



## In response to the Home Affairs Select Committee's report – *The Macpherson Report: Twenty-two years on*

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### Introduction

The Home Affairs select committee, led by Labour MP Yvette Cooper has recently published a report on its inquiry into the impact of the 1999 Macpherson report relating to the Metropolitan Police's handling of the investigation into the murder of Stephen Lawrence in 1993. It was led by the late former judge, Sir William Macpherson.

While acknowledging some progress, it strikes a downbeat and pessimistic tone, finding 'deep rooted and unjustified racial disparities, including a confidence gap for BME communities, lack of progress on BME recruitment, problems in misconduct proceedings and unjustified racial disparities in stop and search'.<sup>1</sup>

This response, presents a critique of the report, examining the foundations for its pessimism.

### Confidence in police

One of the key concerns of Macpherson was to build trust between ethnic minorities and the police. However, the select committee report concludes that there still persists a 'confidence gap' particularly among 'black communities'.

It presents data to show that confidence and trust in the police are lower among black people. While this is true overall, these figures should not be accepted without reservation. It is acknowledged as well as strongly underplayed in the report that this is largely found among black Caribbean people.

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<sup>1</sup> <https://committees.parliament.uk/publications/7012/documents/72927/default/>

Data from the *Ethnicity Facts and Figures* website show that in 2019/20, 64 per cent of black people expressed confidence in their local police, compared to 74 per cent of white British. However, among black Caribbean people, the share is 54 per cent compared to 69 per cent of black African.<sup>2</sup>

The confidence deficit can further be attributed to middle class and young black individuals, particularly students. For example, 69 per cent of black people in managerial or professional occupations, had confidence in the police, compared to 78 per cent of whites in the same class. Among those in routine and manual occupations (working class), there is scarcely any difference (75 per cent black, 74 per cent white).

Confidence among those young and black (aged 16-24) is put at 63 per cent, compared to 79 per cent of whites in the same age bracket. For older cohorts, there is very little to distinguish them. For example, 71 per cent of those black and aged 45-54 express confidence in the police compared to 74 per cent of same-aged whites. It should also be pointed out that for other minority groups, confidence is the same if not higher than that of whites, and highest among Bangladeshis at 81 per cent. Facts like these may be acknowledged by the select committee report, but their significance is not.

The select committee report views such data as a measure of confidence in the police that can be improved by the better behaviour of the police themselves. Social scientists distinguish between trust and *general trust*. I may trust someone, a group of individuals, or have trust in an institution. But general trust is more like my measure of faith in people as a whole. It is accordingly not necessarily influenced by my interaction with any specific individual.

The data referenced by the select committee are referring to general trust in the police, since most individuals will have little serious and sustained contact with them. Black African people are disproportionately stopped and searched but have nearly as high levels of confidence in their local police as whites. Also, why are working class black people just as confident as comparable white people? Are the police really only shaking down the black middle classes? Evidently, there is no causal link between these two measures.

While police should be polite and respectful as much as possible, it does not follow that their behaviour will improve this metric, nor that the local metrics that the select committee calls for will be responsive. This could lead to successful measures being deemed wrongly to have failed. Furthermore, such metrics *may* be susceptible to prompting by the press, social media, or politicians. The select committee reports drops in confidence in the police among black people in recent years. Given the predominance of the narratives of oppression associated with the Black Lives Matter movement, this may be a result of it. Alternatively, it could just be random sampling error; it is hard to say.

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<sup>2</sup> <https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/confidence-in-the-local-police/latest>

## Ethnic composition of the police

Macpherson called for police forces to 'be representative of the communities they serve'.

The select committee report presents a gloomy overview of the advance of ethnic minorities in the police force, and not entirely without reason. It is shown that while the share of ethnic minority individuals is growing incrementally, so too is their share of the country's population. Currently the police are 7 per cent non-white, set against a countrywide figure of 14 per cent at the last census.

Furthermore, the police are failing to meet their targets set out in response to Macpherson, and are blamed for 'failing to do enough to increase BME recruitment, retention and promotion for decades'.

However, there is one important oversight, namely data on aptitude tests.

In order to join the police force, you have to sit tests that assess candidates for their suitability for the role.<sup>3</sup>

Data obtained from the College of Policing show that the shares of ethnic minority people taking the tests *have been proportionate to their shares of the country's population*.

