cent respectively of white young people of the same age (FitzGerald and Hale op.cit. p.29).
Particularly striking throughout my own research, though, were the corresponding attitudes of
the police. On the one hand, police officers still took the riots as their point of reference and these
seemed to provoke very powerful memories (or, in the case of younger officers, folk memories)

\textsuperscript{30} An inspector I interviewed had been brought up in Scotland and had come to London for the first time
on joining the Met in 1982. He painfully recalled the hurt and bewilderment he had felt when he tried
- as he saw it - to assist a black member of the public and was greeted with abuse.
of collective trauma; and, on the other, they persistently referred to more recent experiences of hostility in encounters with black people which some clearly found personally hurtful. A wariness had set in which derived directly from officers' individual and collective dealings with black people and which had, however unconsciously, generated negative expectations.

Some of the implications of this forty year history of deteriorating relationship are explored further in the discussion of discrimination; but before turning to the question of relations between the police and the Asian groups, it is worth drawing together in this context the findings of this research with regard to robbery. The origins of black involvement in street crime are unclear; but the documented history reported here (including the history of 'Sus' and the moral panics about 'black' muggers) have something of the flavour of a self-fulfilling prophecy; and the analysis of juvenile cautioning in the Met (Chapter Five) tends to confirm increasing evidence from other sources. Not only has a particular culture grown up around street robbery for young black people, it has its echoes too in the police response. That is, black young people offending for the first time are far more likely than their white peers to be involved in robbery; they are far more likely to forfeit the chance of a caution because a higher proportion refuse to admit this particular offence than any other. Yet, in the case of robbery, black first-time offenders who are apparently eligible for a caution from the police are much less likely to get one than whites - by contrast with other offences where the rates are the same. Clearly their involvement in robbery does not explain away the over-representation of black people in the criminal statistics. However, my own calculations based on the 1995 prison statistics suggest that, if robberies are excluded, the contribution of Black British males to the total prison population drops from 9.2 per cent to 8 per cent - an overall decrease of 13 per cent.

31 See, for example, Elizabeth Burney's 'Putting Street Crime in its Place' (1990). The television programme 'The Black Bag' (25 October 1996) reviewing the results of 'Eagle Eye', reported that young black boys were being forcibly coerced into this type of activity. Police officers in the first of my fieldwork areas had similarly spoken of black boys being required to commit a robbery as a sort of initiation rite to gain acceptance into a group.

32 If, indeed, some of their involvement is driven by peer pressure this may also be a factor in the implicit defiance in refusing to admit the offence - although it does not rule out the alternative explanation which is that a higher proportion are actually not guilty. The latter hypothesis receives some support from comparing the Met arrest data with the prison statistics. Black arrests for robbery run at three times the rate for whites; but by the time the cases have been tried and sentenced, the gap appears to have narrowed to two to one. However, convictions in such cases are notoriously dependent on the suspect admitting the offence, so higher black non-admissions will account for at least some of this difference.
The role of interactions with the police in the ethnic development of the Asian groups is less well documented than that of black people, probably because those interactions have been fewer. This is not to say, however, that there have been no such interactions but I have to fall back heavily on personal observation to outline: the reasons why interactions have been fewer; the distinctive aspects of those interaction which have taken place; the current situation; and some possible implications for the future.

Levels of contact with the police in part reflect overall levels of integration within society; and this may, in part, explain why the immigrant generation is observed in many societies to have lower levels of criminal involvement, although others have put different interpretations on this phenomenon (see Tonry 94 p. 99). Especially if crime is taking place largely within the group, the majority population will have little reason to invoke police intervention; and group members, rather than report on each other (and uncertain, in any case, in their expectations of police powers and likely behaviour) may try to deal with the problem among themselves. Problems of communication will often act as a further inhibitor on both group members and the police while, as far as the police are concerned, it may be easier to leave such groups to themselves as far as possible.

This description would appear to fit the case of the Asian groups in general and the Pakistanis and Bangladeshis in particular. This chapter has already shown that even the Indian population is less 'integrated' than the black groups of Caribbean origin and that their socio-economic characteristics in any case mean that they are much less likely to come to police attention in the role of suspects. Police dealings with the immigrant generation of the Pakistani and Bangladeshi groups - whether as suspects themselves or as the parents of suspects - are relatively undocumented. However, observation from my own involvement in the 1970s in a local Community Relations Council and other, related activities in an area with a sizeable Pakistani community suggests the following. Police encounters with these groups this will often have required involving interpreters, thus formalising contact to some degree. In many cases, this lent itself over time to the police establishing regular contacts with a limited network of agencies and individuals. They relied on these people to manage situations which might otherwise have been difficult to deal with using their normal resources while, within the force itself, they might turn
also to officers who appeared to have a particular aptitude for or willingness to engage in the
difficult process of communication and/or who were formally recognised as having this
responsibility. That is, police-Asian contacts were for many years far more limited than those with
the groups of Caribbean origin; and those which neither side could avoid were often more
formalised. What at first was a matter of necessity developed, over time, into an established
system of involving 'brokers' on the community side and specialist officers on behalf of the police.

Factors in the wider social and political context conspired not so much further to limit the amount
of police-Asian contact as to minimise the likelihood of its politicisation. In the first place, the
timing of immigration meant that the 'problem' of police-immigrant relations was already defined
in terms of the black community before the major increase in immigration from the Indian
subcontinent displaced that group in terms of sheer numbers. The political profile of this 'problem'
was heightened immeasurably towards the late 1970s and early 1980s for immediate, 'race'-'specific reasons which have already been identified. Account needs also to be taken, though, of
the wider political context in which the issues were being raised - a context of almost
unprecedented confrontation between central and local government, with left wing local
authorities and their associates urging the case for increased police accountability. The
involvement of black people in these wider political developments was significant and several
individuals rose to political prominence around this time. So the specific concerns of the black
group were a feature of these wider political developments while the Asian groups remained more
'encapsulated' in the political sphere also (see FitzGerald 1988), as was perhaps symbolised in
1987 when their much-vaunted breakthrough to parliament saw ethnic minorities 'represented' by
four MPs, only one of whom was Asian while three were black (FitzGerald 1989).

Thus the high political profile of conflictual black-police relations which led to heightened
sensitivities on both sides in encounters on the streets had no obvious equivalent in police-Asian
relations. Moreover, insofar as there was conflict, the police were by now anxious to avoid
creating such an equivalent and had set in place mechanisms for containing any danger of it
happening. The disturbances involving Asian youths (of Indian origin) which took place in
Southall in 1977, for example, never assumed the symbolic importance of the subsequent riots
involving their black counterparts. (This may have been in large measure because the damage was
inflicted on an area where homes and businesses were largely Asian-owned, because they were not triggered by police action and because the police were able to contain them through a network of local brokers.

