

THE NUMBERS IN BLACK AND WHITE: ETHNIC DISPARITIES IN THE POLICING AND PROSECUTION OF DRUG OFFENCES IN ENGLAND AND WALES

NIAMH EASTWOOD, MICHAEL SHINER AND DANIEL BEAR

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PREFACE

RELEASE

Release is the national centre of expertise on drugs and drugs law – providing free and confidential specialist advice to the public and professionals. Release also campaigns for changes to UK drug policy to bring about a fairer and more compassionate legal framework to manage drug use in our society.

THE MANHEIM CENTRE

The Mannheim Centre for Criminology was set up at the London School of Economics and Political Science (LSE) in November 1990, and is named in honour of Hermann Mannheim. It is a multidisciplinary centre incorporating staff from across the School. The Centre provides a forum for LSE criminology, including undergraduate and postgraduate courses, funded research, and a large number of conferences, seminars and other public events. Research funding comes from all the major research councils and charities as well as from government.

THIS PUBLICATION

This report is the second in a series of reports Release has published to support our campaign ‘Drugs - It’s Time for Better Laws’. This campaign was launched in June 2011 and saw the organisation write to David Cameron, the British Prime Minister, calling for a review of our current drug policies and promoting the introduction of the decriminalisation of drug possession (whereby non-criminal sanctions, and in some cases no sanctions, were applied to the possession of some or all drugs). The letter was supported by high profile individuals including Sting, Richard Branson, Caroline Lucas MP and Baroness Meacher and received significant media coverage.

The first report ‘A Quiet Revolution: Drug Decriminalisation Policies in Practice Across the Globe’ looked at 21 jurisdictions that had adopted some form of decriminalisation of drug possession. Overwhelmingly, the research showed that such an approach does not lead to an increase in drug use. Importantly, by not criminalising those who use drugs, the evidence demonstrated that there were improved outcomes in terms of employment and relationships, reduced stigma and that people were less likely to enter or re-enter the criminal justice system. Experience from other jurisdictions also showed there can be significant financial savings for the criminal justice system when decriminalisation is implemented.

This second report demonstrates that the policing and prosecutions of drug possession offences in England and Wales is unduly focussed on black and minority communities. This report looks at racial disparity rates at stop and search, arrest, prosecution and sentencing and clearly demonstrates that the drug laws in the UK are a major driver of the disproportionality that exists in our criminal justice system in relation to the black community.

As the first report demonstrated, criminalisation does not act as a deterrent when someone decides to use drugs but it does cause significant harms in terms of a criminal record. This report goes further and establishes that those harms are being applied in an unfair manner. An urgent review of UK drug policy is necessary to reduce this disparity, and bring equitable justice to all communities.

The final report, to be launched in 2014, will look at the economic costs associated with policing and prosecuting the possession of drugs in the UK.

More information about the campaign can be accessed at:
www.release.org.uk/decriminalisation

AUTHORS

NIAMH EASTWOOD

Niamh is Executive Director of Release. She is a non-practising barrister who started at Release in 2002 as a legal advisor. Niamh regularly contributes to drug policy journals and publications including *Drugs and Alcohol Today* (of which she is also a member of the editorial board) and *Drink and Drug News*, as well as authoring and editing a number of Release's publications including 'A Quiet Revolution: Drug Decriminalisation Policies in Practice Across the Globe', 'Drugs and the Law' and 'Sex Workers and the Law'. Niamh is also responsible for drafting many briefings for parliamentarians and policy makers. She has presented at international and national conferences and is regularly invited to comment in the media. Niamh is also a Board member of Youth R.I.S.E. (www.youthrise.org), and is a member of the Expert Steering Group for the Global Drug Survey (www.globaldrugsurvey.com).

MICHAEL SHINER

Michael is a senior lecturer in the Social Policy Department at the London School of Economics and Political Science, prior to which he worked as a researcher at the Public Policy Research Unit, Goldsmiths College and the Policy Studies Institute. Michael has written widely on drugs, drugs policy and the use of stop and search. He is author of *Drug Use and Social Change: The Distortion of History* (Palgrave Macmillan).

DANIEL BEAR

Daniel is a PhD Researcher in the Social Policy Department at the London School of Economics and Political Science. He has worked on drug policy issues since 2003, including ethnographic research with officers of the Metropolitan Police Service. Before beginning his PhD, Daniel worked in the Drug Law Reform Project of the American Civil Liberties Union. He is a regular contributor at international drug policy conferences and a frequently commissioned writer for *The Guardian's* 'Comment is Free' section. Daniel is also a professor in the School of Public Safety at Sheridan College in Canada.

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Thank you to Ben Bradford (Oxford University) and Rebekah Delsol (Open Society Foundation, Justice) for reviewing this report.

We would also like to acknowledge that this report developed as a result of Professor Alex Stevens' (University of Kent) initial research into the impact of drug law enforcement in the UK on black and minority communities.

DONORS

Thank you to the J Paul Getty Jr Charitable Trust for funding this publication.

METHODOLOGY

The analysis presented in this report draws on the methodology developed by the Home Office. Under Section 95 of the Criminal Justice Act 1991, the secretary of state is required to publish information to enable those involved in the criminal justice system to avoid discrimination on grounds of race, sex or any other improper grounds (Home Office, 2000). Since the introduction of this legislation the Home Office, and latterly the Ministry of Justice, has regularly published statistics showing the rate at which different ethnic groups come into contact with the criminal justice system through, for example, police stop and search¹. National policing and Ministry of Justice data was analysed for 2009/10 and 2008/09. The 2009/10 data was used for the report but it is important to note that the 2008/09 data showed similar patterns. This data was analysed using the 2011 census data and as such our estimates are as robust as it is currently possible to be.

1. HOME OFFICE, 2000, STATISTICS ON RACE AND THE CRIMINAL JUSTICE SYSTEM. LONDON: HOME OFFICE, [HTTP://WEBARCHIVE.NATIONALARCHIVES.GOV.UK/20110218135832/RDS.HOMEOFFICE.GOV.UK/RDS/SECTION951.HTML](http://webarchive.nationalarchives.gov.uk/20110218135832/rds.homeoffice.gov.uk/rds/section951.html) (ACCESSED 17 JULY 2013)

As part of the research methodology Freedom of Information requests were sent to every police force in England and Wales asking for the ethnic breakdown for 2009/10 of: those who were subject to stop and search for drugs; those who received cannabis warnings and penalty notices for disorder; those who received cautions; and finally those who were subsequently charged.

The purpose of this information was to determine whether racial disparity existed throughout the police's processing of those caught in possession of drugs and whether those from BME ('Black and Minority Ethnic') backgrounds were more likely to receive a harsher response.

Of the 42 forces contacted 28 provided a response to the questions posed. Those who did not provide data cited financial cost as the reason they could not meet the requirements of the request. However, only a limited number of forces provided sufficient data, from those providing such data the Metropolitan Police Service (MPS) was chosen for more detailed analysis as the information they provided was robust and because the MPS undertakes 50% of all stop and searches for drugs in England and Wales. The analysis was undertaken by the London School of Economics. The MPS data is used at a number of stages throughout the report to demonstrate the impact of the policing of drugs on BME communities.

As part of the report young people, parents and youth workers were interviewed for their views on stop and search, their experiences are detailed throughout the publication.

For more detail about the methodology please see Annex 1.

EXECUTIVE SUMMARY

Enforcement of drug laws is unfairly focused on Black and Asian communities, despite their rates of drug use being lower than the white majority. This is driving ethnic disparities throughout the criminal justice system in England and Wales. Black and Asian people are being stopped and searched for drugs at a much higher rate than white people. Black people are also being subject to harsher sanctions for drug possession offences.

For too long the UK Government has focussed on the use of the criminal laws to deter drug use, despite evidence that such an approach does not work². This report demonstrates that the drug laws weigh particularly heavily on black and minority ethnic communities, doing more harm than good at a great cost to the public purse. The marked ethnic inequalities that are identified add to the already strong existing evidence that a review of the current law enforcement approach to drug possession should be undertaken.

The report identifies police stop and search for drugs as a key driver of ethnic inequality throughout the criminal justice system. It demonstrates that black people are subject to heightened rates of stop and search for drugs and that inequalities introduced at this stage continue throughout the criminal justice system. Black people are also shown to be charged at a higher rate than white people for possession offences, aggravating an already unequal situation. The report considers what incentivises police officers to seek out low level drug offences, arguably at the expense of tackling more serious crime that is of greater concern to communities, such as property and violent crime. Finally, the report shows how drug policing is working against the police, undermining their legitimacy and, ultimately, making it harder for them to do their job effectively.

This report has been produced by Release and the London School of Economics and Political Science based on analysis of official statistics provided by the Ministry of Justice and the Metropolitan Police Service for 2009/10. The main findings are:

- Stop and search has increased steadily since 2001/2 from less than 750,000 to a peak of almost 1.3 million in 2010/11, more than 1.2 million of which were carried out under PACE and associated legislation. Despite a slight decline, there were still more than one million stop searches carried out in 2011/12.³ Half or more of these searches are for drugs. This means that

2. ROSMARIN A & EASTWOOD N, 2012, 'A QUIET REVOLUTION - DRUG DECRIMINALISATION POLICIES IN PRACTICE ACROSS THE GLOBE', RELEASE, UNITED KINGDOM, WWW.RELEASE.ORG.UK/PUBLICATIONS/DRUG-DECRIMINALISATION-POLICIES-IN-PRACTICE-ACROSS-THE-GLOBE/ (ACCESSED 5 MAY 2013)

3. HOME OFFICE, 2012, POLICE POWERS AND PROCEDURES ENGLAND AND WALES 2010/11 - SECOND EDITION (STOP AND SEARCHES) [HTTP://WWW.HOMEOFFICE.GOV.UK/PUBLICATIONS/SCIENCE-RESEARCH-STATISTICS/RESEARCH-STATISTICS/POLICE-RESEARCH/POLICE-POWERS-PROCEDURES-201011/STOPS-SEARCHES-1011](http://WWW.HOMEOFFICE.GOV.UK/PUBLICATIONS/SCIENCE-RESEARCH-STATISTICS/RESEARCH-STATISTICS/POLICE-RESEARCH/POLICE-POWERS-PROCEDURES-201011/STOPS-SEARCHES-1011), (ACCESSED 04 FEBRUARY 2013)

every 58 seconds someone in England and Wales is stopped and searched by the police for drugs.

- In 2009/10 the overall search rate for drugs across the population as a whole was 10 searches per 1000 people. For those from the white population it was 7 per 1000, increasing to 14 per 1000 for those identifying as mixed race, 18 per 1000 for those identifying as Asian and to 45 per 1000 for those identifying as black.
- Black people were, in other words, stopped and searched for drugs at 6.3 times the rate of white people⁴, while Asian people were stopped and searched for drugs at 2.5 times the rate of white people and those identifying as mixed race were stopped and searched for drugs at twice the rate of white people.
- The policing of drugs is driving racial disparities in stop and search across England and Wales. When drugs searches are removed from the data for all 'reasonable suspicion' searches, disproportionality for black people drops to 5 times the rate of white people (rather than 6.3 times for drugs). For the Asian community rates of disproportionality more than halve when drug searches are excluded.
- In London the Metropolitan Police Service ('MPS') carries out drug searches at a rate of 34 per 1000 across the population as a whole, rising to 66 per 1000 for black people.
- Black people in London are stopped and searched at nearly three times the rate of white people. Rates of disproportionality vary throughout the Capital, with Kensington and Chelsea and Richmond reporting the highest rates (black people are stopped and searched at 5 to 6 times the rate of whites).
- Large numbers of young people are being subject to police stop and search for drugs. In 2009/10 half the 280,000 drug stop searches carried out by the Metropolitan police were on young people aged 21 years or below. Almost 16,900 were of children aged 15 or below.
- Across England and Wales only 7 per cent or so of drug stop and searches end in arrest. As a result of almost 550,000 stop and searches for drugs in 2009/10, only 40,000 people were arrested.
- Black people are arrested for a drugs offence at 6 times the rate of white people and Asian people are arrested at almost twice the rate of whites.
- Across London black people are charged for possession of cannabis at 5 times the rate of white people. For cannabis warnings the rate is 3 times. This jump in disproportionality at the charge stage demonstrates that black people are more likely to receive a harsher police response for possession of cannabis.