Between 2013 and 2016, 14 per cent of candidates were not white, in line with the population of England and Wales at 14 per cent. There are, however, disparate outcomes in taking the tests. Over the same period, the average score for white candidates in the numerical reasoning test was 13.5 compared to 11.2 for non-white candidates. Scores were lower for black candidates at 9.3 on average.<sup>4</sup>

What this means is while you have proportionate entry, you will have disproportionate numbers qualifying. If we assume everyone who scored above average in the numerical reasoning test is passed, then that would mean 14 per cent ethnic minority sitting the test, drops to an estimated 10 per cent passing. Incidentally, that is the share of minority new recruits in 2020, according to the select committee report.

The other implication is that whatever trust shortfall there is, it has not impeded the police's ability to present a proportionately diverse pool for testing. Nor does blaming the police seem entirely fair for not being sufficiently ethnically diverse to the select committee's liking.

The College of Policing has recently switched to online recruitment due to the pandemic. This has led to a change in the minority success rate from 55.8 per cent to 62.6 per cent. However, the white success rate under the new system is still higher at 73.6 per cent.

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<sup>3</sup> <https://www.assessmentcentrehq.com/search-assessment-centre/>

<sup>4</sup>

[https://www.whatdotheyknow.com/request/656184/response/1563203/attach/2/FOIA%202020%20037%20Decision%20Notice.pdf?cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/656184/response/1563203/attach/2/FOIA%202020%20037%20Decision%20Notice.pdf?cookie_passthrough=1)

Importantly, the College claims an ‘independent peer review by diversity experts concluded that, overall, the College has produced a valid and objective set of selection materials’.<sup>5</sup>

### Disparity in police disciplinary procedures

The select committee further found ethnic minority police officers were more likely to be subject to disciplinary processes and more likely to be fired. That these discrepancies still persist is seen as ‘extremely troubling’.

The problem though is they are looking at outcomes and assuming it must be something going wrong. They do not consider that this might be the system working properly. If ethnic minority candidates do worse on aptitude tests, then it is not entirely unreasonable to expect them to do on the whole, comparatively worse on the job. Note that the probability of being dismissed for a minority officer is 0.26 per cent while for a white officer it is 0.12 per cent.

In any case, it is impossible to infer an *ex ante* unfairness from *ex post* results, where all things are not equal between any given two groups. The solution to this problem would be for the EHRC to randomly sample disciplinary cases, remove all markers of ethnicity, and then reassess them to see if they were fair.

### What is the difference between ‘positive action’ and ‘positive discrimination’?

A distinction is drawn by the select committee between positive action, defined as measures to encourage minority candidates, and positive discrimination, which includes measures to force ethnic diversity through discriminating in the favour of ethnic minority individuals. The latter are illegal.

Reading the report, though, the distinction becomes increasingly blurred.

The select committee report says that in order to make the ethnicity of the police match that of the country, the government should set targets for ethnic diversity with ‘remedial measures for failure to achieve these targets’.

Elsewhere, the same report says that quotas are illegal.

*What court of law would not deem a target backed by sanctions for non-compliance, to be a quota? Why is a parliamentary select committee, in effect, advocating setting the police on a collision course with the courts?*

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<sup>5</sup> <https://www.college.police.uk/article/police-recruitment-supported-online-into-2022>

The risk is that in response to government pressure, police start appointing those who would otherwise fail to make the cut. This would meet the target/quota but would put poor candidates into positions of responsibility in matters, sometimes of life and death.

Reading the select committee report, while not quite up front about it, you see some legitimacy is being given to the police softly lobbying for greater capacity to discriminate on grounds of race, in order to meet diversity targets.

Under the Equality Act 2010, there is a 'tie-breaker provision' which allows employers to appoint a candidate from an 'underrepresented group' where two candidates are equally meriting the appointment.

Metropolitan Police Commissioner, Dame Cressida Dick told the select committee, her force had used this provision but that it was 'incredibly challenging to use at scale'. This is because the police recruit on batch, where they are seldom making choices between two individuals. Dick lobbied the committee for 'temporary changes' to the Equality Act, to reflect the 'specific requirements within policing to address workforce under-representation'. In essence, she is arguing for a 'temporary' suspension of the law she is sworn to enforce. She wants the freedom to appoint on race and the select committee recommended the government consider this.

Since what trust shortfalls there are, are not felt by British Asians, nor black Africans, for whom the police are no more or less white, then it is hard to see what gains in trust there are to forcing the police to be ethnically diverse in line with the population. It is not a given that individuals respond better to police officers from the same ethnic group.