Inasmuch as there has been any equivalent area of tension in relations between the police and the Asian groups, it has tended to concern the problem of racial harassment. The issue reached the national political agenda also at the end of the 1970s and beginning of the 1980s, though it is of much longer standing (FitzGerald 1997). Whether in terms of the activities of far right parties or (much more commonly) individual incidents of hostility - from verbal abuse and graffiti to serious violence - the poorer sections of the Asian communities have been the most vulnerable and the quality of the police response has been a constant source of complaint by these groups. Analysis of the 1988 and 1992 British Crime Surveys (FitzGerald and Hale 1996) has shown that Pakistanis are more likely than Indians to be victims of crime in general\(^{33}\); and those who had been victimised were much more likely to say the offence had been racially motivated (31 per cent, compared to 18 per cent of Indians). Table 6:2 describes some of the most important results in the context of this thesis. Of all the minorities, the Pakistanis were the most dissatisfied with the police response when they reported crime of any sort and they were much less likely to report racially motivated crime\(^{34}\), though dissatisfaction with the police was greater in all groups where victims thought the crime had been racially motivated. The Pakistanis gave the lowest overall rating to the 'job done' by police in their area\(^{35}\) and those who had been victims of crime were particularly negative.

\(^{33}\) 40 per cent of Pakistanis had been victims of household offences and 15 per cent of personal offences within the previous year compared with figures of 36 per cent and 12 per cent respectively for the Indians. (There were too few Bangladeshis to analyse separately.)

\(^{34}\) Pakistani victims reported 44 per cent of the crimes against them which they did not think were racially motivated but only 26 per cent which were. For Indians the first figure was slightly lower (42 per cent) but the reporting of racially motivated offences was much higher, at 57 per cent. It is worth noting that, because of the relative size of the Indian group, the aggregated 'Asian' totals are 43 per cent for non-racial crimes and 42 per cent for those thought to be racially motivated. That is, the 'Asian' figure completely masks a significant problem of under-reporting among the most vulnerable group.

\(^{35}\) It should be noted that older Pakistani respondents were more likely to give this response: among 16-24 year olds the proportion was only 23 per cent.

184
Table 6:2
Rating of police performance by ethnic group
(BCS 1998 and 1992)

<table>
<thead>
<tr>
<th></th>
<th>Victims' rating of police response to reported crime (fairly/very dissatisfied)</th>
<th>Rating of job done by police in respondents' area (very/fairly poor)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Racially motivated</td>
<td>All</td>
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<tr>
<td>All</td>
<td></td>
<td>All</td>
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<tr>
<td>White</td>
<td>33</td>
<td>18</td>
</tr>
<tr>
<td>Afro-Caribbean</td>
<td>40</td>
<td>20</td>
</tr>
<tr>
<td>Indian</td>
<td>45</td>
<td>19</td>
</tr>
<tr>
<td>Pakistani</td>
<td>50</td>
<td>26</td>
</tr>
</tbody>
</table>

* Until the 1994 BCS white respondents were not asked whether they thought the crimes they referred to had been racially motivated

The police response to racial incidents has long been recognised as a cause for concern and has been taken up, for example, by the government's inter-departmental Racial Attacks Group on which ACPO is represented. With the exception of our BCS analysis, however, little or no research attention has been given to the implications for Asians' views of the police and the possible repercussions of these. Yet already in the 1970s incidents in which Asians claimed to have been attacked had led to demonstrations in East London; and the early 1980s saw two celebrated cases - the 'Bradford 12' and the 'Newham Eight' - in which groups of young Asians (presumed from their area of residence to be of Pakistani origin) were prosecuted for various offences, including in the first instance making petrol bombs. In both cases, the defendants claimed to have been defending their communities from attack - by implication because they could not rely on the police to do so.

There has since been conflict between Asians and the police in demonstrations over the Rushdie affair; and - most recently and significantly - the riots in Bradford of June 1995 which involved young Asians (again of Pakistani origin) and were triggered by allegations of insensitive policing. One of the complaints expressed increasingly by young people in this area and elsewhere was that the police did not listen to their complaints but expected to continue to 'manage' them through
unrepresentative intermediaries (Webster 1995). The police themselves - as my discussions at Holly Royde and elsewhere have confirmed - have in recent years become increasingly concerned about the involvement in crime of young people from these groups and about gang rivalries between them. On the ground, there are signs of a corresponding shift in attitudes among police officers, with growing perceptions of groups of young Asians on the streets presumed (as an Inspector in my second London fieldwork area put it) to be 'up to no good'. And it was significant that one of the young people witnessed by Andy Zurawan alleging that the police were 'only picking on him because he was black' was, in fact, a young Asian.

Concerns about police-Asian relations may not attain the same political profile as those associated with black people earlier. This is in part because concerns about police-black relations already occupy that political ground; but the political circumstances are also different and the patterns of crime involved will (as this thesis suggests) necessarily be different in some respects. In part, though, lessons may have also been learned from the past and some of the amplification which may have affected the black groups may thus be avoided. Yet similar issues are beginning to come to the fore - and in the sort of time scale one might have expected, given the respective age profiles of the groups involved.

One possible indication of the shape of things to come emerged from the analysis I did with Chris Hale of police stops reported by BCS respondents in London and elsewhere (FitzGerald and Hale, forthcoming). This showed that in London, once multiple stops and access to vehicles were taken into account, the rate at which Bangladeshis were stopped in cars by the police was at least equal to the rate for black people. This corresponds with the unpublished data from the Met's Performance Information Bureau cited earlier which showed that the police Area with the largest Bangladeshi population recorded a rate of PACE stop/searches which was well above the London average in 1995. The more detailed breakdown in Table 6:3 shows that, while black people in the area had the highest rate of stop/searches of any ethnic group, the excess over both the London average and that for the local police Area was actually less for black people than it was for whites.

\[36\] In a closed meeting I attended, a police commander in an area which had a major problem of serious fighting between different Asian gangs spoke openly about the strategy he adopted with the local media to avoid the issue reaching the national press.
For Asians, though, (at least 80 per cent of whom, on my reckoning were Bangladeshis37) the figure is fully four times the rate for London generally.