4. IN 2008/09 AND 2009/10 BLACK PEOPLE WERE, RESPECTIVELY, 6.7 TIMES AND 6.3 TIMES MORE LIKELY TO BE STOPPED AND SEARCHED FOR DRUGS IN ENGLAND AND WALES THAN WHITE PEOPLE.

- Black people in London who are caught in possession of cocaine are charged, rather than cautioned, at a much higher rate than their white counterparts. In 2009/10 the Metropolitan Police charged 78 per cent of black people caught in possession of cocaine compared with 44 per cent of whites. Alternatively, 22 per cent of black people were given a caution compared with 56 per cent of whites.
- Every year approximately 80,000 people in England and Wales are convicted or cautioned for possession of drugs. In the 15 year period, 1996 to 2011, 1.2 million criminal records have been generated as a result of drug possession laws.
- In 2010 the Crown Prosecution Service brought more prosecutions for possession of drugs than have been brought in any year since the introduction of the Misuse of Drugs Act 1971 - 43,406 people were found guilty of drug possession. This was primarily driven by prosecution for cannabis possession.
- Black people are subject to court proceedings for drug possession offences 4.5 times the rate of whites; are found guilty of this offence at 4.5 times the rate; and are subject to immediate custody at a rate of 5.0 times that of white people.

Police use of stop and search continues to be a contentious area as demonstrated by the recent report of Her Majesty's Inspectorate of Constabulary (HMIC)⁵ and the decision by the Home Secretary to review police powers in this area. The use of stop and search by the police has repeatedly been cited as one of the main causes of unrest in Britain, including the Brixton Riots of the 1980s and the riots of August 2011.

5. HMIC, 2013, STOP AND SEARCH POWERS: ARE THE POLICE USING THEM EFFECTIVELY AND FAIRLY?, [HTTP://WWW.HMIC.GOV.UK/MEDIA/STOP-AND-SEARCH-POWERS-20130709.PDF](http://www.hmic.gov.uk/media/stop-and-search-powers-20130709.pdf) ACCESSED 09 JULY 2013

Often the police and politicians will cite the need to tackle knife and gun crime as necessitating the use of stop and search powers but the reality is that the vast number of stop searches are for drugs⁶, and, as identified by the HMIC report, most searches are aimed at detecting low level possession offences.

6. THE METROPOLITAN POLICE CARRIED OUT 348,237 REASONABLE SUSPICION STOP AND SEARCHES IN THE PERIOD JUNE 2012 - MAY 2013. OF THE TOTAL STOP AND SEARCHES CARRIED OUT 189,236 WERE FOR DRUGS, 35,557 WERE FOR OFFENSIVE WEAPONS AND 3112 WERE FOR GUNS. MPS PUBLICATION SCHEME, 2013, STOP AND SEARCH KEY PERFORMANCE INDICATOR PROGRESS REPORT, MAY 2013, [HTTP://WWW.MET.POLICE.UK/FOI/UNITS/STOP_AND_SEARCH.HTM](http://www.met.police.uk/foi/units/stop_and_search.htm) (ACCESSED 17 JULY 2013).

Decisions by the Home Secretary and the Metropolitan Police Service to address the serious problems that exist with the use of stop and search are certainly welcome, but meaningful reform is required if the negative impact of this type of intervention are to be addressed.

The Commissioner of the Metropolitan Police Service has committed to reducing stop and search in the capital by half. Even if this is achieved a reduction from a peak of 280,000 drug stop searches to 140,000 would simply bring us back to 2005/06 levels⁷, leaving a large number of people still being subject to unnecessary police intervention. The Commissioner has also committed to reducing the number of negative drug searches by half and has advised that officers will be told to stop focusing on the policing of small amounts of cannabis. Reducing negative drug searches is, of course, desirable, but there is a danger that setting performance

7. IN 2005/6 THE METROPOLITAN POLICE SERVICE CARRIED OUT 146,554 DRUG STOP AND SEARCHES IN THE CAPITAL. MINISTRY OF JUSTICE, RDS, 2006, STATISTICAL BULLETIN: ARRESTS FOR RECORDED CRIME (NOTIFIABLE OFFENCES) AND THE OPERATION OF CERTAIN POLICE POWERS UNDER PACE, ENGLAND AND WALES [HTTP://WEBARCHIVE.NATIONALARCHIVES.GOV.UK/20110218135832/HTTP://JUSTICE.GOV.UK/PUBLICATIONS/DOCS/ARRESTS-FOR-RECORDED-CRIME-ENGLAND-AND-WALES.PDF](http://webarchive.nationalarchives.gov.uk/20110218135832/http://justice.gov.uk/publications/docs/arrests-for-recorded-crime-england-and-wales.pdf)

management targets will create perverse incentives that may result in the inappropriate use of formal sanctions (to get a 'hit') or non-recording to hide unsuccessful searches. If the police are to use such indicators it is essential that they are able to identify where such manipulation occurs.

This report demonstrates significant harms associated with the policing and prosecution of drug offences, particularly possession offences. The sheer volume of drug searches means that thousands of people, mainly young people and those from black and minority ethnic communities are being caught up needlessly in the criminal justice system every year to the detriment of their future. While tens of thousands of people are being criminalised every year for low level possession offences, it is those from the black community who are a greater risk of criminalisation and harsher sanctions.

With over half a million stop searches carried out for drugs in England and Wales every year, and only a 7 per cent arrest rate, drug laws effectively allow the police to interfere with the free movement of citizens across the country when they have done nothing wrong. At a time of austerity, it is more important than ever that our limited resources are used wisely. With high levels of interference and low levels of detection, drug law enforcement simply does not pay and is an area of the criminal justice system that should be reformed. This is why we are proposing the decriminalisation of drug possession offences as an effective policy solution to the problems identified in this report.

I am stopped by police regularly and I'm used to it now. I estimate that in my lifetime I have been stopped over 150 times by the police. In early 2006, I noted that I was stopped 27 times in the space of three months whilst driving around in the borough. None of the stops led to any charges being brought against me. I felt victimized, angry and felt that I'd been treated unfairly... I think stop and search practices are definitely disproportionate. I've only been stopped three times this year and I'm quite happy with that (April 2013).

Black Ghanaian Male, 29 years old. He works as an IT support technician for his local council and is a law graduate

INTRODUCTION

8. ALEXANDER, M., 2012, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS*, NEW YORK: THE NEW PRESS.

The harms associated with drug law enforcement weigh particularly heavily on black and minority ethnic communities. With African Americans being arrested for drug offences at three times the rate of their white counterparts and being imprisoned at 10 times the rate, ethnic disparities are a well-documented feature of the US 'war on drugs'.⁸ Although British drug policy is much less punitive, with a far lower rate of imprisonment, it has given rise to similar concerns about ethnic bias and the criminalisation of black people. This report charts the disproportionate impact that drug law enforcement is having on black and minority ethnic communities in England and Wales, presenting the most systematic evidence yet to be collated on the subject.

The evidence covers various aspects of the criminal justice process, including:

- Stop and search
- Arrest
- Charge; and
- Sentencing at Court

Striking ethnic disparities are evident throughout the process of drug law enforcement, with people from black and minority ethnic groups being over-represented from initial point of contact through to sentencing. Our analysis identifies policing, particularly stop and search, as a key driver of disproportionality throughout the process. For black suspects, ethnic disparities are further aggravated by a particularly high charge rate, which has important knock-on effects further down the criminal justice process. The high rate at which black people are convicted, fined and imprisoned for drug offences is largely due to the way that these communities are policed.

DRUG USE

Before moving on to the impact of drug law enforcement, it is important to note that people from black and minority ethnic groups are not stopped and searched, arrested, charged and sentenced for drug offences at a high rate simply because of their levels of drug use. Although it is often assumed that black people use drugs at a high rate, such an assumption is not supported by the evidence.

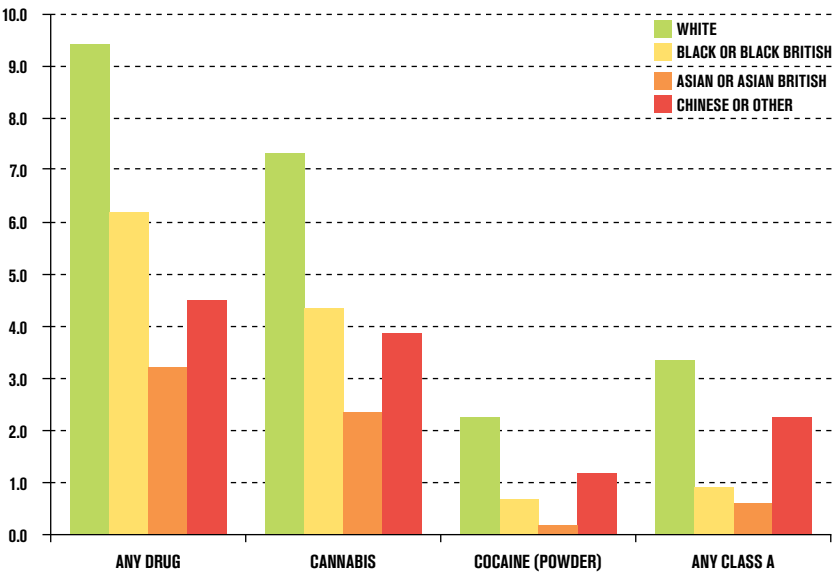
9. SANGSTER, D., SHINER, M., PATEL, K., AND SHEIKH, N., 2002, *DELIVERING DRUG SERVICES TO BLACK AND MINORITY ETHNIC COMMUNITIES*, LONDON: HOME OFFICE; STEVENS, A., 2011, *DRUGS, CRIME AND PUBLIC HEALTH: THE POLITICAL ECONOMY OF DRUG POLICY*, ABINGDON, OXON: ROUTLEDGE.