As made clear by the Sewell report, black police officers are often reviled, particularly during the Black Lives Matter protests of last year. In the year to November 2020, the number of racist assaults recorded on officers doubled on the year before. A black female police officer is quoted as saying:

*'I've spoken to numerous colleagues of different ethnic background; some have been heckled and had racist abuse thrown at them. Others have been asked, 'Why are you standing there when you should be with us?' As a black person in uniform you can be portrayed as a traitor...'*<sup>6</sup>

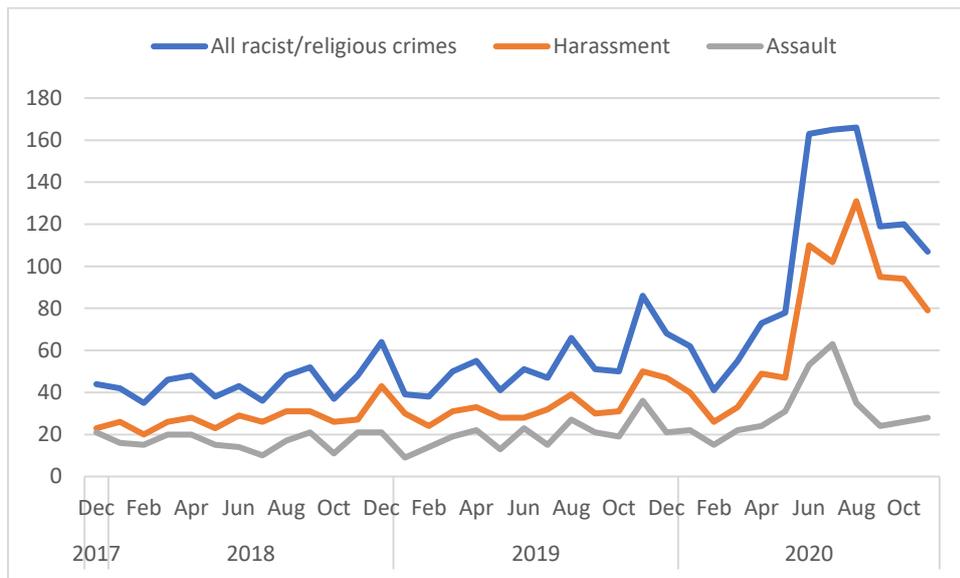
As seen in the graph below, racial abuse and assaults on police officers in London rose substantially to coincide with the Black Lives Matter protests.<sup>7</sup>

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<sup>6</sup> <https://www.gov.uk/government/publications/the-report-of-the-commission-on-race-and-ethnic-disparities/crime-and-policing#differing-perspectives-on-trust-a-view-from-both-sides>

<sup>7</sup> <https://www.london.gov.uk/questions/2020/4747>

**Figure 1: Racist or religiously motivated abuse of Metropolitan police officers**



Source: Metropolitan Police

Given that around half the minority population is born abroad and many are recent immigrants, given minority over-representation in the NHS, the preference for Muslim women in particular to look after family and home, there is simply no reason why anyone would expect proportionate representation in the police force. It is unrealistic and the police are being browbeaten to the point where they argue for the suspension of the law, in order to appoint based on race.

Indeed, to be a police officer you have to be ‘a British citizen, an EC/EEA national or a Commonwealth citizen or foreign national with no restrictions on your stay in the United Kingdom’. This will impinge on the number of minority potential police officers.<sup>8</sup> Certainly, forcing the matter by 2030, as recommended by the select committee will only increase the likelihood of rushed appointments. That entails going from 7 per cent to 14 per cent ethnic minority in less than 9 years.

Race is not a qualification, but rather a group characteristic. We wish to appoint on individual merit and suitability and nothing more. As one expert witness told the committee, appointment based on race alone would lead to ‘perverse results of wholly unsuitable applicants being placed in important roles’.

The report praises other positive action measures, including mentoring of minority candidates in order to ensure progression through the ranks. How is giving someone special help amounting to coaching to get promotion, based on ethnicity, not illegal under anti-discrimination law? Will not such measures only serve to foster resentment in the police

<sup>8</sup> <https://www.college.police.uk/career-learning/joining-police/joining-new-pc>

and undermine minority officers, since they come to be seen to succeed through favouritism?

## Voices

The report is based largely on the testimony of senior police officers, individuals associated with the Macpherson report and the Lawrence case, government officials, and civil society organisations that tend to have a leftist worldview on race. There is no evidence of any of the prominent critics of Macpherson being solicited for advice, while the Runnymede Trust is cited as though it were a neutral authority, and not one whose campaigning is driven by partisan politics.