Table 6:3
Recorded PACE Stop/Searches by ethnic group in one London division 1995

<table>
<thead>
<tr>
<th></th>
<th>% of total population</th>
<th>% of stop/searches</th>
<th>stops per 1000 ethnic group</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Met</td>
<td>81</td>
<td>61</td>
<td>33</td>
</tr>
<tr>
<td>Area</td>
<td>79</td>
<td>59</td>
<td>35</td>
</tr>
<tr>
<td>Division</td>
<td>57</td>
<td>37</td>
<td>80</td>
</tr>
<tr>
<td>Black</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Met</td>
<td>7</td>
<td>26</td>
<td>151</td>
</tr>
<tr>
<td>Area</td>
<td>8</td>
<td>23</td>
<td>136</td>
</tr>
<tr>
<td>Division</td>
<td>5</td>
<td>12</td>
<td>276</td>
</tr>
<tr>
<td>Asian</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Met</td>
<td>7</td>
<td>8</td>
<td>45</td>
</tr>
<tr>
<td>Area</td>
<td>10</td>
<td>14</td>
<td>68</td>
</tr>
<tr>
<td>Division</td>
<td>35</td>
<td>51</td>
<td>180</td>
</tr>
</tbody>
</table>

Source: Metropolitan Police Performance Information Bureau (unpublished data)

3 DISCRIMINATION

Discussion of discrimination is usually subdivided into direct and indirect discrimination, which are defined as follows in the Home Office’s original guide to the Race Relations Act 1976:

Direct discrimination arises where a person treats another person less favourably on racial grounds than he treats, or would treat someone else.

37 The figure is arrived at using an undated ethnic breakdown at divisional level based on the 1991 Census produced by the Met’s Performance Information Bureau. I have included ‘Other Asians’ in my base figure as well as the Indians and Pakistanis; and the Bangladeshi population is likely to have grown since 1991 relative to these other groups, so the 80 per cent figure is conservative. It is possible, though, that the figures may need revising in view of changes to the divisional boundaries since their publication.
Indirect discrimination consists of treatment which may be described as equal in a formal sense as between different racial groups but discriminatory in its effect on one particular racial group.

Indirect discrimination is a fairly complex concept which many institutions initially had difficulty in grasping (see Lustgarten 1980, Young and Connelly 1981). Broadly speaking, it applies where some condition is attached to a service which

- would be applied equally to all groups but

- where the proportion of persons in a particular 'racial' group (in the terms of the Act) who can comply with it is considerably smaller than the proportion of persons not of that group who can comply with it and

- this is to the detriment of the victim and

- it cannot be shown by the discriminator to be justifiable irrespective of the colour, race, nationality or ethnic or national origins of the person to whom it is applied.

All four of these criteria must apply for an action or practice to constitute indirect discrimination but the fourth, clearly is critical for most purposes since it implies that apparently discriminatory outcomes in the delivery of services may not constitute indirect discrimination where they are 'justified' by non-racial considerations. Thus, for example, foreign nationals may be excluded from certain public service posts on grounds of national security; or, more mundanely, in Britain it would be illegal to suspend a requirement for applicants to have relevant qualifications in order to enter a profession simply because members of a particular minority were disproportionately not so professionally qualified.

The research did not yield any first-hand evidence of direct discrimination; nor would one have expected it to do so. However, legal actions successfully brought against the police continue to confirm that it can and does occur. Whether or not some of our more general findings constitute
indirect discrimination is a fine legal point on which I would be reluctant to pronounce. Far more important are the insights yielded into how such discrimination can occur and these can only fully be appreciated in the light of the conclusions drawn above about the role of socio-economic and cultural factors.

Discussion of the Hood report (op. cit. 92) has tended to focus on the amount of direct discrimination in sentencing he uncovered once other factors were taken into account (and, indeed, whether statistically this provided significant proof that discrimination was taking place at all). This is reminiscent of what Jefferson graphically describes as

"... the currently dominant approach to investigating ethnicity and criminalization centred on attempting to uncover by ever more sophisticated techniques the purely "racial" dimension [which] is a bit like sieving flour with ever finer meshes; eventually there is too little getting through to enable anything to be made... or .. to construct a very meaningful account"

(Jefferson 1993)

This type of approach risks missing the real point of Hood in respect of direct discrimination and which is central to the discussion here. That is, inasmuch as direct discrimination does occur, it does not occur across the board. For the most part the criminal justice system (in the context of Hood, the Crown Court and, in the context of this thesis, the police) treats the individuals it deals with equitably. The majority of police officers who are genuinely - or who genuinely believe themselves to be - behaving professionally may strongly resent any accusation that this is not the case. This was manifest throughout the research, especially in their repeated, aggrieved references to the taunt 'You're only picking on me because I'm black'. Importantly, it seems to be strongly associated with the deep undertow of resistance the research found to the introduction of ethnic monitoring and which is described in Chapter Three as the 'stick to beat us with' syndrome.

Hood's model - backed by the observations of this research - suggest that direct discrimination

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38 Thus Hood (op. cit 1992) raised the possibility that the practice of discounting sentences where the offender pleads guilty might constitute indirect discrimination because of the disproportionate number of black offenders who pleaded not guilty. Though logical, the idea was fanciful and its practical implications, perhaps, unthinkable. Anecdotally, this offered a hostage to fortune by distracting attention from his core conclusions about discrimination in sentencing.
will be perpetrated only by a minority of officers (and probably only a very small minority at that).
For few officers will jeopardise their careers by consciously abusing their powers to satisfy their personal prejudices unless they are operating in an environment where management systems are so inadequate and/or the prevailing culture is such that it is possible to indulge in serious forms of unprofessional behaviour with impunity. Hopefully such situations are rare but, where they obtain, acts of direct racial discrimination would need to be tackled as a symptom of wider problems if they are not to recur, possibly in a different guise. Hence the cynic I quote in Chapter Four was in effect making the point that targeting the wrong people for insufficient reason would not be in an officer's own interests: by implication, if this regularly resulted in no further action or subsequent acquittal s/he would, at the very least, begin to appear inefficient and unproductive relative to their peers.

The research most obviously raises the possibility of indirect discrimination in the context of the effect of area differences in criminal justice practices which imply that ethnic minorities may experience a different quality of 'justice by geography' than whites (although there are likely to be variation between different ethnic groups within this). However, as yet, it remains unclear to what extent the uneven distribution of the different minorities concides with variations in policing policies and practices in ways which act to their detriment. The most obvious example is the impact on black people of the extraordinarily high use by the Metropolitan police (and the City of London) of their PACE stop/search powers. Strictly speaking, however, this might only be interpreted as indirect discrimination if the extent to which the power is used by these forces can be shown to be unjustified, irrespective of its disproportionately adverse impact on a particular group. Moreover, this research suggests that the apparently differential use of the power between London and provincial forces may partly due to different recording practices (see Footnote 15). Perhaps all that can usefully be said on this point is covered by Elizabeth Burney's famous phrase about ethnic minorities as 'the barium meal in the system' (Burney 67). That is, inasmuch as the uneven distribution of these groups may result in very unequal criminal justice outcomes relative to each other and to the population at large, it raises questions about the operation of the criminal justice system as a whole and thereby adds urgency to the wider concerns about inconsistency being raised, among others, by ACPO and HMIC (see Chapter Three).
At the level of the individual, though, the research has highlighted a diverse range of factors which influence key decisions made by the police. These may stack up disproportionately against particular groups in ways which have not adequately been appreciated but it may not always be possible to characterise these as discriminatory. Some are relatively clear-cut: as my report to the Royal Commission pointed out, where unemployment is a criterion in the criminal justice process (for example in remanding suspects in custody or imposing a custodial sentence rather than a fine) this may impact adversely on groups who are disproportionately unemployed (FitzGerald op.cit. p.37). On the other hand, such criteria tend to apply at later stages of the system, after the police have netted the suspects the system deals with.