Research has consistently shown that people from black and minority ethnic groups use illegal drugs at a similar or lower rate than white people.⁹ The most recent Crime Survey for England and

Wales (2011/12) found that adults from most black and minority ethnic groups reported much lower rates of ‘last year’ drug use than their white counterparts (see Figure 1). Although adults classified as mixed ‘race’ reported higher rates of use, these estimates were based on a small sample size (n=269) and may lack reliability (hence they have been excluded from Figure 1). The relatively moderate rates of drug use that are evident across most black and minority ethnic groups have been linked to broader lifestyle factors, including alcohol consumption, and culturally distinct orientations to consumption and intoxication that are shaped by religious influences.¹⁰

Information about involvement in drug supply offences is inevitably more limited, but there is no evidence to support the theory that drug dealing is higher amongst the black and minority ethnic groups and what evidence we do have indicates that drug dealing may be more prevalent amongst white people.¹¹

Figure 1
Percentage of 16 to 59 year olds reporting use of illicit drugs in the last year by ethnicity, 2011/12 Crime Survey for England and Wales¹²



10. SHINER, M., 2009, DRUG USE AND SOCIAL CHANGE: THE DISTORTION OF HISTORY, BASINGSTOKE: PALGRAVE MACMILLAN.

11. STEVENS A, 2011, DRUGS, CRIME AND PUBLIC HEALTH: THE POLITICAL ECONOMY OF DRUG POLICY, ROUTLEDGE, UNITED KINGDOM, PAGE 98

12. HOME OFFICE, 2012, DRUG MISUSE DECLARED: FINDINGS FROM THE 2011/12 CRIME SURVEY FOR ENGLAND AND WALES, ENGLAND AND WALES, [HTTPS://WWW.GOV.UK/GOVERNMENT/PUBLICATIONS/DRUG-MISUSE-DECLARED-FINDINGS-FROM-THE-2011-12-CRIME-SURVEY-FOR-ENGLAND-AND-WALES--2](https://www.gov.uk/government/publications/drug-misuse-declared-findings-from-the-2011-12-crime-survey-for-england-and-wales-2) [ACCESSED 04 JULY 2013]

ASSESSING THE IMPACT OF DRUG LAW ENFORCEMENT

The analysis presented in this report is based largely on official statistics drawn from two principal sources. Under Section 95 of the Criminal Justice Act 1991, the secretary of state is required to publish information to enable those involved in the criminal justice system to avoid discrimination on grounds of race, sex or any other improper grounds (Home Office, 2000). Since the introduction of this requirement the Home Office, and latterly the Ministry of Justice, has regularly published statistics relating to *Race and the Criminal Justice System*. The most recent publication in the series covers the year 2009/10 and includes specific information about drug law enforcement. Drawing on data for 2009/10 and

2008/9 we have used the methodology developed by the Home Office to identify ethnic disparities in the way drug laws are being administered by the police and the courts. For more detail about this methodology please refer to Annex 1.

To augment the data published by the Ministry of Justice, Freedom of Information requests were sent to every police force in England and Wales. For the year 2009/10 each force was asked to provide an ethnic breakdown for:

- Stop searches for drugs;
- Cannabis warnings and penalty notices for disorder;
- Cautions for drug offences; and
- Charges for drug offences.

Of the 42 forces contacted 28 provided a response to the questions posed. Those who did not provide data cited financial cost as the reason they could not meet the requirements of the request. However, only a limited number of forces provided sufficient data, from those providing such data the Metropolitan Police Service was chosen for more detailed analysis as the information they provided was robust and because the MPS undertakes 50% of all stop and searches for drugs in England and Wales.

POLICE TACTICS

Before addressing the main findings of this paper it is important to note that the tactics used by the police to detect drugs are becoming ever more intrusive. People can be detained and strip searched before arrest if the police have 'reasonable suspicion' that they are in possession of drugs. This can sometimes be based on an indication from a sniffer dog, however evidence suggests that in 74% of cases where a dog indicates positively no drugs are found.¹³

Some of those who are strip-searched are not always taken to a police station. A 'designated area' can suffice and this can include a tent or a police station that is no longer in use. Young women have, in many cases, reported being searched for drugs by male police officers. Force can be used to break down doors where a person has been arrested for possession of drugs, even a small quantity, there is often little consideration as whether this is a proportionate and necessary response. In a society where the police are meant to be part of the community these tactics beg the question whether the police are a 'force' or a 'service'.

13. NEW SOUTH WALES OMBUDSMAN, 2006, REVIEW OF THE POLICE POWERS (DRUG DETECTION DOGS) ACT 2001, NSW OMBUDSMAN, AUSTRALIA [HTTP://WWW.OMBO.NSW.GOV.AU/_DATA/ASSETS/PDF_FILE/0020/4457/REVIEW-OF-THE-POLICE-POWERS-DRUG-DETECTION-DOGS-PART-1_OCTOBER-2006.PDF](http://www.ombo.nsw.gov.au/_data/assets/pdf_file/0020/4457/review-of-the-police-powers-drug-detection-dogs-part-1_october-2006.pdf) (ACCESSED 01 JULY 2013)

Having my daughter stopped and searched on her way to school twice upset her and has tainted her view of the police.

White male, 47 years old

POLICE STOP AND SEARCH – THE 'USUAL' SUSPECTS

This section focuses on the rates of drug stop and searches for England and Wales in 2009/10. The report identifies:

- Over a million stop and searches were carried out by the police, half were for drugs.
- On average someone in England and Wales is stopped and searched by the police for drugs every 58 seconds.
- Stop and searches for drugs are driving racial disparity in the criminal justice system.
- There are significant variations in the rates that police stop and search for drugs across the different police forces.
- The Metropolitan Police Service and Merseyside Police stop and search for drugs at a significantly higher rate than any other police service.
- In England and Wales the overall rate for stop and search for drugs is 10 people per 1000 residents.
- White people are stopped and searched for drugs at a rate of 7 per 1000 residents.
- Asian people are stopped and searched for drugs at a rate of 18 per 1000 residents.
- Black people are stopped and search for drugs at a rate of 45 per 1000 residents.

THE NATIONAL PICTURE

The vast majority of police stop and search activity is carried out under Section 1 of the Police and Criminal Evidence Act 1984 ('PACE') and associated legislation, including Section 23 of the Misuse of Drugs Act 1971. These powers allow police to stop and search an individual if they have 'reasonable grounds'¹⁴ to believe that they will find:

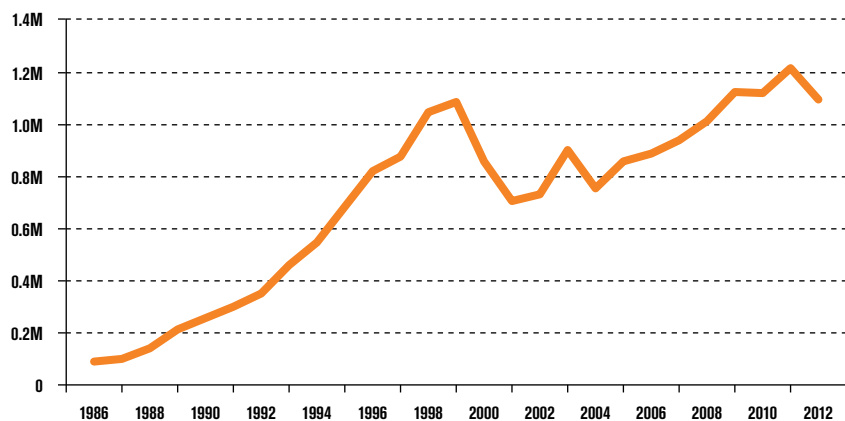
- Controlled drugs
- An offensive weapon or firearm
- A sharp article
- Prohibited fireworks

14. WHAT WILL AMOUNT TO REASONABLE SUSPICION FOR A SEARCH DEPENDS ON THE CIRCUMSTANCES IN EACH CASE. THERE MUST BE SOME INDEPENDENT BASIS - FACTS, INFORMATION OR INTELLIGENCE - FOR AN OFFICER TO BELIEVE THAT THEY WILL FIND THE ITEM THEY ARE SEARCHING FOR, AND THIS CANNOT BE BASED SOLELY ON PERSONAL FACTORS SUCH AS APPEARANCE, PREVIOUS CONVICTIONS OR PREJUDICES TOWARDS INDIVIDUALS OR CERTAIN GROUPS.

- Stolen goods
- Articles which could be used to commit a crime
- Articles which could be used to commit a terrorist attack
- Articles that could cause criminal damage

The number of stop searches carried out by the police has increased massively since the introduction of PACE¹⁵, showing year on year increases over the next decade and a half.¹⁶ There was a brief dip around the time the Stephen Lawrence inquiry published its findings, when police were said to be scared to stop and search black people for fear of being accused of racism, but the numbers quickly recovered.¹⁷ Stop and search has increased steadily since 2001/2 from less than 750,000 to a peak of almost 1.3 million in 2010/11, more than 1.2 million of which were carried out under PACE and associated legislation. Despite a slight decline, there were still more than a million stop searches carried out in 2011/12.¹⁸

Figure 2
Number of recorded 'reasonable suspicion' stop searches in England and Wales^{19a b}



Recent increases in stop and search activity have been particularly marked in relation to drugs. Of the million or so 'reasonable suspicion' searches carried out in 2011/12, 50 per cent were for drugs.

This means, on average, someone in England and Wales is stopped and searched by the police for drugs every 58 seconds.

The extent to which the police use stop and search for drugs varies sharply between forces (see Figure 3). The Metropolitan Police and Merseyside Police make most use of stop and search for drugs, with the remaining 39 forces conducting substantially fewer drug searches per 1,000 population.²⁰

15. SEARCHES UNDER SECTION 23 OF THE MISUSE OF DRUGS ACT 1971 ARE COLLATED UNDER PACE SEARCHES FOR THE PURPOSES OF NATIONAL DATA.

16. SANDERS, A., YOUNG, R., AND BURTON, M., 2010, CRIMINAL JUSTICE, OXFORD: OXFORD UNIVERSITY PRESS.

17. SHINER, M., 2010, 'POST-LAWRENCE POLICING IN ENGLAND AND WALES: GUILT, INNOCENCE AND THE DEFENCE OF ORGANISATIONAL EGO', BRITISH JOURNAL OF CRIMINOLOGY, 50(5): 935-953.

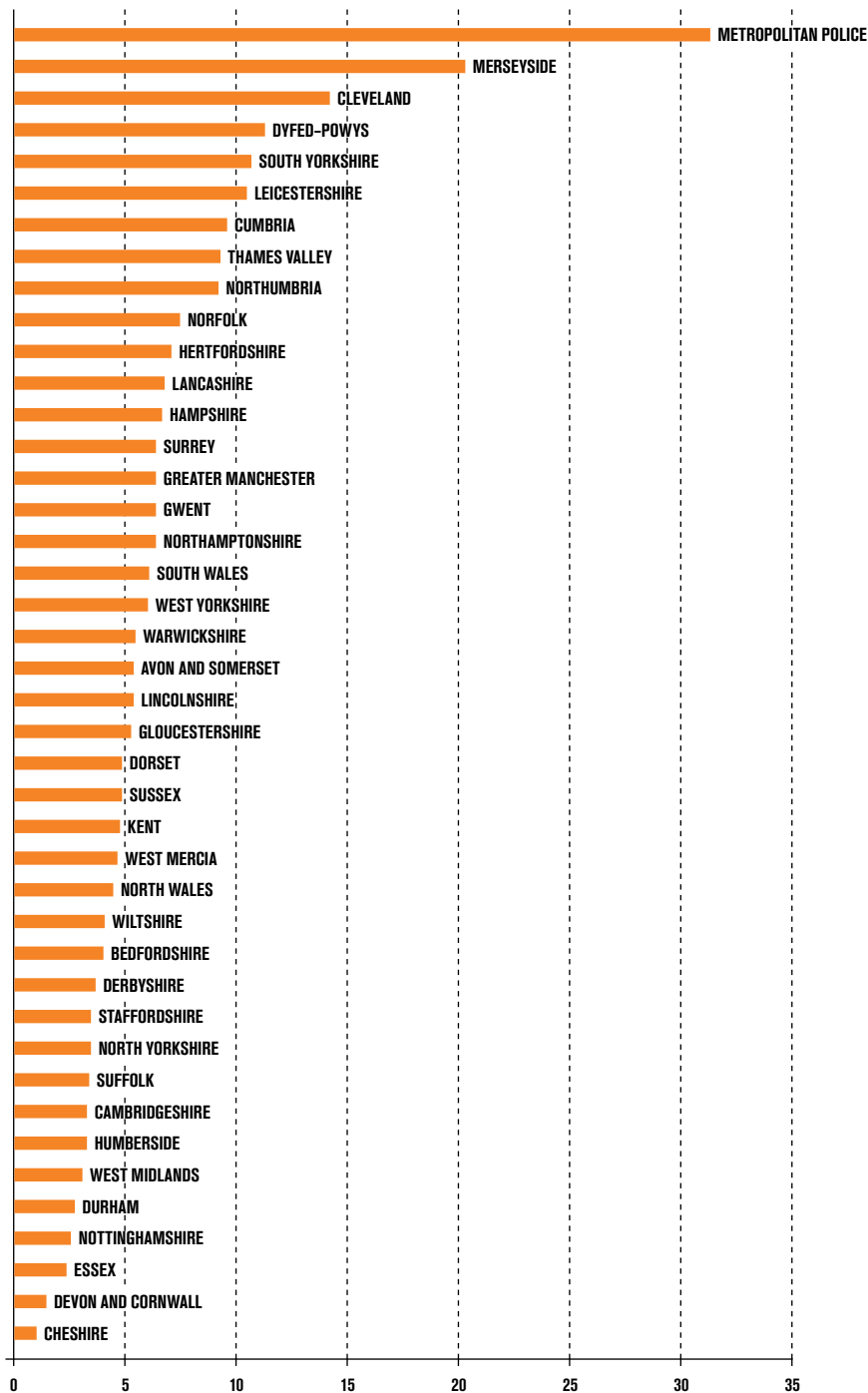
18. HOME OFFICE, 2012, POLICE POWERS AND PROCEDURES ENGLAND AND WALES 2010/11 - SECOND EDITION (STOP AND SEARCHES) HTTP://WWW.HOMEOFFICE.GOV.UK/PUBLICATIONS/SCIENCE-RESEARCH-STATISTICS/RESEARCH-STATISTICS/POLICE-RESEARCH/POLICE-POWERS-PROCEDURES-201011/STOPS-SEARCHES-1011, (ACCESSED 04 FEBRUARY 2013)