One evidence session was carried out with young individuals with first-hand experience of stop and search. Politicians love to be seen to be listening to young people, which in itself, is no bad thing. But asking young people if they like being stopped and searched will likely bring up negative responses. Where are the voices of those who are elderly who have a natural greater sense of perspective, or those black mothers who have lost children to knife crime? Moreover, what about the voices of the rank-and-file police officers, who have to enforce the law on Macpherson's terms?

## Disparity in stop and search

The select committee report bemoans the persistence of disproportionate outcomes in stop and search, particularly for black people. It rebukes the police for the fact that 'disproportionality is greater now than it was twenty-two years ago'.

Crucial though is a consideration of probability. As a general rule, low probabilities in an event occurring tend to entail high disparity in relative terms, when comparing groups.

The report says, 'in the year to 31 March 2020, black people were over nine and a half times more likely to be stopped and searched than white people'. That is true, but the probability of being stopped and searched for a black person is 5.4 per cent compared to 0.6 per cent for a white British person.<sup>9</sup> The relative difference is by a factor of 9 while the absolute difference is 4.8 percentage points.

If the probabilities were to be 55.4 per cent and 50.6 per cent respectively, while the absolute difference is the same, the relative difference is a factor of 1.1.

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<sup>9</sup> <https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/stop-and-search/latest>

Moreover, if we consider the probability of *not being stopped and searched*, then probabilities of 94.6 per cent and 99.4 per cent entail an absolute disparity of again 4.8 percentage points but a negligible relative disparity of a factor of 1.05 in favour of whites.

Since not being stopped and searched is the other side of the same coin of being stopped and searched, then clearly, relative disparity in this incidence is not a valid measure of fairness since it is susceptible to prevalence.

The select committee report says 'the disproportionality is greater now than it was twenty-two years ago.' The Macpherson report indeed presents a relative disparity of a factor of 5 compared to today's figure of 9.<sup>10</sup> It does not tell you about the prevalence. However, a BBC article from 2002 shows stop and search was much more widely used in the late 1990s, with a black rate of 140 per 1,000 population and a white rate of 20 per 1,000.<sup>11</sup> In percentage terms, the absolute disparity is 12 percentage points compared to the most recent figure of 4.8 points.

Today, stop and search is less frequently used and black people are much less likely to experience it, despite increases in more recent years. The absolute difference relative to white people has shrunk substantially. Generally, as things get better, the probability of an event will drop meaning an inevitable growth in relative disparity between any two groups. That this is presented as a worsening of policing, without qualification, is highly dubious.

The other implication is that the most obvious way to reduce disparity would be to increase stop and search.

### Disproportionate to what?

The select committee claims there are 'unjustified inequalities in the use of key police powers such as stop and search...'. However, its argumentation in its section on 'Explaining racial disparities in stop and search' is weak.

It can be argued that ethnic minority individuals are more likely to be stopped and searched because they are more likely to be available in those places where the tactic is carried out. Research published in 2000 and led by Joel Miller on behalf of the Home Office found that comparing stop and search rates to the shares of the 'available' population rather than the overall population, showed white people were *overrepresented*, Asian *under*, and black people sometimes over, sometimes under.<sup>12</sup>

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/277111/4262.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf)

<sup>11</sup> <http://news.bbc.co.uk/1/hi/uk/2246331.stm>

<sup>12</sup> <https://searchworks.stanford.edu/view/4772920>

Moreover, stop and search was not deployed randomly but in known crime hotspots.

For example, that research found that black people in Hounslow made up 14 per cent of pedestrian stop and searches but just 3 per cent of the resident population. However, the population available to be stopped and searched was 15 per cent black.

This research is not cited by the select committee report.

Instead, it is dismissed indirectly through reference to equally dismissive EHRC and Runnymede Trust reports. The EHRC report argues that availability is not a 'neutral criterion' since this is dependent on other variables such as unemployment and exclusion from school. This may be true but it does nothing to counter the claim that police can only stop and search those who are available to them.

The referenced claim made by the Runnymede Trust that the argument is circular, is also unconvincing. *Why were you stopped and searched? Because I was available to be stopped and searched. Why were you available to be stopped and searched? Because I was stopped and searched.*

It is a false logical construct. Those people present on the streets of Hounslow were there because they were going about their business, not because of stop and search.

(One way to clear up the availability argument would be to ask what stop and search proportionality would look like if there was absolutely no bias in decision making. If researchers sampled people at random, in known stop and search hotspots, marking the ethnicity of every tenth person and the results were disproportionate to the neighbourhood ethnic composition, but proportionate to stop and search then we would know bias could not be involved. This is something the Race Disparity Unit or EHRC could do at little cost.)