It is this netting process which is of central concern; for the ethnic make-up of the 'catch' which the police delivers to the criminal justice system largely determines the composition of the human material which flows through that system from that point onwards. The research has acknowledged that socio-economic and demographic factors play a paramount role in determining this and that these are related to and compounded by cultural factors. One of the main consequences of these is the higher than average level of black involvement in the crimes which come to the attention of the police in the first place. Yet the police, in turn - both in response to reported crime and in pro-active mode - further amplify this pattern in three main ways.

The first set of factors which produce amplification concerns police notions of 'suspiciousness'. These strongly influence the process of stop and search and, by extension, may critically affect who is netted at the arrest stage also. The history described in Chapter One, the views of officers recorded in Chapters Four and Five and the discussion in the previous section (on 'cultural' factors) all provide insights into the development over decades of heightened levels of police

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Reiner critically reviews the part played in clear-ups by Matza's two modes of police investigation (Matza 1969) thus:

'The second method is that of stereotyping and suspicion. People are apprehended because they fit the investigator's preconceived notion of particular kinds of offender. These methods undoubtedly play a part in crime work, but are mainly limited to specific types of offence. The more minor and vague "public order" offences, (and especially such amorphous categories as the notorious "sus" law) which form a high proportion of patrol arrests, are heavily dependent on "suspicion". But the majority of the more serious 'notifiable'... offences are not cleared up by any of these modes of detection.'

(op.cit p.151)
suspiciousness with regard to black people (see also Smith and Gray 1983).

The second set of factors concerns the application of informal criteria in decision making and the role of custom and practice. Chapter Five has already referred to some of the reasons given by custody officers in Brown's study (Brown, forthcoming) for cautioning suspects. The full list can broadly be divided in two, as shown in Figure 6:1: matters of hard fact; and items open to varying degrees of subjective interpretation. Nearly as many fall into the second category as the first; and interpretation of two in particular (the question of 'remorse' and the issue of 'community support arrangements') might adversely impact on black suspects. In addition to these, one officer made the point to me that juveniles could only be cautioned in the presence of a parent and that, in the case of black young people, it was often more difficult to track one down, leaving the police no alternative but to charge them. This sounded plausible and was clearly volunteered in good faith as a factor which disproportionately disadvantaged black young people and helped to explain their lower rate of cautioning. Yet, on checking, it would appear that this is not a hard and fast prerequisite but rather a matter of custom and practice.

![Figure 6:1](image)

Reasons given by custody officers for cautioning suspects

<table>
<thead>
<tr>
<th>Reasons based on hard fact</th>
<th>Reasons based on officers' interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Victim consents to caution</td>
<td>7. Triviality of the offence</td>
</tr>
<tr>
<td>2. No recent previous convictions</td>
<td>8. Token court penalty likely</td>
</tr>
<tr>
<td>3. Offender admits the offence</td>
<td>9. Little or no harm/loss to victim</td>
</tr>
<tr>
<td>4. Offender/parents consent to caution</td>
<td>10. Offender shows remorse</td>
</tr>
<tr>
<td>5. Offender is a juvenile</td>
<td>11. Community support arrangements</td>
</tr>
<tr>
<td>6. Force policy</td>
<td></td>
</tr>
</tbody>
</table>

Taken from Brown (op. cit. forthcoming)

The potential effect of these types of criteria can be illustrated by reference to the cautioning data from the Met analysed in Chapter Five and, in particular, the results shown in Table 5:8. What is remarkable here is that rates of cautioning for black and white male juveniles with no previous cautions or findings of guilt who have admitted the offence actually equalise for two of the three
main offence categories. Yet they remain significantly lower for robbery. That is, the Met sample is selected on the basis of reasons 2, 3 and 5 in Brown's list and force policy is clearly not an impediment; so only two of the more objective criteria on the list will have come into play and the main factors which determined these outcomes will probably have been the five factors based on the more subjective interpretation of custody officers.

Even with a data set of this size, absolute numbers become relatively small at this level of disaggregation. If the black sample had been cautioned for robbery at the same rate as their white peers the actual number additionally cautioned would have been eight; and if it were possible actually to identify which eight these would have been, any of the seven relevant criteria from those listed at Figure 6:1 might plausibly appear to explain the police's choice not to caution in each individual case. The effect of these largely subjectively-based decisions, though, appears to be that, at a point which may critically shape their future paths, about 20 per cent fewer black boys may be cautioned relative to whites for an offence in which, as a group, they are disproportionately involved (and where they may already have compounded their own disadvantage because of their much lower rates of admission). If the same effect were to occur over years and in other areas, its cumulative impact on the respective criminal careers of these groups over time could be very significant.

The third set of factors which may add to the process of amplification is strongly related to the other two since it concerns the exercise of police discretion. Individual police officers not only have the opportunity to exercise a considerable degree of personal discretion, doing so is actually a professional requirement. For they often need to make fine (and sometimes urgent) decisions in cases which may not be at all clear-cut and/or where several different courses of action are available to them. Thus a custody officer in one fieldwork area mused to the arresting officers who had brought in a (black) juvenile accused of assaulting his mother: 'So, charge or caution or what?' He typed 'obtain evidence' onto the custody record, commenting 'That way we don't burn our bridges, do we?' The juvenile was dealt with informally and, after considerable effort by the police to negotiate suitable arrangements, taken to an uncle's.

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40 It should be remembered here that other evidence in this thesis points to a black over-representation in robbery which is not confined to London and which has persisted over time.
It is unclear to what extent this discretion is exercised, quite legitimately, in the direction of lenience or whether its overall impact tends to be punitive\textsuperscript{41}. The anecdote above, though, chimes with the general impression from observations from the fieldwork and squares, in turn, with some of the main problems identified with the recording of stop and search. That is, where officers had (or could create for themselves) the option of dealing with matters informally they would most often take it. Reasons for this are varied, but three in particular are worth citing. One is avoidance of the additional work which further action would require, especially where officers expected little end result - as is reflected in the first two criteria listed at Figure 6:1 - and in the failure to record stop/searches where there was no arrest. The second is a preference for keeping interactions with members of the public low-key, often driven by a perceived need to avoid inflaming situations or actively to defuse them. This is illustrated by the treatment of stop/searches as 'voluntary' whenever possible; and it may often come into play when dealing with people who are dangerously agitated or in handling disputes between members of the public. The third - of which we witnessed several examples and which is strongly reflected in the criterion of 'remorse' in Figure 6:1 - is a genuine concern to spare those who cause them no trouble (and for whom they may actually feel some empathy) from any formal action which might unnecessarily be deleterious.