19A. HOME OFFICE, 2013, POLICE POWERS AND PROCEDURES ENGLAND AND WALES 2011/12 HTTPS://WWW.GOV.UK/GOVERNMENT/PUBLICATIONS/POLICE-POWERS-AND-PROCEDURES-IN-ENGLAND-AND-WALES-201112/POLICE-POWERS-AND-PROCEDURES-IN-ENGLAND-AND-WALES-2011-12 (ACCESSED 04 JULY 2013)

19B. SANDERS, A., YOUNG, R., AND BURTON, M., 2010, CRIMINAL JUSTICE, OXFORD: OXFORD UNIVERSITY PRESS. NOTE: SAUNDERS ET AL NOTE THAT THE PROPORTION OF SEARCHES CARRIED OUT BY THE POLICE THAT ARE RECORDED HAS INCREASED FROM 40% TO 75%. FIGURES FOR 1986 TO 1996/7 ARE TAKEN FROM SANDERS ET AL., (2010) WHILE THOSE FOR 1997/8 ONWARDS ARE TAKEN FROM THE POLICE POWERS AND PROCEDURES SERIES (2007/8 AND 2012)

20. THE CITY OF LONDON CONSISTENTLY REPORTS HIGH LEVELS OF STOP AND SEARCHES PER CAPITA BECAUSE OF THE TRANSIENT AND NON-RESIDENT NATURE OF THAT AREA, AND THEREFORE IS EXCLUDED FOR THE PURPOSES OF THIS REPORT.

Figure 3
Overall drugs stop and search rate by forces, 2009/10
(number of searches per 1,000 population)



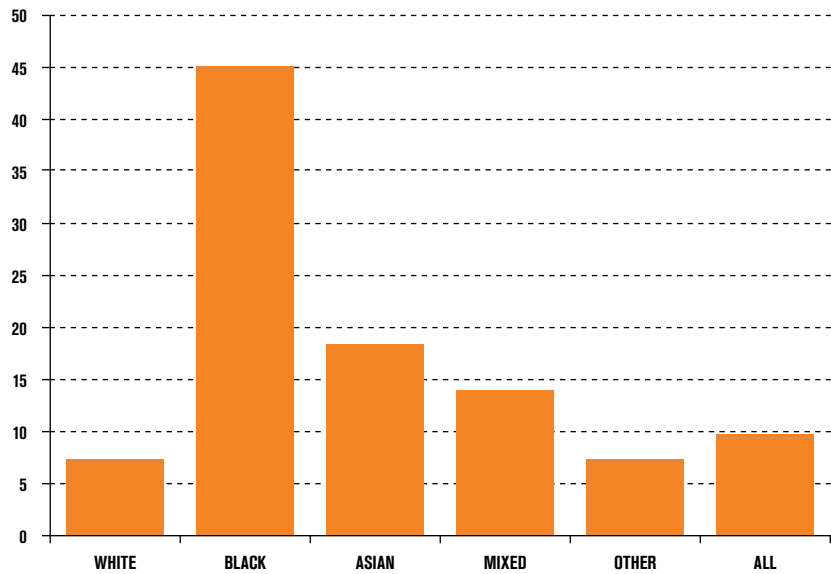
Stop and searches for drugs are the highest reported number of any type of search in all police forces bar three.²¹

Figure 4 shows the search rate for drugs based on self-identified ethnicity²² across England and Wales. The graph shows that black people and Asian people are being stopped and searched at much higher rates for drugs than those who are white.

21. IN BOTH CLEVELAND AND CHESHIRE MORE 'REASONABLE SUSPICION' SEARCHES ARE CARRIED OUT IN RESPECT OF 'GOING EQUIPPED' AND IN DEVON AND CORNWALL THE POLICE FORCE RECORD 'OTHER' TYPES OF SEARCHES AT A HIGHER RATE THAN ANY OTHER SPECIFIED CATEGORIES.

22. ALL FIGURES ARE BASED ON 'SELF-IDENTIFIED ETHNICITY' WHERE THE PERSON STOPPED AND SEARCHED WILL PROVIDE DETAILS ON THEIR ETHNICITY RATHER THAN 'OFFICER IDENTIFIED ETHNICITY'. AS STATED IN THE METHODOLOGY 'SELF-IDENTIFICATION' STATISTICS WILL BE USED THROUGHOUT THIS REPORT WHERE POSSIBLE. ADDITIONALLY, THE SEARCH RATE IS MEASURED BASED ON THE MOST RECENT CENSUS DATA RATHER THAN PEGGS- BASED ESTIMATES AS THIS IS DEEMED MORE RELIABLE. PLEASE SEE THE METHODOLOGY SECTION AT ANNEX 1 OF THIS REPORT FOR MORE DETAILS.

Figure 4
Stop and search for drugs by self-identified ethnicity
(rates per 1,000 population) 2009/10



In terms of the rates of disproportionality black people are stopped and searched at a rate of 6 times that of white people²³, Asian people stopped and searched at a rate of 2.5 times that of whites and for those identifying as mixed race the rate is 2 times.

23. IN 2008/09 AND 2009/10 IN ENGLAND AND WALES BLACK PEOPLE WERE STOPPED AND SEARCHED FOR DRUGS AT 6.7 TIMES AND 6.3 TIMES (RESPECTIVELY) THE RATE OF WHITE PEOPLE.

The extent to which people from black and minority ethnic groups were subject to disproportionately high rates of stop and search for drugs varies across England and Wales, with some forces reporting consistently marked disparities. Dorset police reported the highest rates of black / white disproportionality in 2009/10, stopping and searching black people for drugs at 17.3 times the rate of white people. In the same year Norfolk police stopped and searched black people at a rate of 8.6 times the rate of whites. Northumbria police was the only force to report searching black people for drugs at a lower rate than white people.

The highest rates of Asian / white disproportionality in 2009/10 were reported by Gwent police, with Asian people being stopped and searched for drugs at almost six times the rate of whites, followed by Derbyshire, West Mercia, West Yorkshire and West Midlands police, with Asian people in those areas being stopped and searched for drugs at three to four times the rate of white people.

Disproportionality in relation to 'mixed race' people for 2009/10 was most marked in Nottinghamshire and Warwickshire, where people from mixed backgrounds were stopped and searched for drugs at three times the rate of white people.

DRUGS POLICING DRIVES RACIAL DISPARITY

Ethnic disproportionality in the use of stop and search is not limited to drug searches. Stop searches for other articles, including stolen goods, weapons or evidence of breaking and entry²⁴, are also targeted at people from black and minority ethnic groups at a higher rate than white people, but these disparities are less marked than those that are evident in relation to drugs. In 2009/10 black people in England and Wales were subject to drug searches at 6.3 times the rate of white people and searches for other things at 5.0 times the rate of whites. Asian people were subject to drug searches at 2.5 times the rate of white people and searches for other things at 1.2 times the rate of white people.

24. THESE OFFENCES ARE RECORDED AS CRIMINAL DAMAGE; FIREARMS; GOING EQUIPPED; OFFENSIVE WEAPONS; STOLEN PROPERTY AND OTHER.

It is evident from these figures that the policing of drugs is an important driver of ethnic disparities in stop and search across England and Wales.

DRUGS POLICING IN LONDON

With the Metropolitan Police Service (MPS) carrying out 50% of all drug stop and searches in England and Wales, it is important to consider how the policing of drugs impacts communities in the capital.

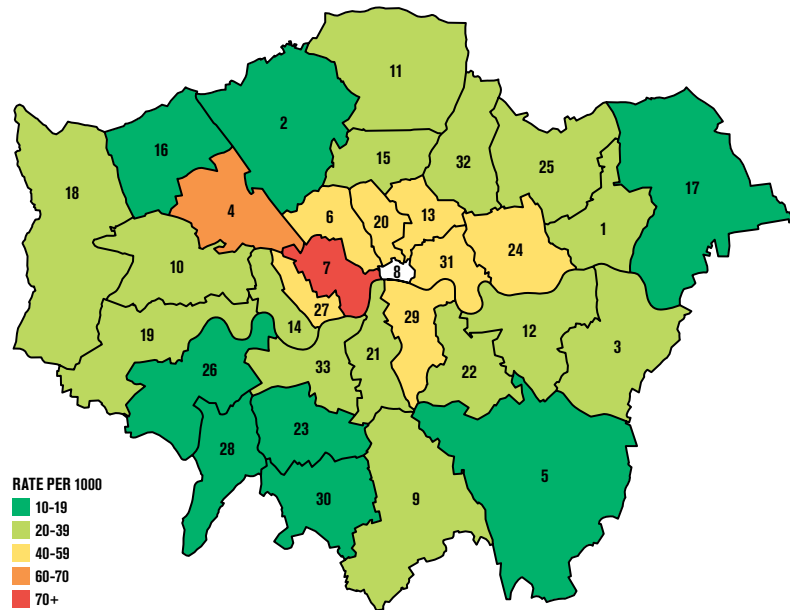
The MPS covers the 32 boroughs of London. The data provided by the MPS was extremely comprehensive and allowed for a robust analysis of the situation in London regarding the policing of drugs and racial disparity. The data is broken down by Borough Operational Command Unit (BOCU), which are the regional units within the MPS and are based on the areas covered by the 32 London boroughs.