Another argument is that we should benchmark the minority stop and search rate against the share of ethnic minority individuals involved in crime. The select committee notes that 'BAME people represent 41 per cent of London's population but make up 59 per cent of homicide victims and 78 per cent of those charged with homicide'. Thus, 80 per cent of stop and searches in London happening to people other than white, is arguably defensible.

But the select committee is dismissive of such argumentation, arguing '... stop and searches are disproportionate in areas with low levels of violent crime as well as higher levels of violent crime.' It continues, '[police] forces including Surrey, and Gloucestershire have higher levels of racial disparity in stop and search than the MPS [Metropolitan Police Service] even though they have lower levels of violent crime.'

This is a fallacious argument.

Firstly, the correct comparison should be between disparity in stop and search and disparity in violent crime in Surrey and Gloucestershire, not the level of violent crime. Secondly, stop and search is used substantially more in London than anywhere else in the country. Recall,

low probabilities, high relative disparity, and thus disparity in Surrey and Gloucestershire is higher.

If stop and search occurs in areas where crime is committed, to people who are younger, and black people are more likely to be both victims and perpetrators of violent crime as well as on average younger, then disproportionate stop and search is to be expected. Even if there were no discrimination by police, which I by no way rule out, there would still be disproportionate outcomes.

Certainly, there is much anecdotal evidence for people of an ethnic minority being treated badly by the police. Such accounts should be given their place, but not necessarily regarded as typical. Any Britons enduring police harassment on grounds of the colour of their skin is wrong.

But that does not mean we have to abandon all standards of scepticism when drawing inference from objective empirical data.

### **Efficacy of stop and search**

The debate on the efficacy of stop and search tends to hinge on studies that measure over time, trends in crime recorded by the police. For example, the select committee cites one study which found increasing stop and searches by 10 per cent saw a 0.14 per cent weekly reduction in crime.

However, such studies cannot account for the possibility that crime just becomes harder to detect in that criminals become more savvy in avoiding police. Studies like this can be dismissed as having too small an impact to be worthwhile; a position the select committee leans towards. Efficacy should also be weighed up against results in catching criminals. Around 1 in 6 stop and searches result in an arrest, for all ethnic groups.<sup>13</sup>

That there is roughly parity here would not imply racial bias, since racist police officers going after black people would manifest itself in a lower subsequent arrest rate.

Between 2018/19 and 2019/20, the number of stops and searches rose to 577,054, up by 52 per cent. This has brought in around 20,000 additional arrests, around 2,000 of which pertain to carrying an offensive weapon. That means lives saved.

The costs to this are that there are many innocent people who are involved who experience the humiliation of what is public and invasive.

In 2019/20, there were 92,425 stop and searches of black people (although not necessarily unique individuals since one can be stopped and searched multiple times). 13,796

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<sup>13</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/849200/statistics-on-race-and-the-cjs-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/849200/statistics-on-race-and-the-cjs-2018.pdf)

subsequent arrests, means 78,629 incidents where black people were inconvenienced in a manner that is demeaning. This will leave many feeling justifiably aggrieved.

It is true that the numbers are high and the disproportionality becomes even more pronounced when looking at black youth in London. For example, the report shows that 18,529 stops and searches were carried out with no further action, on black males between the ages of 15 and 24, in three months covering the first Covid-19 lock down. While this is a lot, it is not quite fair to say this is 'the equivalent of 1 in 4 people in that group', since this can be easily read that a quarter experienced this. One person can be stopped and searched multiple times.

The key point is you can either make things easier by presenting the contextual reasoning behind the disparity, or you can make it worse by attributing this solely to police racism without foundation. Notably, other than disproportionality, no positive evidence for this beyond the circumstantial or anecdotal, is presented by the select committee.

### Hate crime

The select committee praises changes made to how the police deal with racist crimes, yet still calls for better recording of hate crime offences and greater support for ethnic minority victims of crime (are white victims less deserving?)

It calls for further action on online abuse.

Refreshing is its recognition of the evidence from the Crime Survey of England and Wales that race hate crime is declining, and that this evidence is given primacy over police-recorded figures. Following the approach of the ONS, it is claimed that while hate crime is declining overall, the rise in recorded figures reflects greater willingness to report and better recording practices.

Government statistics on 'racial incidents' are based on the definition recommended by Macpherson, of 'any incident which is perceived to be racist by the victim or any other person'.

This privileging of subjectivity over evidence was intended to instil confidence in those reporting racist crimes to the police. There is a problem however, in that people sometimes see racial motives without good reason. The Crime Survey asks individuals if they have been victims of crimes, and then, if they think there might have been a racial motive. This is the basis on which its race hate crime statistics are produced.