Inasmuch as this discretion is exercised in the direction of lenience, it seems possible that this does not happen as frequently in the case of black suspects as whites. The most obvious example from this research comes in the greater likelihood that stop/searches of black people will be formally recorded. In the course of the research, my colleagues and I were repeatedly given two reasons for this and both are worth unpacking in the light of the discussion so far in this chapter. For, if they apply also to police decisions which more directly determine who is fed through to the next stages of the criminal justice system, their implications for the presence of black people in the system as a whole may be profound.

The first reason we were given for recording searches of black people was to 'cover one's back'. This reflects the heightened sensitivities of the police in dealing with black people which were a

\textsuperscript{41} The hypothesis, that the system generally may tend towards lenience is borne out at later stages in the criminal justice process. Moxon's study of sentencing in the Crown Court (Moxon 1988) identifies 192 factors which tended to 'mitigate' the likelihood of sentencing at the more punitive end of the spectrum of judges' discretion whereas only eight were identified as 'aggravating'.

194
The recurrent theme of the previous section of this chapter. They run deep and go back a long way; and the specific fear which underlies them is that an encounter with a black person is much more likely to have repercussions than a similar encounter with a white.

The second reason— which is often used to justify the first—is that such encounters are more likely to be confrontational. The police perceive black people as behaving more aggressively towards them and/or (as the first reason already implies) they anticipate this aggression. Ironically, there is a parallel perception of the police on the part of black people: my analysis with Chris Hale of police stops in London (op.cit.) shows that black people are less likely than whites to say the police behaved politely towards them on these occasions; they were markedly less likely to say the police treated them fairly; and they came away from these encounters significantly less satisfied overall. Moreover, when all else was taken into account, black people who had perceived the police to be impolite were actually more dissatisfied than similar whites who shared their perceptions of police discourtesy. This suggests that an element of mutual tension and hostility (whether explicit or not) is present in a larger proportion of police searches of black people; and confrontation, therefore, may be a self-fulfilling prophecy.

This is not to say that most black-police encounters are confrontational. Thus Norris et al., in an observational study of police stops of 158 white and 42 black people, found no ethnic differences in the demeanour either of the members of the public or the police officers involved (Norris et al 1992). I personally witnessed one stop where the initial demeanour of the officers could have been interpreted as aggressive but which appeared to de-escalate, probably as the combined result of my presence and the fact that the black young people involved did not respond in kind. Set against this were two cases in different areas involving black juveniles. Both showed officers at their best, displaying resourcefulness, tact, patience and a good deal of genuine kindness—even though I had observed at least one of them engaging with colleagues on several occasions in

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Thus Reiner cites Lee's claim that young people from ethnic minorities are likely to become 'police property' (Lee 1981) and adds

"...once conflicts become common a vicious cycle develops whereby police officers and their "property" approach encounters warily with pre-existing hostility and suspiciousness, and interact in ways which only exacerbate the tension."

(op.cit. p.170)
racist banter so routine that it was almost compulsive. It is easy to forget that, although the proportion of black people who are dissatisfied with the police is consistently greater than it is for whites, only a minority are dissatisfied in either group. This is apparent in BCS respondents' rating of the job done by the police in their area (see Table 6:2); and in my further work with Chris Hale referred to above 64 per cent of black men stopped in cars in London in 1993 were actually very or fairly satisfied with the way the police handled the incident, although the figure was higher for whites (at 78 per cent).

This does not, however, undermine the argument being made here which is that, for a mixture of reasons, the police may be more inclined to formalise their encounters with black people. They may simply set limits on the discretion they would normally apply in equivalent situations with white people, feeling that they are better safeguarded if they 'play it by the book'. Alternatively, they may deny the full benefit of that discretion to black people who, in their view, forfeit it by their perceived behaviour - irrespective of whether this perception is correct (or whether the behaviour is triggered by the perceived behaviour of the police). Whatever the reason, it means that black people will not equally benefit with whites from the exercise of police discretion. There is no reason to assume that this pattern is confined to stop/search situations; and if it takes place also at later and more critical decision-making points in the criminal justice process shown in Figure 2:1, this may have significant repercussions on the individuals involved. This is especially the case since it is likely to develop a cumulative momentum from one point to the next (see Chapter Two). Despite this, if a higher proportion of cases involving black people are played strictly 'by the book', this would not necessarily raise any question of discrimination as such.

This analysis suggests we may need to extend Reiner's scepticism about the quest for the 'wil o' the wisp of "pure" racism' (Reiner 1992) to indirect discrimination also. Both types of discrimination undoubtedly occur, as this part of the discussion made clear at the outset; but neither will adequately 'explain' any over-representation of black people in the criminal justice system relative to their actual (albeit still unknown) involvement in crime. At the actual point of

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43 Of greater concern, though is the figure for black men outside London where the figure drops to only just over half. Numbers are relatively small, with a total sample of 243 black men in London and 166 elsewhere, only about a third of whom had been stopped; but we found a consistently more negative pattern outside the capital.
entry to the system, the role of the police in this is more constrained than is often acknowledged
inasmuch as it is largely reactive. Also, the options available to the police in respect of their
'catch' is constrained by a wide variety of factors including: the type of offence involved; the
strength of the evidence (and cost-benefits of the effort of searching for it); codes of practice,
guidelines and force priorities; and not only the circumstances of suspects but the decisions they
may make on their own behalf. However, the conclusion of this research must be as follows.

Inasmuch as the police have any control over who they net in the first place and which of their
catch they retain to feed further into the system, it seems that two factors may come into play
which will amplify both the rate at which black people are netted in the first place relative to
whites and the rate at which they are fed further into the system. These are: heightened
perceptions of black 'suspiciousness'; and a failure by the police to exercise discretion towards
black suspects with the same degree of lenience as they would show towards whites. The reasons
for both are deeply rooted in the history of black-police relations described in the section on
'cultural' factors. As yet, no equivalent has been documented in police relations with Asian groups,
although some evidence is accumulating of a similar process beginning to occur in certain
localities.