- In 2009/10 the MPS carried out 34 stop searches for drugs per 1,000 residents.²⁵
- For white people there were 24 stop searches for drugs per 1000 residents.
- For black people there were 66 stop searches for drugs per 1,000 residents.
- Black people in London were stopped and searched for drugs at nearly three times the rate of white people.
- Asian people were subject to stop and search for drugs at 1.5 times the rate of white people.
- In every BOCU in London except one²⁶ black people were stopped for drugs at a rate higher than those from the white community.
- In just under two thirds of London BOCUs Asian people were subject to a higher rate of stop and search for drugs than white people.
- There are significant variations in policing styles across the boroughs, which on the balance of probabilities will have little relation to the levels of drug use within a BOCU.

25. THE SEARCH RATE DATA PROVIDED BY THE METROPOLITAN POLICE SERVICE ('MPS') VARIED SLIGHTLY FROM THE DATA PROVIDED BY THE MINISTRY OF JUSTICE WHICH REPORTED SEARCH RATES FOR 2009/10 AS 31 PER 1000 OF THE POPULATION.

26. THE DISPROPORTIONALITY RATE IN BARKING AND DAGENHAM WAS 0.91 MEANING THAT BLACK PEOPLE IN THE BOROUGH WERE STOPPED AND SEARCHED FOR DRUGS AT A SLIGHTLY LOWER RATE THAN WHITE PEOPLE.

Figure 5
Rates of stop and search for drugs by London Borough, Metropolitan Police Service, 2009/10



- | | | |
|---------------------------------|--------------------------|---|
| 1. BARKING & DAGENHAM | 12. GREENWICH | 24. NEWHAM |
| 2. BARNET | 13. HACKNEY | 25. REDBRIDGE |
| 3. BEXLEY | 14. HAMMERSMITH & FULHAM | 26. RICHMOND UPON THAMES |
| 4. BRENT | 15. HARINGEY | 27. ROYAL BOROUGH OF KENSINGTON & CHELSEA |
| 5. BROMLEY | 16. HARROW | 28. ROYAL BOROUGH OF KINGSTON UPON THAMES |
| 6. CAMDEN | 17. HAVERING | 29. SOUTHWALK |
| 7. CITY OF WESTMINSTER | 18. HILLINGDON | 30. SUTTON |
| 8. COUNTY OF THE CITY OF LONDON | 19. HOUNSLOW | 31. TOWER HAMLETS |
| 9. CROYDON | 20. ISLINGTON | 32. WALTHAM FOREST |
| 10. EALING | 21. LAMBETH | 33. WANDSWORTH |
| 11. ENFIELD | 22. LEWISHAM | |
| | 23. MERTON | |

27. LESSER R, 2011, ENGLISH INDICES OF DEPRIVATION: A LONDON PERSPECTIVE, GREATER LONDON AUTHORITY, INTELLIGENCE BRIEFING [HTTP://DATA.LONDON.GOV.UK/DATASTOREFILES/DOCUMENTS/ID2010-A-LONDON-PERSPECTIVE.PDF](http://data.london.gov.uk/datastore/files/documents/ID2010-A-LONDON-PERSPECTIVE.PDF) (ACCESSED 01 JULY 2013). THIS REPORTS HIGHLIGHTS THAT ALL THE BOROUGHS MENTIONED RANK WITHIN THE TOP 50 OF THE 326 LOCAL AUTHORITIES IN ENGLAND ON AT LEAST ONE OF THE SUMMARY MEASURES OF DEPRIVATION. HACKNEY, TOWER HAMLETS, ISLINGTON AND NEWHAM ARE IN THE TOP TEN MOST DEPRIVED AREAS IN ENGLAND.

28. WESTMINSTER IS GENERALLY EXCLUDED FROM THE LONDON OVERVIEW DUE TO THE HIGH LEVELS OF HUMAN TRAFFIC MAKING IT DIFFICULT TO ASSESS RACIAL DISPARITY AGAINST THE POPULATION DATA.

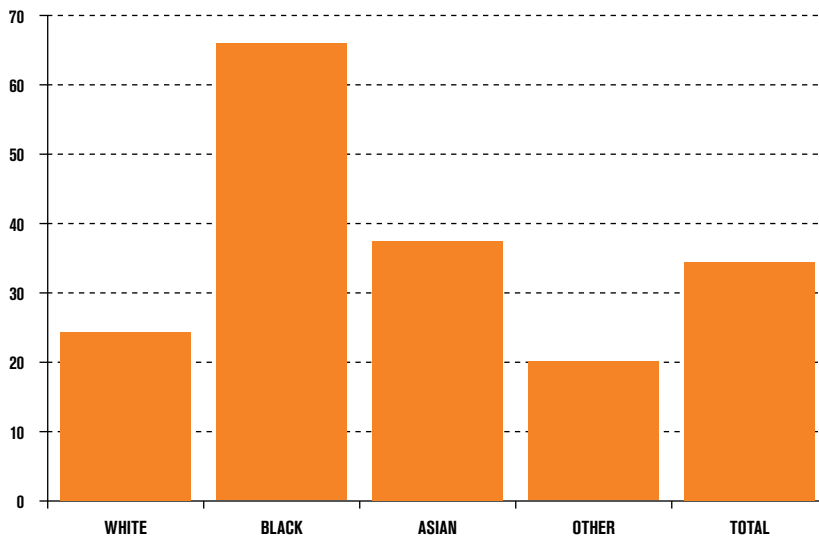
The parts of London with high levels of deprivation²⁷ generally have the highest rates of drug searches.²⁸

Brent has the highest rate of stop and search for drugs with 62 people per thousand being subject to a drugs stop and search. Tower Hamlets, Southwark, Newham, Hackney, Islington and Camden all reported search rates of between 40 – 60 people per thousand of the population. The exception to more affluent areas having lower levels of drug searches was Kensington & Chelsea, with a rate of 55 per 1000.

Figure 6 shows the rate of stop and search for drugs in London reflects the national picture where black and Asian people are stopped and searched at a higher rate than white people. Although it is important to note that the disproportionality ratio for the capital is smaller than the national figure.

Figure 6

Stop and search for drugs by self-identified ethnicity (rates per 1,000 population) in the Metropolitan Police Service area



The rates for stop and search in London are: white people 24 per 1000; black people 66 per 1000; Asian people 37 per 1000; and 'other'²⁹ 20 per 1000. Excluding Westminster, the BOCUs with the highest drug search rates for black people were Kensington and Chelsea at 189 per 1000; Brent at 130 per 1000; Camden at 121 per 1000; and Hammersmith and Fulham at 109 per 1,000.

29. THE CATEGORIES FALLING WITHIN THE DEFINITION OF 'OTHER' ARE DARK EUROPEAN; ORIENTAL; ARABIAN/EGYPTIAN; AND UNKNOWN.

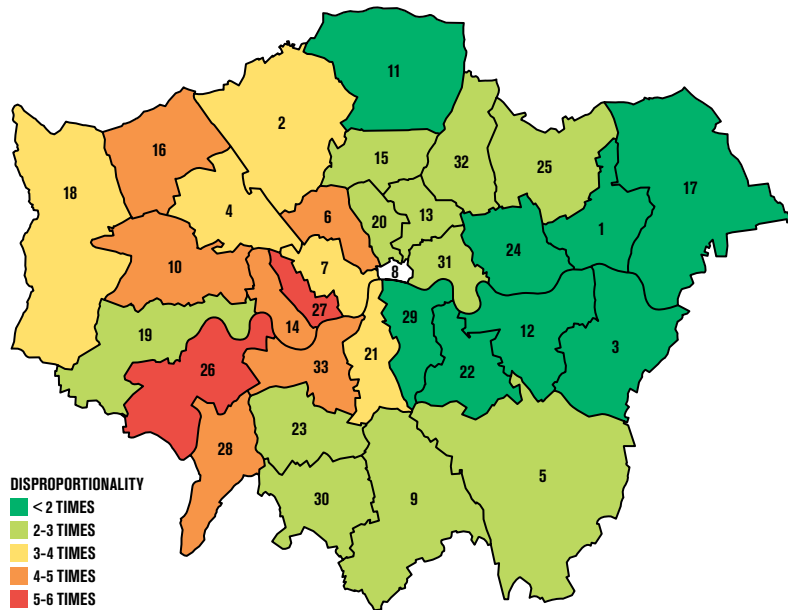
The search rate for white people did not exceed 50 per 1000 in a single London BOCU (excluding Westminster).

In some London boroughs Asian people are also subject to high rates of drug stop and search. In 2009/10 police in Tower Hamlets searched Asian people at a higher rate (85 per 1000) than either black or white people. Compared to other London boroughs, Ealing and Newham report high rates of stop and search for the Asian community at 52 and 55 per 1000 respectively, Kensington and Chelsea also report high levels of such searches at 53 per 1000.

When a child is stopped and searched it makes parents feel angry, powerless and frustrated. How can we tell children to respect the police when they are then treated with so little respect by them.

Black Caribbean female

Figure 7
Drug stop and search, black / white disproportionality
by London Borough, Metropolitan Police Service 2009/10



- | | | |
|---------------------------------|--------------------------|---|
| 1. BARKING & DAGENHAM | 12. GREENWICH | 24. NEWHAM |
| 2. BARNET | 13. HACKNEY | 25. REDBRIDGE |
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| 9. CROYDON | 20. ISLINGTON | 32. WALTHAM FOREST |
| 10. EALING | 21. LAMBETH | 33. WANDSWORTH |
| 11. ENFIELD | 22. LEWISHAM | |
| | 23. MERTON | |

There are seven boroughs where racial disparities in the policing of drugs are particularly marked. In five of these boroughs - Camden, Ealing, Hammersmith & Fulham, Harrow and Wandsworth – black people are stopped and searched for drugs at between 4-5 times the rate of white people. In Kensington and Chelsea black people are searched for drugs at just over 5 times the rate of white people, while this rises to nearly six times in Richmond. All London boroughs except one – Barking & Dagenham - disproportionately police black people.

Throughout London there is significant variation in levels of ethnic disparity and the policing of drugs. Some of the boroughs identified as having a high rate of disproportionality in relation to black people are some of the most affluent parts of the city. This variation is evidenced by the facts that in some of these boroughs, such as Richmond, the high rates of disparity are driven by the fact that police are stopping and searching white people for drugs at a very low rate.³⁰ Conversely, Kensington & Chelsea police are stopping and searching white people at a relatively high rate compared to other London boroughs.

30. RICHMOND SEARCH WHITE PEOPLE AT A RATE OF 17 PER 1000 AND BLACK PEOPLE AT A RATE OF 98 PER 1000.

Ethnic disparities were also evident in boroughs with high overall search rates. In Hackney, Haringey and Tower Hamlets black people were stopped and searched for drugs at more than 2 times the rate of white people.

Asian people are stopped and searched for drugs at twice the rate of white people in Ealing, Tower Hamlets and Waltham Forest. However, in 12 London boroughs³¹ Asian people are searched at a lower rate than white and black people.

31. THE BOROUGHS ARE BARNET, BEXLEY, BROMLEY, ENFIELD, GREENWICH, HARINGEY, KINGSTON UPON THAMES, LAMBETH, LEWISHAM, MERTON, SOUTHWARK AND SUTTON.

YOUNG PEOPLE AND THE POLICING OF DRUGS

What we also know is that significant numbers of young people are being stopped and searched. In 2009/2010 the Metropolitan Police carried out nearly 280,000 stop and searches for drugs in London, half of which were carried out on people aged 21 and under.

Almost 16,900 children aged 15 years or younger and nearly 550 aged 12 or below were searched by the MPS for drugs in 2009/10.

This can be a terrifying experience for a child and there is no legal requirement for the search to be carried out in the presence of an appropriate adult.