My analysis of the Crime Survey found that many respondents were prepared to attribute a racial motive without good reason. I found in 45 per cent of crimes recorded in the survey as racist, a racial motive was inferred by the victim on the basis of his country of origin, and in

12 per cent of crimes, 'because some people pick on minorities'. Just half showed evidence of racist language used.<sup>14</sup>

The problem stems from Macpherson subjectivity. The equivalent American survey asks that evidence of hateful language or symbols be given, before something can be qualified as a hate crime. Subsequently, it produces a much lower number on a per capita basis.<sup>15</sup>

CSEW data are important in that they are the basis for which we adjudge hate crime to be underreported. The survey produces an estimate of around 100,000 race hate crimes per year while the police recorded about 75,000 in 2019/20.<sup>16</sup> On Macpherson's terms, this is seen as a shortfall in trust in the police and so the point is to get the reports up, to converge on the CSEW estimate.

A small cottage industry has sprung up, devoted to increasing the number of hate crime reports. But the point is rather obvious, in that if the CSEW estimate is too high, then the efforts of the police will be too much. My research found that many 'hate crimes' recorded by police tend not to meet the definition since they are not motivated by prejudice or hatred and may not even be crimes at all.

We often read of a 'rise in hate crime' based on police statistics, but my research found that what lies behind them are often rows over restaurant bills or parking spaces, where 'words get said', or where it is impossible to ever know if there was a 'hateful' motive. For example, one police force recorded the theft of garden solar lights as a hate crime.

If just half of CSEW race hate crime has a credible reason for it being so, then it would seem we have moved into over-reporting. The error stems from Macpherson subjectivity that fuels government efforts to 'get the numbers up'. This provides misleading statistics that feeds a political narrative of worsening race relations. This has consequences in that people, often of an ethnic minority, will make political and life decisions based on bad information. As the Sewell report showed, fear of hate crime among such people is greater than its likelihood of occurring.

### Revering not reviewing Macpherson

The belief that the police force should resemble the ethnic composition of the country, the belief that the government needs to get hate crime reports up, the belief that black people should be stopped and searched proportionate to their share of the population, the belief that a crime is racist if someone says it is racist, all these ideas have been endorsed by a parliamentary select committee and shown here, to be dubious.

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<sup>14</sup> <https://www.civitas.org.uk/content/files/2572-A-Hate-Crime-Policy-WEB.pdf>

<sup>15</sup> <https://www.civitas.org.uk/content/files/2572-A-Hate-Crime-Policy-WEB.pdf>

<sup>16</sup> <https://www.civitas.org.uk/content/files/2572-A-Hate-Crime-Policy-WEB.pdf>

All can be traced back to the Macpherson report.

Quoted in the select committee report is Matthew Ryder QC who once acted on behalf of the Lawrence family and was formerly a Deputy Mayor of London. He spoke of the ‘genius and historic significance’ of the Macpherson report, which was to ‘embed in our national culture an understanding of racism that was more complex than the superficial understanding of racism that preceded it.’

Ryder is referring to Macpherson report’s distinction between individual racism and ‘institutional racism’:

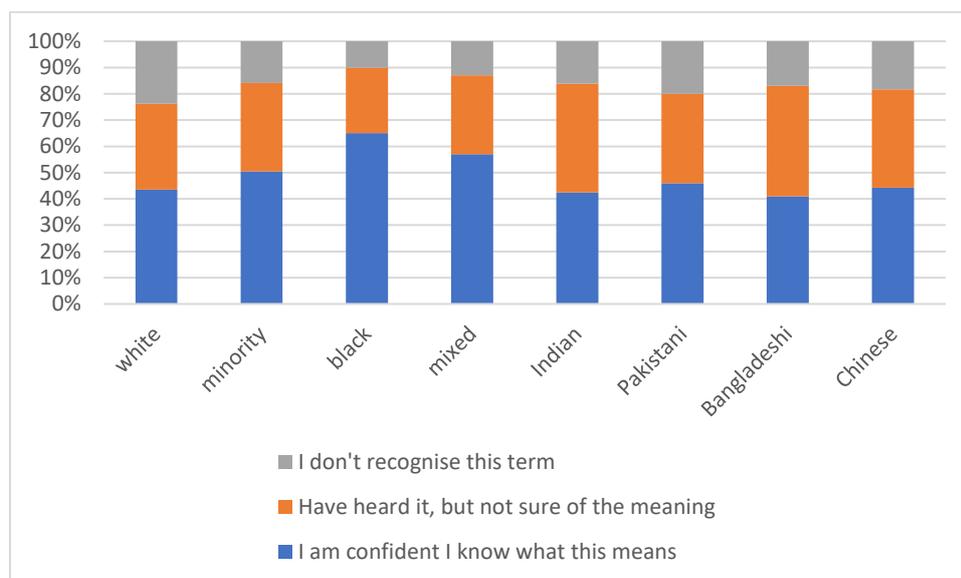
*“Racism” in general terms consists of conduct or words or practices which advantage or disadvantage people because of their colour, culture or ethnic origin...*