4. CONCLUSIONS

The discussion so far confirms that all three of the 'explanations' for the over-representation of
black people in criminal justice statistics listed at the beginning of this chapter are at work. The
first two, however, (the structural and the cultural) are primordial and are closely inter-related.
The role of the third factor (discrimination) is secondary and is only significant if the concept is
extended well beyond the terms in which it is usually defined.

Each of these factors, though, makes it more likely that (by comparison with white averages)
black people will: be more involved in crime; come more readily to the attention of the police; and
of become more deeply enmeshed in the criminal justice process once the police have netted them.
Moreover, these factors have been at work now for nearly half a century, interacting with each
other in an apparently endless cycle in which the results of one phase of amplification fuels the next.
Only a minority within the Asian group broadly occupy the same structural niche as the black
groups (albeit a minority which is growing fast). However, they came to occupy that niche about
20 years later; so the social, economic and political circumstances in which they embarked on the
same cycle of relationship formation and development, were inevitably different. There have also
been important differences of detail in the social circumstances and geographic distribution of the
Pakistanis and Bangladeshis and of the black (Caribbean origin) group. At least equally as
important, society at large and its institutions have held different perceptions and expectations of
different minority ethnic groups, including different expectations of their involvement in crime.
The evidence so far suggests that for all of these reasons, levels of criminal involvement among
the Pakistanis and Bangladeshis have not been amplified by the factors which have contributed
significantly to the now well-established picture for the black groups. If anything, a number of
factors may have mitigated the likelihood of this happening. It is possible, therefore, that history
will not repeat itself in the case of the Pakistanis and Bangladeshis; but, inasmuch as it does, one
would not expect it to take exactly the same form.

That is, the root causes of over-representation lie in a structural framework set by a particular
set of social, economic and political circumstances which have changed over time and which may
continue to do so. Within this framework, the relationships between society at large and its
institutions on the one hand and ethnic minorities on the other have been shaped by a mixture of
direct and indirect experience and observation at the individual and (more importantly) the group
level. They may be fuelled by prejudice but this derives, at least in part, from the received wisdom
and folk memories engendered by these experiences and observations. Inasmuch as there is a
problem to be addressed, then, it lies primarily in a set of long-established relationships based on
mutual perceptions which reflect the ‘cultures’ of the different parties.

The challenge for policy makers and practitioners alike, therefore, is not so much to reverse the
pattern for black people - for it is now unlikely that this will change significantly in the foreseeable
future. Rather, it is to halt the spiral of amplification in respect of black people and, if it is not
already too late, to avoid getting into the same cycle with Pakistani and Bangladeshi youth in
particular.
Within this, the specific and immediate challenge with regard to the police is for policy makers and practitioners (both within the police and outside) is to re-think the concept of discrimination.

Only a minority of officers will be responsible for direct racial discrimination. Those who are will probably be behaving unprofessionally in other ways also; and they need to be identified and dealt with effectively - not only for the sake of the public but for the sake of their colleagues also. For there is a deep resentment among the majority of officers at assumptions that they too are ‘racist’ in the sense that they actually or potentially abuse their powers in pursuit of their prejudices. This resentment, in turn, reinforces unconscious prejudice and subtly but powerfully undermines anti-discrimination and equal opportunities initiatives.

The over-representation of black people in police statistics, for the most part, cannot now be attributed to discrimination against black people in the strict sense of the term. Rather, the figures may inflate the proportion of black people relative to their actual levels of involvement in crime not because they abuse their powers in relation to black people but mainly because they choose to invoke them.

The issue of police discretion in deciding whether or not to enforce their powers to the full (and the choices they make as between the different powers available) is central to informed debate about policing generally. Thus Lustgarten:

"The discretion not to enforce the law - which in terms of the working constable means not to arrest someone who has in a strict sense broken the law - may also arise from the substantive breadth and vagueness of the law itself...... (N)otions of breach of the peace, threatening behaviour, obstruction and the like are so wide that virtually any action can justify an arrest. The result is that the police invariably under-enforce the law. This is normally regarded as simple common sense, essential to avoid dragging the law into disrepute, yet the result is to turn conventional thinking about policing on its head. The equation of policing with enforcement of the Law... becomes untenable. For most less serious offences under-enforcement is the norm; precisely for that reason, enforcement can be a serious abuse of power. The "common sense" which tempers full enforcement may readily become a cloak for conscious or unconscious discrimination on the basis of political opinion, personal appearance, demeanour, social status or race. Under-enforcement becomes selective enforcement."

(op.cit 1986 p. 15)
Yet these considerations hardly seem to have entered the ‘race’ and crime debate at the academic level and still less at the level of policy and practice. To accommodate them would, indeed, require turning ‘conventional thinking.. on its head’. Certainly it will mean asking different questions of the statistics we have already and those which we are about to receive.

POST SCRIPT: THE ROLE OF ETHNIC MONITORING

Set against this background, the introduction of ethnic monitoring by the police may seem an irrelevance at best. At worst, it could be a danger: it has raised expectations which it will almost certainly fail to meet and it could actually rebound, further amplifying precisely the problem it is intended to address. For Reiner may to some extent understatementhe case when he observes that ‘The degree of police discrimination is less than would be implied by a superficial reading of the social distribution of stops, arrests and other exercises of police power’ (op.cit. p.162); but the inference he draws from this is telling in its implications for the role of ethnic monitoring:

'To recognise that the police statistics have some basis in a reality of black crime is important because it underlines the point that more needs to change than just setting straight mistaken police stereotypes or prejudices.'

(emphasis added)

(op.cit. p.165)

The thesis concludes by looking briefly at:

- the mismatch between the problem, as understood here, and the expectations currently riding on ethnic monitoring;
- the limitations of the system which has recently been introduced and the dangers which may arise if those limitations are not sufficiently appreciated; and
- the potential contribution ethnic monitoring might nonetheless make.

Unrealistic expectations

There is an explicit expectation that ethnic monitoring will uncover discrimination (see Chapter Three) and this in turn seems to rest on an implicit assumption that discrimination is a significant
factor in explaining the over-representation of black people in criminal justice statistics. Yet this is not supported by the evidence in this thesis. The role of the police over a very long period of time has undoubtedly been catalytic in the complex interplay of different factors which have produced the current level of 'over-representation'. Short of being able to rewrite history, however, the picture is now unlikely significantly to change; and, while, the police continue to have a significant influence on this cycle of amplification, they are by no means the only or the most important influence on it. Moreover their influence for the most part now takes the form of the legitimate exercise of their powers, albeit in a way which reflects negative expectations and attitudes. Whatever the origins of these negative expectations and attitudes, they have been constantly reinforced over decades in the development of the police's relationship with black people. That is, changing these attitudes and expectations would depend to a large extent on being able to break the vicious circle of that relationship; and this will necessarily be a two-way process.