THE POVERTY OF STOP AND SEARCH

The social class of people searched is not recorded by the police. It is evident from Figure 7, however, that poorer communities, especially young people in these communities, are subject to more intensive policing than areas that are considered more affluent. Young people in poorer communities are also more likely to be in public spaces, because of a lack of space at home and therefore more visible to police. The reality, then, is that a black child who is a resident of Hackney, and on the streets of that borough, is much more likely to be stopped and searched than a white child in Notting Hill - drug policing drives this experience.³²

32. THE SEARCH RATE FOR BLACK PEOPLE IN HACKNEY DURING 2009/10 WAS 66 PER 1000 WHEREAS THE SEARCH RATE FOR WHITE PEOPLE IN KENSINGTON AND CHELSEA WAS 37 PER 1000.

The police see black people as more likely to "cause trouble" and then try to establish their authority unnecessarily and in an offensive manner.

Stop and search has a negative impact. It shows that the police are not to be respected and that the community is not in their interests, and that there are deep problems at the very heart of our police force.

White and Black Caribbean Mixed Race Male

IS THE POLICING OF DRUGS A GOOD USE OF RESOURCES? – THE HIT RATE

The arrest rate for drug stop and searches is one way of measuring the impact of stop and search:

- In 2009/10 the arrest rate from stop and searches for drugs was 7%.
- The arrest rate for drugs is lower than other types of stop and searches.
- Black people are arrested at 6 times the rate of white people.
- In London 6% of drug stop and searches result in arrest.
- The racial disparity that exists in relation to Asian people at stop and searches generally fades away at arrest.

ARREST RATES IN ENGLAND AND WALES

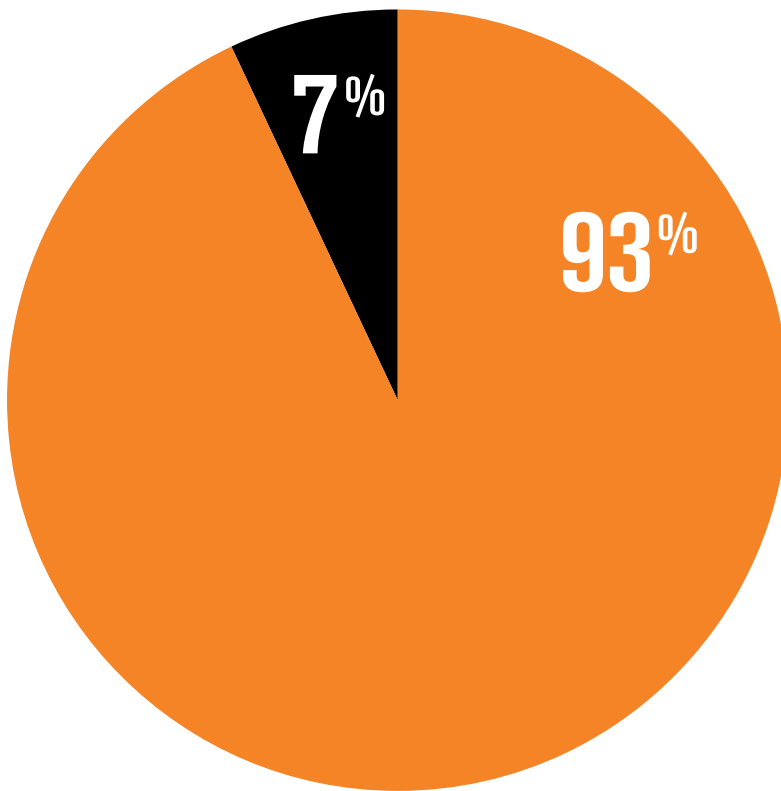
Fewer than one in ten stop searches carried out for drugs across England and Wales result in arrest (see Figure 8).

Of the nearly 550,000 stop drug searches in 2009/10, only 40,000 yielded an arrest.

However, the police are now measuring success based on 'hit rates' rather than 'arrest rate'. Hit rates also include instances where people who are caught in possession of small amounts of cannabis are issued with a cannabis warning or a penalty notice for disorder ('PND') instead of being arrested. The MPS have adopted this approach and have a 'hit rate' of 18.3%.³³ However, this will arguably result in the police prioritising the detection of low level cannabis offences at the expense of policing more serious crime. Additionally, this approach does nothing to address the ethnic disparities that exist in relation to the policing of drugs.

33. MPS PUBLICATION SCHEME, 2013, STOP AND SEARCH KEY PERFORMANCE INDICATOR PROGRESS REPORT, MAY 2013, [HTTP://WWW.MET.POLICE.UK/FOI/UNITS/STOP_AND_SEARCH.HTM](http://www.met.police.uk/foi/units/stop_and_search.htm) (ACCESSED 17 JULY 2013)

Figure 8
Arrest rates – drug arrests resulting from stop & search, England and Wales 2009/10



The arrest rate from stop and search for drugs is broadly similar across ethnic groups, hovering between 7.4 and 7.9 per cent for white, black and 'other' ethnic groups in 2009/10, though it does fall to 5.3 per cent for Asians. As such, the ethnic disparities that are evident in relation to stop and search follow through to arrests, albeit at a slightly lower rate for Asians.

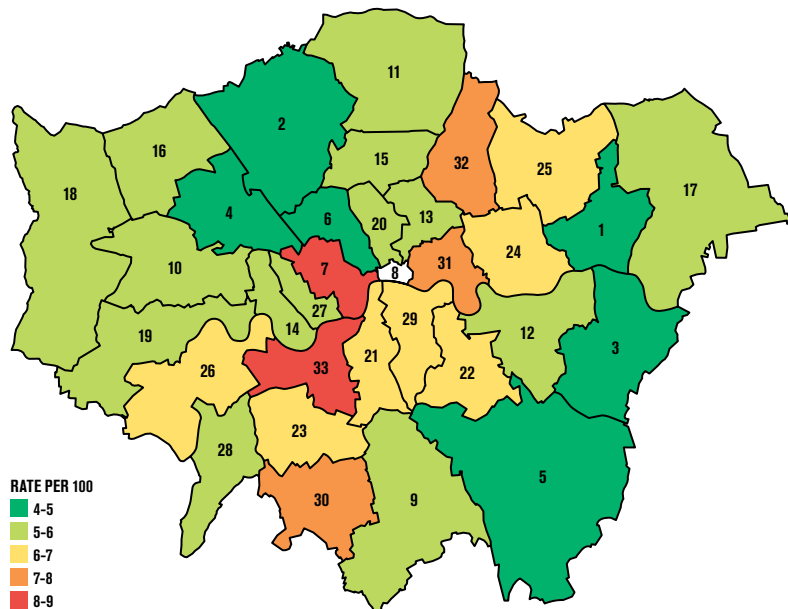
Black people are arrested for drugs offences at 6 times the rate of white people, this is as a result of the high rates of disproportionality at stop and search meaning that more black people are entering the criminal justice system as a result of drugs policing.

The policing of drugs is driving down arrest figures. Nationally, the arrest rate for drugs is 7.1 per cent. For all offences including drugs it is 9.2 per cent and when drugs is removed from the rates for all other offences it is 11.2 per cent.

ARREST RATES IN LONDON

Figure 9

Drug stop and search, black / white disproportionality by London Borough, Metropolitan Police Service 2009/10



- | | | |
|---------------------------------|--------------------------|---|
| 1. BARKING & DAGENHAM | 12. GREENWICH | 24. NEWHAM |
| 2. BARNET | 13. HACKNEY | 25. REDBRIDGE |
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| 11. ENFIELD | 22. LEWISHAM | |
| | 23. MERTON | |

The proportion of drug searches resulting in arrest across the MPS is extremely low at six per cent.

Even in the best performing borough, Islington, the arrest rate is only 8.7 per cent. At the other end of the scale, police in Richmond only arrest 4.1 per cent of those searched for drugs. As already noted, Richmond's use of stop and search displays the highest rate of black/white disproportionality across London.

The racial disparity that exists at stop and search for black people is reflected in the arrest figures. The ethnic disparity at arrest for black people in London is just over 3 times the rate of whites. This mirrors the disproportionality at stop and search, although it is slightly higher. This may be linked to the police response to possession of drugs detailed below.

The BOCUs with the highest rates of disproportionality at stop and search also have the highest rates of disproportionality at arrest.

In relation to the Asian community, the disproportionality that exists for drug stop and searches in a number of London boroughs fades away at the point of arrest. Overall, the disproportionality arrest rate is 1.14, meaning there is near parity between white and Asian populations. However, five boroughs do report higher levels of disparity. In Ealing for example, Asian people are arrested at 2.4 times the rate of whites. Interestingly, the rates of disparity that exist at stop and search in Tower Hamlets disappear at the arrest stage with Asians being arrested at almost the same rate as white people.

It is important to remember that arrest does not mean that the person is necessarily prosecuted, so it is not always indicative of a successful case. Research has stated that the Crown Prosecution Service terminates higher rates of cases involving black and Asian people, suggesting 'that the police may be presuming guilt in the case of some black and Asian suspects as a result of negative stereotyping yet where there is insufficient evidence to proceed against them.'³⁴

Additionally, disproportionality may be higher at arrest in relation to black people as they are less likely to receive out of court disposals such as a cannabis warning or a penalty notice for disorder ('PND'), this would not include cautions as these are usually preceded by arrest.

34. BOWLING B & PHILIPS C, 2003, 'POLICING ETHNIC MINORITIES COMMUNITIES', ORIGINALLY PUBLISHED IN NEWBURN, TIM, (ED.) HANDBOOK OF POLICING. WILLAN PUBLISHING, DEVON, UK, PP. 528-555, WILLAN PUBLISHING LTD, AVAILABLE: [HTTP://EPRINTS.LSE.AC.UK/9576/1/POLICING_ETHNIC_MINORITY_COMMUNITIES_\(LSERO\).PDF](http://eprints.lse.ac.uk/9576/1/POLICING_ETHNIC_MINORITY_COMMUNITIES_(LSERO).PDF) (ACCESSED 23 APRIL 2013)

I was stopped and searched 10 times between the ages of 16 and 21, but I have not been searched for 25 years. On every occasion I was searched it was for cannabis. My son is now the subject of recurrent stop and searches, I don't know how many times the police have stopped and searched him.

People who are stopped and searched are angry about being targeted. The disparity in stop and search is the most obvious form of racism that black people face.

All kinds of people take drugs, it is not limited to one race or class. I had to tell my son about the situation because of what I have been through, I had to tell him to be calm. You need to understand that even though you know it's wrong, you have no control, you just have to let them do what they are going to do. It is never going to change, my complaint isn't going to do anything.

**Black male 46 years old, father of a 21 year old son.
Camberwell, London**

HOW DO THE POLICE RESPOND TO THOSE CAUGHT IN POSSESSION OF DRUGS?

The data obtained from the MPS provided details on how the police responded to people caught in possession of a drug:

- Black people are charged for possession of cannabis at 5 times the rate of white people.
- The rate of disparity is higher for black people at charge for cannabis possession than at cannabis warning (3 times), demonstrating that black people receive harsher sanctions for possession of cannabis.
- 56 per cent of white people caught in possession of cocaine received cautions, the remaining 44 per cent were charged. Of black people caught in possession of cocaine, 22 per cent received cautions and 78 per cent were charged for the offence.

Is the drug arrest rate for black people disproportionately higher than for white people because they are less likely to receive an out of court disposal that does not necessitate arrest, for example, a cannabis warning or PND? To test this theory, and to consider whether black or Asian people are treated more harshly, data was obtained from the MPS looking at the level of ethnic disparity that exists in relation to the police's response when people are found in possession of either cannabis or cocaine.