*“Institutional racism” consists of the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness, and racist stereotyping which disadvantage minority ethnic people.’*

**The problem is that most people do not really understand what Macpherson was talking about.**

Polling conducted on behalf of British Future found that just 60 per cent of white people did not recognise the term ‘institutional racism’ or were unsure of its meaning, compared to half of non-white. Familiarity is greatest among black people but is present only in minorities of Asians, as seen in the graph below.

**Figure 2: How far are you familiar with the following terms? ‘Institutional racism’ – British Future/Number Cruncher Politics**



Tony Sewell was lambasted for saying his report found no evidence of institutional racism. Moreover, he said that the term was being too freely used, without clear or consistent definition, that it is a 'sort of catch-all phrase for microaggressions or acts of racial abuse'. Even Ibram X. Kendi avoids using the term because he usually then has to explain what it means.<sup>17</sup>

The definition supplied by Macpherson was not intended to be 'set in stone' but rather made in acknowledgement of the variation in which it is used, and to define what he was referring to.

There is no consensus among academic scholars as to what it means. In 1983, John Solomons described it as a 'catch-all phrase' to describe all forms of racial discrimination.<sup>18</sup> This predates Macpherson and these are the exact same words as used by Sewell nearly 40 years later.

Macpherson's concept of institutional racism is convoluted and suffers from its seeking to define a property of institutions that is evidenced through the behaviour of individuals. The problem is that such behaviours can just as easily be indicators of his 'individual racism', which he deliberately sought to define as distinct from 'institutional racism'.

Matters are made worse in that the empirical evidence for the existence of institutional racism do not withstand scrutiny. Macpherson's evidence for institutional racism was:

- a) The way the Lawrence family were treated, specifically the 'failure of many officers' to recognise it as 'purely' racially motivated
- b) Disparity in stop and search
- c) The under-reporting of 'racial incidents'
- d) A lack of training in 'racism awareness and race relations'

It is impossible to make a judgement on an institution based on just one case.

Whatever the failings of the investigation in the Lawrence case, there are also comparable failings in the cases of Rachel Nickell, Jill Dando, Richard Everitt and Daniel Morgan, all involving white murder victims.

Disparity in stop and search was dealt with earlier, but I need only add that the Home Office study into 'availability' was conducted contemporaneously with Macpherson. There are many other types of crime that are underreported while faith in the police is the property of individuals outside of it. Such training may not work. In any case, underreporting is obviously declining and 'diversity and inclusion' is everywhere in the police, evidently to little avail, if the select committee is to be believed.

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<sup>17</sup> <https://www.gov.uk/government/publications/the-report-of-the-commission-on-race-and-ethnic-disparities/crime-and-policing#differing-perspectives-on-trust-a-view-from-both-sides>

<sup>18</sup> Williams, J. (1985) 'Redefining institutional racism' in *Ethnic and Racial Studies*, Vol. 8 No. 3.

Moreover, the Macpherson report said, 'In this Inquiry we have not heard evidence of overt racism or discrimination', nor found any evidence of racism defined in the policy of the police. This would fail to satisfy the more sensible definition of institutional racism offered to the inquiry by the now-defunct Commission for Racial Equality:

*'... organisational structures, policies, processes and practices which result in ethnic minorities being treated unfairly and less equally, often without intention or knowledge.'*

The select committee urges the governmental creation of a framework of indicators based on those developed by Wendy Williams in her *Windrush Lessons Learned Review*. These though are flawed, in that the indicators of institutional racism recommended are sometimes impossible to distinguish from the behaviour of individuals *within* the institution. A definition of institutional racism needs to be succinctly limited to the qualities of the institution. Moreover, *de jure* institutional racism is arguably impossible given the Public Sector Equality Duty of the Equality Act which mandates all public bodies to 'eliminate discrimination'.<sup>19</sup>

The select committee calls on the police to adopt the approach of the Lammy review into ethnic disparity in the criminal justice system, of 'explain or change'. This is defined as 'monitoring, assessing and robustly investigating race disparities' and if they cannot be 'explained', police forces 'must set out to eliminate them'.