Limitations and dangers

It is by no means certain how long it may take for the new system of police ethnic monitoring to generate statistics which are reliable. Inevitably there are teething problems; and some forces have experienced genuine difficulties related to wider problems such as the introduction of computerisation, changes to existing systems, problems of staff turnover and resources. These may be compounded by misunderstandings about what is required of them (whether wilful or otherwise) on the part of the many individual officers who are responsible for making each initial, individual record. Awareness at this level may, in turn, reflect the priority given at more senior levels to introducing the system as quickly and as efficiently as possible and which vary considerably between forces (although there is no strong correlation with the size of their minority populations). Beyond these immediate difficulties, though, lies the fact that the monitoring data represent an ethnic breakdown of statistical series which are often themselves of dubious reliability and which it is often quite unsafe to compare from one force to another.

Although there were good practical reasons for limiting the number of ethnic categories used as the basis for the system, the groups they capture are very broad. The 'Asian' group in particular spans three very disparate groups; but their relative sizes means that emerging problems with the
Pakistanis and Bangladeshis may effectively remain hidden. Similarly any effects of the changing composition of the 'black' group will be missed. In addition, one of the many reasons why comparisons between areas may be unsafe is that the internal composition of the 'black' and 'Asian' groups may vary quite markedly from one force to another; and in some areas the 'Other' group may actually be as large as either of the two main minorities.

It was also sensible to restrict monitoring in the first instance to a limited number of police actions. Yet the data which these produce will be difficult to interpret for four main sets of reasons. The first is the absence of data at other key decision-making points; the second is the limited information available within the data which have been asked for; the third is the absence of other information which may be essential to understanding the ethnic patterns shown by the data; and the fourth is a set of technical difficulties which might arise irrespective of whether or not the additional information were available.

With regard to the three main areas of activity being monitored initially, the problems with the stop/search figures have been well rehearsed and, even if improvements are made, these may never be fully reliable. The arrest and cautions data, though, should in principle be more reliable than the PACE data and are, in any case, more crucially relevant to concerns about who is being netted by the police and the proportions in which they are being fed through into the criminal justice process rather than being filtered out at an early stage. These arrest and cautions data, however, (and the relation of one to the other) can only really be understood in the light of further information on other dispositions. That is, to make sense of them, we need to know what proportion of those initially arrested in each ethnic group are cautioned relative a) to the proportion charged and b) to the proportion who have no further action taken against them. Beyond this, of course, it would also be important to know the proportions of those charged who were actually prosecuted - and what proportion of those prosecutions were successful. Without this additional information it is almost impossible to frame any sensible questions about whether the rates of arrest and caution for different ethnic groups are equitable, still less to answer them.

The most obvious problem of interpretation which arises within those data which are being collected is the absence of information on whether or not suspects admit the offence for which
they have been arrested since this is crucial to an understanding of the cautioning rates. It would also be important to know the types of offence for which different groups are arrested per se; and, in the case of arrests arising from stop/searches, it should be possible to compare this with the grounds on which they were searched.

Sensibly to interpret the ethnic patterns shown by the data, though, will additionally require a large amount of contextual information. The most obvious is population data since the main preoccupation is with trying to establish whether different groups are 'represented' in the statistics in more or less their proportions in the population at large. However, this research casts doubt on the value of these comparisons which, to date, have been the main focus of the monitoring exercise. The case is well established that the 'Black' group is 'over-represented' in relation to its presence in the national population and this pattern is probably set to continue. Further, the implications of the research are that these comparisons are unhelpful and potentially misleading for the following reasons:

a) Census data already undercounted some of the groups of greatest interest. The figures are now out of date anyway and the numbers in precisely the age/ethnic groups of greatest interest may also have grown significantly since then.

b) There are very significant variations in patterns of crime and police practices not only between forces but within them also; and the distribution of the minority population is very uneven. Ethnicity data, therefore, can only safely be analysed on a highly localised basis. Force-wide figures are likely to be effectively meaningless and in most instances the appropriate unit of analysis may be well below the level of the police BCU (Basic Command Unit). Yet at this level it is likely that many of the individuals captured in the statistics will not be local residents, so comparisons with population data may be irrelevant anyway.  

c) Even if there were no problem with a) and b), to interpret any mismatch between the

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44 In one London division I was reliably informed that 40 per cent of all street crime take place in the one mile covered by the market which is visited by people from all over London (and beyond) and is directly served by several major bus routes and a tube and rail station.
proportions in the monitoring data and those from the population statistics, it would be essential to make allowance for a number of factors which would predict differential involvement in crime by different groups and any differential likelihood of their coming to the attention of the police. These allowances would themselves be based on assumptions which may not be accurate; and the factors which would need to be taken into account are not only the age and socio-economic characteristics of the groups concerned but other types of factors which may make them more or less 'available' to come to the attention of the police. One example is school exclusions; but there are lifestyle factors as well such as preferred forms of leisure activity, along with questions about the location of these, their frequency, modes of travel (which raise the further question of differential access to private transport) and the related implications for the presence of different groups in public places at different times of day and night. Much of the relevant socio-economic information may be available. Others of these items, though, may be at least as important and few will be documented at all, still less in quantitative form. Beyond these considerations, though, lies the need to recognise the implications of abandoning the unrealistic expectation of 'democratic suspicion' (see Chapter Four); for an alternative approach based on realistic assumptions about those sections of the population who are most likely to be the (legitimate) objects of police suspicion would necessarily open a Pandora's Box (or can of worms) because it would require information about police targeting.

Finally, two main types of technical difficulties would come into play even if all of the previous problems were surmountable. The first is quite simply that in most forces the actual numbers of ethnic minorities captured by the statistics will be too few for it to be worth undertaking the breakdowns which would give the crude totals any meaning (that is, as a minimum, breakdowns by sub-area, by age and by type of offence). And the second is that, even where numbers are large - as the analysis of juvenile cautioning in the Met has shown - the necessary application of Jefferson's 'ever finer meshes' will only let any meaning through if quite sophisticated multivariate techniques are used which may be beyond the capacity of many forces.

These limitations will need clearly to be understood by those who compile the data and those who
then use it - whether for management, policy or more political purposes. If they are not, there is an obvious danger that the crude picture which emerges will simply reinforce prevailing assumptions on the one hand about 'black criminality' (as contrasted with the assumed 'non-criminality' of the Asian group) and, on the other, about discrimination. If it serves to reinforce assumptions about black criminality, the exercise would have resulted in an own goal. If it simply reinforces crude assumptions about police discrimination, it would at best have been a missed opportunity. At worst, if this fuels the strong undertow of resentment and suspicion towards monitoring among many of the officers on whom the system of monitoring depends, this could be tantamount to an own goal as well.