CANNABIS WARNINGS, CAUTIONS AND CHARGING

For the very small percentage of people who are found with drugs after being stopped and searched by police, there are a number of criminal justice responses that can be deployed. These responses are:

Cannabis warning – can be issued by a police officer where an individual has been caught in possession of a small amount of cannabis for the first time in a 12-month period. The warning is a sanctioned detection³⁵ but it does not form part of a person's criminal record. It is the least harsh response a police officer can officially take in relation to the possession of cannabis.

Penalty Notice for Disorder ('PND') – a PND can be issued in relation to cannabis possession and usually occurs where someone has been caught in possession of a small amount of cannabis for the second time in a 12-month period and they have already received a cannabis warning. It is an on the spot £80 fine and as long as it is paid within 21 days there will be no further action. Like a cannabis warning, this is considered a sanctioned detection but does not form part of a criminal record.

Caution – a caution can be issued by the police instead of charging and referring a person to court for prosecution. A person accepting a caution must admit their guilt and it does form part of a criminal record. A caution can be issued for possession (or in some limited cases possession with intent to supply) of any type of controlled drug. A caution is preceded by being arrested and brought in to a police station, unlike the cannabis warning and PND, which can be issued on the street.

Charge – the police, along with the Crown Prosecution Service, can charge an individual for possession of drugs or possession with intent to supply and the matter will be referred to the courts to be dealt with.

HOW ARE THE METROPOLITAN POLICE RESPONDING TO BME COMMUNITIES CAUGHT IN POSSESSION OF CANNABIS?

The levels of racial disparity that exist at stop and search for black people will primarily result in disproportionality at all stages of the criminal justice system. However, if racial disparity is lower for out of court disposals than charge, when compared to the white population, we can conclude that those from black or Asian backgrounds are receiving tougher sanctions and/or responses.

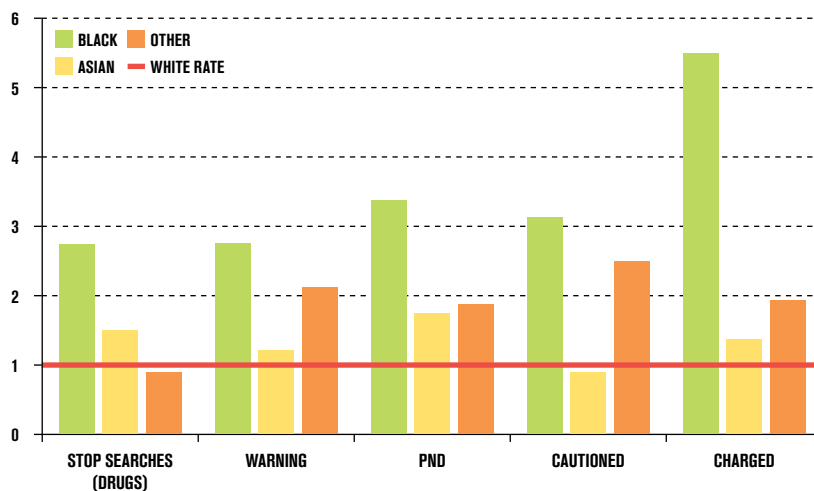
35. A SANCTIONED DETECTION IS: THE TICK IN THE BOX WHEN A RECORDED CRIME IS DETECTED, THE OFFENDER IDENTIFIED AND THE ISSUE BROUGHT TO JUSTICE, THAT IS, EITHER A SANCTION HAS BEEN ISSUED OR THE ALLEGED DEFENDANT HAS BEEN SUMMONED TO COURT.

THE BLACK POPULATION AND CANNABIS POSSESSION OFFENCES

Figure 10 below details the disparity rates in relation to three possible criminal justice responses for possession of cannabis – cannabis warnings, cautions, and charge – charge is the most severe response.

Figure 10
Stop & Search, Cannabis Warnings, PNDs, Cautions & Charges, disproportionality as compared to the white population, Metropolitan Police Force 2009/10³⁶

36. THE CATEGORIES FALLING WITHIN THE DEFINITION OF 'OTHER' ARE DARK EUROPEAN; ORIENTAL; ARABIAN/EGYPTIAN; AND UNKNOWN.



In the Greater London area black people are charged at 5 times the rate of white people and receive cannabis warnings at 3 times the rate. This jump in disproportionality at charge stage demonstrates that a black person is more likely to receive a harsher police response for possession of cannabis.

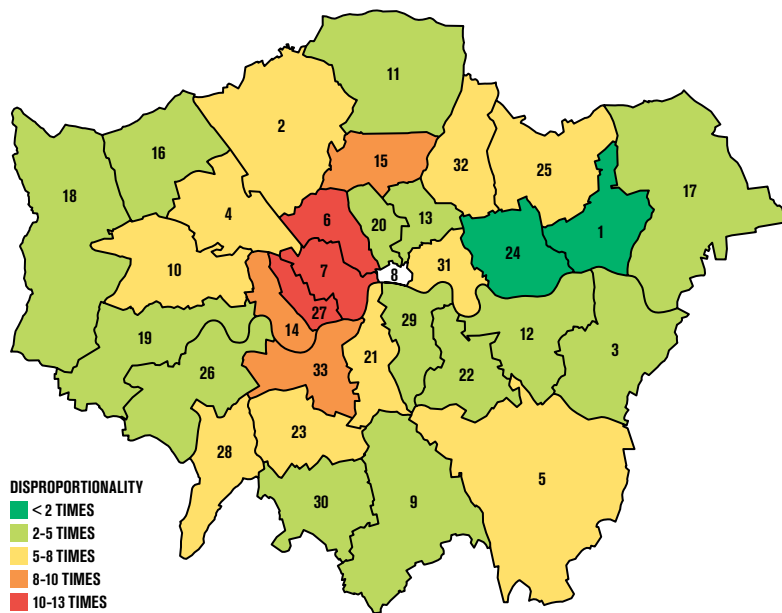
The levels of racial disparity at all stages of response are of concern and in most boroughs the rates of disproportionality escalated in line with the severity of the response.

I have been stopped and searched in the past and it made me feel unequal to my white peers. In order to reduce the chances of being stopped and searched I make an effort to dress more maturely and smarter. If I dressed in hoodies and tracksuits I believe that I would be stopped more often as that fits the stereotype that the police have. I don't think that I should be restricted in what I wear but I've accepted that's the way it is.

I know my rights with regards to stop and search and as a black male I feel that you have to know your rights as the police target you.

Black Caribbean Male (British), 28 years old, Electrician

Figure 11
Cannabis charge - black / white disproportionality by
London Borough, Metropolitan Police Service 2009/10



- | | | |
|---------------------------------|--------------------------|---|
| 1. BARKING & DAGENHAM | 12. GREENWICH | 24. NEWHAM |
| 2. BARNET | 13. HACKNEY | 25. REDBRIDGE |
| 3. BEXLEY | 14. HAMMERSMITH & FULHAM | 26. RICHMOND UPON THAMES |
| 4. BRENT | 15. HARINGEY | 27. ROYAL BOROUGH OF KENSINGTON & CHELSEA |
| 5. BROMLEY | 16. HARROW | 28. ROYAL BOROUGH OF KINGSTON UPON THAMES |
| 6. CAMDEN | 17. HAVERING | 29. SOUTHWALK |
| 7. CITY OF WESTMINSTER | 18. HILLINGDON | 30. SUTTON |
| 8. COUNTY OF THE CITY OF LONDON | 19. HOUNSLOW | 31. TOWER HAMLETS |
| 9. CROYDON | 20. ISLINGTON | 32. WALTHAM FOREST |
| 10. EALING | 21. LAMBETH | 33. WANDSWORTH |
| 11. ENFIELD | 22. LEWISHAM | |
| | 23. MERTON | |

Black people in Kensington & Chelsea are disproportionality charged for cannabis possession at a rate 13 times that of white people. In Camden this rate is 10 times that of white people.

Across London there is a marked increase between the disparity rates at cannabis warning and caution compared to charge, demonstrating that black people are significantly more likely to be subject to a more severe response when they are caught in possession of cannabis.

Generally, in terms of sanctions for cannabis possession, most London BOCUs respond to Asian people at the same rate as the white population. In the whole of the capital, Asian people receive cannabis warnings at the rate of 1.2 times and are charged at a rate of 1.3.

HOW ARE THE POLICE RESPONDING TO PEOPLE FROM BME COMMUNITIES WHO ARE CAUGHT IN POSSESSION OF COCAINE?

The picture for those from the black community caught in possession of cocaine is even starker than that for cannabis. In every borough in London, except for Barking & Dagenham, black people are more likely to be charged for possession of cocaine than white people. In 19 out of the 32 London boroughs those from the black community are less likely to be cautioned than those from the white community.

Figure 12

Figure 12 Percentage of disposals by ethnicity for cocaine possession, Metropolitan Police Service 2009/10³⁷

37. THE LONDON FIGURES FOR 2009/10 SHOW THAT 56% OF THE 2312 WHITE PEOPLE CAUGHT IN POSSESSION OF COCAINE RECEIVED CAUTIONS, THE REMAINING 44% WERE CHARGED, OF THE 827 BLACK PEOPLE CAUGHT IN POSSESSION OF COCAINE 22% RECEIVED CAUTIONS AND 78% WERE CHARGED FOR THE OFFENCE.

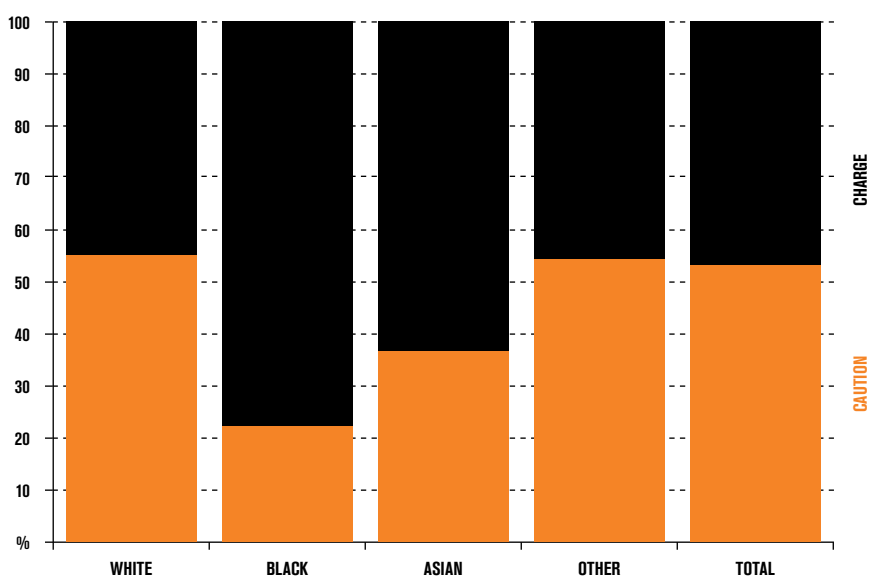


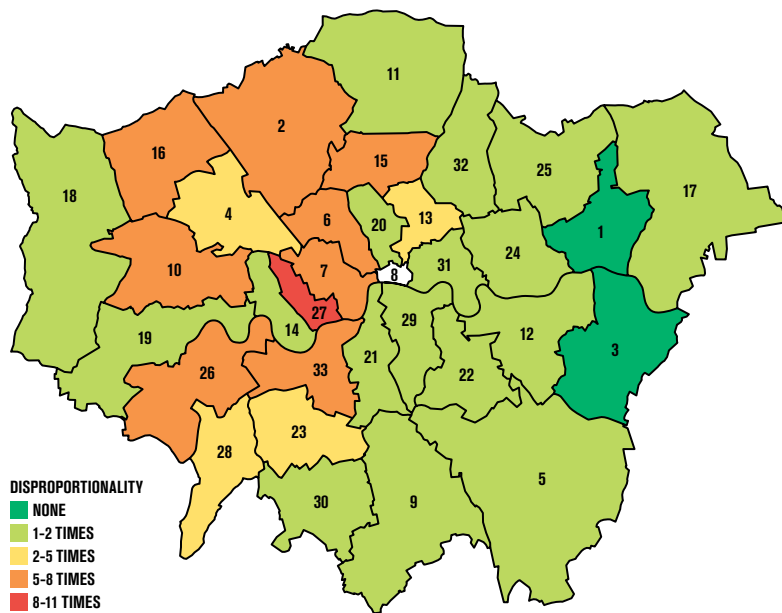
Figure 12 shows that 56 per cent of white people caught in possession of cocaine received cautions, the remaining 44 per cent were charged. Of black people caught in possession of cocaine, 22 per cent received cautions and 78 per cent were charged for the offence.