This is a bad idea in that there is no consensus for what is meant by 'explanation'. Disparity is very difficult to account for statistically using administrative data which are seldom rich, while it seems like a recipe for more and more diversity and inclusion bureaucrats at the expense of police officers. Such individuals routinely fail to bring about equality of outcomes. And as David Lammy pointed out, disparate outcomes often have their roots 'upstream' and outside of the institutions where they occur.

There is also a worrying development in the use of language. While the report recognises that unconscious bias training has been shown to be ineffective, this is seen as an opportunity for 'an overhaul of training on racism, diversity and equality', to be led by the College of Policing.

It is recommended that 'training involves an explicit focus on anti-racism' which 'should include examining racial disparities and seeking to reduce differences in experience and outcomes by racial and ethnic group'. Such language echoes the injunctive of American critical race theory that 'it is not enough to not be non-racist, you have to be anti-racist'.

Anti-racism is seen in this light, as political activism, hyper-vigilance and engaging in 'anti-racist' discrimination as the only remedy to racist discrimination, for example by scholars

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<sup>19</sup> <https://www.gov.uk/government/publications/public-sector-equality-duty>

such as Ibram X. Kendi.<sup>20</sup> Use of the tropes of this arguably totalitarian discourse only serves to set the tone for the policies that follow. To have a *nomenklatura*, you must first of all, have a nomenclature. The point is to choose your words wisely.

When coupled with the select committee's apparent sympathy for 'positive' ethnic discrimination, and 'explain or change', you see the creeping influence of critical race theory on otherwise political moderates.

The Macpherson report is taken as gospel by the select committee, with no critical appraisal made, despite many notable critics. Nearly all of the 'woke' excesses of the police can be traced back to it. Nor can we ever seem to let it go, despite its obviously bad sociology. At the same time, evidence of 'institutional corruption' in the case of Daniel Morgan, scarcely seems to trouble us.

What Macpherson has done is fuelled an endless obsession with disparity as though it were only and ever the result of bad behaviour of white people, and not something both reasonable to expect but hard to understand empirically.

Macpherson placed a judgement on the police, that was ill-defined and using evidence that was not necessarily evidence, meaning it became impossible for the police to ever prove itself to be good. Lack of concise definition made it easy for the report to be misunderstood to mean the police was 'riddled with racism'. This had the potential to fuel the distrust it sought to allay, making it more difficult for the police to do their job. Since ethnic minority people are more likely to be victims of some types of crime, particularly violent crime, they are the first victims of this.

Then we wonder why minority people may not want to join the police.

Moreover, under Williams' proposed framework to identify institutional racism, failure to 'unequivocally recognise, acknowledge and accept the problem' is evidence of it.

Denial of guilt becomes guilt.

All these excesses can be traced back to Macpherson. This hardly seems like 'genius' but rather the folly of a man, and subsequent others, who did not really think things through.

The select committee notes that an earlier report by the same committee, albeit with different personnel, in 2009 found '67 of the 70 Macpherson report recommendations had been implemented in full or in part'. Yet still it lambasts government and the police for not doing enough and that disparity still persists. At the very least, Yvette Cooper and her colleagues must admit to the deficiency of the Macpherson report.

Certainly, they do not have too much to offer beyond the creation of yet another committee on race, namely a 'race equality steering group' within the National Policing Board to be chaired by the Home Secretary, and a new independent 'Race Equality Commissioner'.

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<sup>20</sup> <https://www.penguin.co.uk/articles/2020/june/ibram-x-kendi-definition-of-antiracist.html>

Given Priti Patel's statement on 'taking the knee' and the furore that ensued, this seems more likely to set up a clash of personalities than anything else.

## Consequences

As a final word, the select committee raises the supposed issue of declining trust among black Britons. That is a matter for legitimate concern but it is hardly helping to publish tendentious reports in this manner, that lead to headlines in the *Guardian* such as *"Look at how they treat us": black Britons despair of police reform*'.<sup>21</sup>

Presenting a misleading account will foster distrust, sufficient to turn an unpleasant encounter with the police into something much worse. Thinking back to the brave black woman serving as a police officer, and quoted earlier, it is clear the select committee is not making her life any easier.

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<sup>21</sup> <https://www.theguardian.com/uk-news/2021/jul/30/look-at-how-they-treat-us-black-britons-despair-of-police-reform>

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