The potential

The high expectations raised both nationally and locally make it inevitable that the first year's data will be the object of intense scrutiny in which the main preoccupation will still be with questions of 'over-representation'. This is particularly unfortunate since, as the previous section has shown, the data will probably be less than reliable; and it will, in any case, always be difficult to contextualise them in ways which can make sense of this apparent 'over-representation'. Instead, I would argue that we need to abandon any idea that we are looking for equity in the figures, not least since this may, in any case, rebound by simply providing an incentive to fudge them, thus burying deeper any areas of concern which they might have uncovered. There are, however, two important ways in which ethnic monitoring might yet contribute to the goal of halting the spiral of amplification described here.

The statistics are more likely to be meaningful (and of practical value) if instead of taking population data as the frame of comparison, the context used is the criminal justice system itself. As yet - given the limited number of police activities being covered and the absence of information on decisions by the CPS and the courts - there is relatively little scope for this, particularly at national level. However, data on decisions at different points in the system will come into their own when they can be seen in relation to each other. Especially where forces have computerised

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45 It can only be assumed that this was the naïve expectation behind HMI's introduction of the Performance Indicator for PACE.
custody records, many are already capable of realising this potential. That is, they can check for themselves on the rate of attrition from arrest to charge and prosecution. Indeed, if they were so minded, they could follow up cases beyond that without waiting for the CPS and the courts to begin monitoring; for the police eventually receive information on all case outcomes, for they are responsible for passing on to the Police National Computer. Such comparisons would tell forces far more about whether they are netting people equitably in relation to their *actual* involvement in crime than any amount of manipulation of local population data based on assumptions about *likely* involvement in crime. It might also be of more help in identifying the decision-making points at which outcomes for different groups appeared to be more inequitable than others and, as necessary, how those decisions were arrived at and by whom.

The importance of the statistics in relation to themselves rather than in relation to assumptions about the outside world lies also in their value as time series data. Clearly this potential will not be realised immediately. Comparisons from one year to another will only be safe once the data are known to be stable (i.e. collected on the same basis and with the same degree of reliability) and again only where numbers are large enough to draw inferences about trends. Moreover, these inferences will themselves need to be drawn with care since they will be open to either of two interpretations (or a mixture of each). For they may reflect developments in the world outside; but they may also reflect developments in police practice, including the impact of any conscious efforts to ensure equity of treatment. If they can serve as a barometer in this way, though, their value could be considerable.

There is a second way in which the monitoring exercise could help to halt the process of amplification, however, and one which is far more important than the statistical pictures it will generate. The conclusion reached by this thesis is that the police contribution to the process of amplification is driven mainly by the cumulative impact of bias in literally thousands of discretionary decisions made by individual officers in the course of their routine work. Many of these decisions will seem trivial (although their ultimate consequences as one leads to another may not be trivial for the suspects concerned); the bias involved may be entirely unconscious; most of the decisions will be entirely legitimate and, if challenged, the choice between the different options available to the officer in a specific case will (technically) be entirely justifiable. That is, the issue
is not to measure discrimination so much as this discretion. For, as Fielding points out:

'An effective response to institutionalized disadvantage relies on means to promote the fair exercise of discretion.'

(emphasis added)

(Fielding 1991 p.238)

In the light of this understanding, it becomes more than ever important to remember that the statistics themselves tell us nothing. It is the interpretation of the statistics which gives them meaning; yet, even if they are interpreted intelligently, they might still reveal no pattern of improper behaviour which would justify formal action. However, interpreting them is itself only one part of the overall process of monitoring; and it is this process rather than the statistics it produces which may ultimately have the greatest impact on the problem. Ideally, the process of collecting the data in the first place will already act as an unconscious check by those responsible for collecting them on the ways in which they themselves are exercising their powers. More systematic forms of feedback might further enable them to reflect on their patterns of behaviour; and knowing that line managers were aware of that pattern too and able to compare it with others' could be an important additional factor. Similarly, the process of feeding back patterns from the aggregated data at more senior levels could allow action to be taken (discreetly and, as necessary, without reference to the monitoring data) which, by increasing vigilance or by constraining opportunities for the exercise of bias, might prove effective in changing the patterns originally observed in the data.

That is, internally, the process itself might act as a powerful force for self-regulation even if the statistics did not definitively reveal a specific problem and even if no formal action was (or could be) taken on the basis of them. As important, in view of the Gordian knot of the relationship which lies at the core of the problem, is the process of sharing the data. There are enormous sensitivities here, of which their limited explanatory value is by no means the largest. However, as some forces have already begun to discover, the fact of showing a willingness to be open with the data in the first place and the opportunities which that has, in turn, provided for dialogue have

46 Were this to occur, the force's inability to 'explain' the apparent trend would seem a small price to pay - though the danger implicit in imagining spurious explanations for the changes when presenting them publicly!
of themselves contributed significantly to improving relationships with local groups who might have been expected to be most critical.

The three large and inter-related questions which hang over whether or not ethnic monitoring realises this potential, though, are: whether the potential is adequately appreciated; whether there is the will to realise it; and whether the necessary resources are allocated to it - especially in terms of the time and attention it receives from senior management and those in key operational positions. For, as Chapter Three has tried to draw out, there are two major obstacles to surmount. One has been referred to as the deep undertow of resentment and suspicion which, as yet, monitoring evokes. For, even at more senior levels where plausible lip service is paid and there is some genuine enthusiasm for the principle, deep-seated fears are apparent. No-one yet really knows what may crawl out if they seriously and systematically begin to turn over the stones; and the metaphor of stirring up a hornet’s nest which I used at the two national seminars (see Chapter Three) clearly resonated with many of the audience. Secondly, it is evident that for most forces the issues involved are not - and probably never will be - a subject of major concern, whether per se or in relation to other more pressing demands, including the new priorities being set for them. Even in the small number of forces where they have greater salience, they are still competing for resources and for space on the policy agenda with these demands and priorities. In these circumstances monitoring may only succeed if ways can be found of tying it into the wider concerns which currently exercise the police and of integrating them into new developments, one of which is the move towards increasingly ‘intelligence-led’ policing.

This thesis has identified police notions of black ‘suspiciousness’ as one of the key factors in the amplification of the problem of ‘race’ and crime. It has also highlighted the enhanced role which notions of ‘suspiciousness’ as such are likely to play in the context of ‘intelligence-led’ policing. Despite its limitations, the question of whether or not ethnic monitoring ‘takes’, therefore - and the challenge of integrating it into wider developments - may be more urgent than has been appreciated. For, in the context of the relentless drive to improve ‘intelligence-led’ policing the spiral of amplification could ratchet significantly upwards again in the near future.

Marian FitzGerald
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HMSO = Her Majesty's Stationery office

HORS = Home Office Research Study

RPUP = Research and Planning Unit Paper