Of Asian people caught in possession of cocaine, 36 per cent were cautioned and 64 per cent charged with the offence. This pattern is repeated throughout London.³⁸

38. IN HACKNEY FOR EXAMPLE, 80% OF THOSE FROM A WHITE BACKGROUND ARE CAUTIONED FOR COCAINE POSSESSION AND THE REMAINING 20% ARE CHARGED, WHILST OF THOSE CAUGHT IN POSSESSION AND WHO ARE BLACK 33% ARE CAUTIONED AND 67% ARE CHARGED.

The ethnic disparity that exists in relation to charging for cocaine possession is often high in those boroughs that have previously exhibited similar behaviour in relation to stop and search, arrest and responses to cannabis possession. In Kensington & Chelsea black people caught in possession of cocaine are charged at 7 times the rates of whites. In Richmond, Haringey, Harrow, Wandsworth and Westminster, police charge those from the black community at a rate of 5 to 6 times.

Figure 13
Charged for cocaine possession – black/white disproportionality
by London Borough, Metropolitan Police Service 2009/10



- | | | |
|---------------------------------|--------------------------|---|
| 1. BARKING & DAGENHAM | 12. GREENWICH | 24. NEWHAM |
| 2. BARNET | 13. HACKNEY | 25. REDBRIDGE |
| 3. BEXLEY | 14. HAMMERSMITH & FULHAM | 26. RICHMOND UPON THAMES |
| 4. BRENT | 15. HARINGEY | 27. ROYAL BOROUGH OF KENSINGTON & CHELSEA |
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| 8. COUNTY OF THE CITY OF LONDON | 19. HOUNSLOW | 31. TOWER HAMLETS |
| 9. CROYDON | 20. ISLINGTON | 32. WALTHAM FOREST |
| 10. EALING | 21. LAMBETH | 33. WANDSWORTH |
| 11. ENFIELD | 22. LEWISHAM | |
| | 23. MERTON | |

The racial disparity that exists at stop and search drives the continued disproportionality throughout the criminal justice system; however the statistics on police charging decisions demonstrates that black people are far more likely to be charged with the offence of possession than white people.³⁹

39. THIS PATTERN WAS SEEN IN RELATION TO DATA COLLECTED FROM OTHER POLICE FORCES. OF WHITE PEOPLE CAUGHT IN POSSESSION OF COCAINE BY WEST MIDLANDS POLICE SERVICE 55% WERE CAUTIONED, ONLY 14% OF BLACK PEOPLE WERE CAUTIONED FOR THE SAME OFFENCE. IN AVON & SOMERSET BLACK PEOPLE WERE ARRESTED FOR CANNABIS OFFENCES AT 10 TIMES THE RATE OF WHITE PEOPLE.

I have a very negative view of the police because of stop and search. I believe the police's use of stop and search is racist and used to oppress young Black and Asian people.

Parents whose children are stopped and searched feel like their children are being regularly violated and humiliated and that the people who are supposed to protect their families are actually the ones doing the most harm.

Black African female

PROSECUTING DRUG OFFENCES

The number of people being prosecuted annually for drug possession offences is at an all-time high. This is impacting disproportionately on young people and black people:

- **1 in 10 of those prosecuted for drug possession offences are aged between 15 -18.**
- **Black people are sentenced at a rate of 4 to 4.5 times that of white people for all drug offences.**
- **Black people are subject to immediate custody at a rate of 5 times that of white people for drug possession offences.**

ESCALATION IN PROSECUTIONS FOR DRUG POSSESSION OFFENCES

Every year approximately 80,000 people in England and Wales are prosecuted or cautioned for possession of drugs.

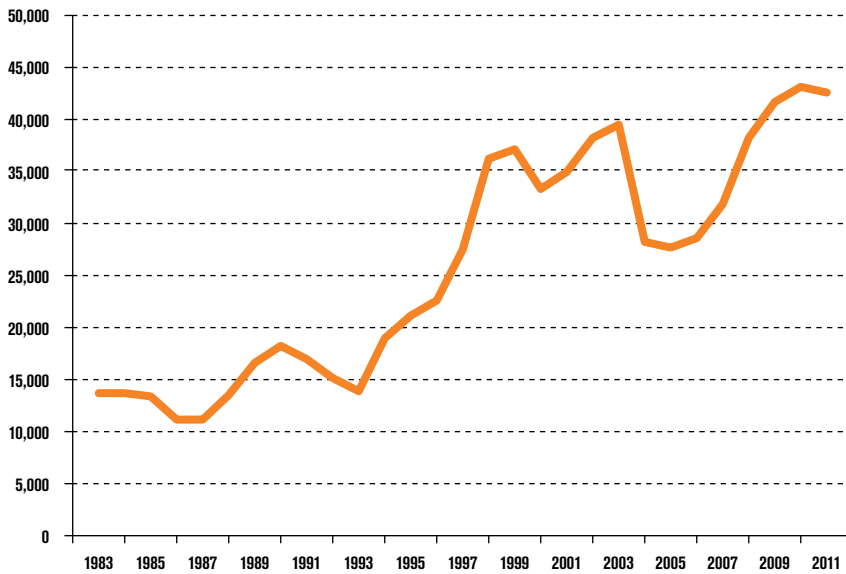
In the 15 year period, 1996 to 2011, 1.2 million criminal records have been generated as a result of drug possession laws.

In 2010 the Crown Prosecution Service brought more prosecutions for possession of drugs than in any other year since the introduction of the Misuse of Drugs Act 1971.

In total, 43,406 people were found guilty of drug possession, this number dropped slightly in 2011 to 42,247.

Figure 14 shows a threefold increase in the number of people found guilty for possession of drugs for the period 1983 to 2011. The decrease in numbers between 2003 and 2008 is directly linked to the reclassification of cannabis from a Class B to a Class C substance and then back to Class B in 2009.

Figure 14
Offenders found guilty at all courts of possession of drugs offences, England and Wales, 1983 to 2011⁴⁰

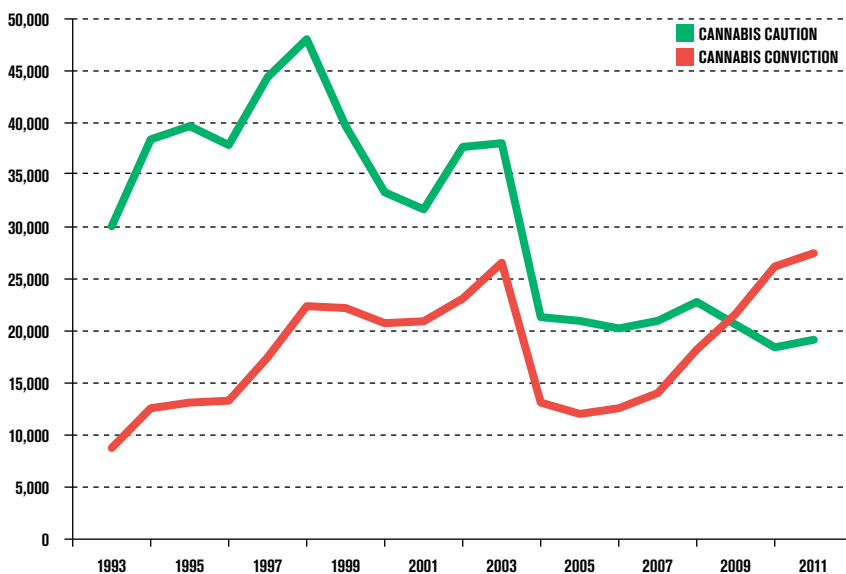


40. MINISTRY OF JUSTICE, 2013, DRUGS: POLICE CAUTIONS AND CONVICTIONS, ANSWER TO PARLIAMENTARY QUESTION ASKED BY CAROLINE LUCAS MP (25 APRIL 2013) [HTTP://WWW.THEYWORKFORYOU.COM/WRANS/?ID=2013-04-25D.150855.H](http://www.theyworkforyou.com/wrans/?id=2013-04-25D.150855.H) (ACCESSED 04 JULY 2013)

The prosecution of cannabis is driving the increase in cases brought before the courts for possession of drugs.

Figure 15 shows that the number of convictions obtained for possession of cannabis now outstrips the number of cautions issued for the offence. This is despite the availability of a number of out of court disposals for cannabis possession that do not result in a criminal record.

Figure 15
Criminal Justice Response to those caught in possession of cannabis 1993 - 2011⁴¹, England and Wales



41. IBID

In 2004, when cannabis was reclassified to a Class C drug, the Association of Chief Police Officers ('ACPO'), with the support of the government, brought in cannabis warnings. At the time the chairman of the ACPO committee on drugs, Andy Hayman, stated that:

"In the spirit of the Home Secretary's decision to reclassify cannabis, the new guidance recommends that there should be a presumption against arrest. In practice, this means that in the majority of cases officers will issue a warning and confiscate the drug. Police officers will be expected to use their discretion."⁴²

42. STEEL J, 2003, 'POLICE WILL LET MOST CANNABIS USERS OFF WITH VERBAL WARNING', THE TELEGRAPH, [HTTP://WWW.TELEGRAPH.CO.UK/EDUCATION/3317846/POLICE-WILL-LET-MOST-CANNABIS-USERS-OFF-WITH-VERBAL-WARNING.HTML](http://www.telegraph.co.uk/education/3317846/Police-will-let-most-cannabis-users-off-with-verbal-warning.html) (ACCESSED 03 JULY 2013)

In practice this is not what happened. In the first year of the scheme there was a 40% reduction in the number of cautions issued and prosecutions brought in respect of cannabis possession. However, that experience was short lived and there were steady increases in the numbers prosecuted from 2005 onwards. By 2011 the number of people found guilty at court for possession of the drug exceeded the number reported for the year preceding the introduction of the scheme. The number of cautions issued has also steadily increased but has not returned to the levels they were at prior to 2004, resulting in more people being prosecuted than cautioned.

In terms of cannabis warnings, and the subsequent introduction of PNDs, the impact has been one of net widening. Rather than diverting people away from the criminal justice system, more people are being caught up in it. In 2008 the use of cannabis warnings peaked at 104,273. By 2011 this had dropped to 79,167⁴³, although this decrease will be partly associated with the reclassification of cannabis from Class C to Class B in January 2009. At the same time, the use of PNDs has increased from 8,267 in 2009 (the year they were introduced for cannabis possession) to 15,704 in 2011⁴⁴. By 2011, compared to the period before the introduction of cannabis warnings, the numbers caught up in the criminal justice system for possession of cannabis have more than doubled - to over 140,000 people.

43. MINISTRY OF JUSTICE, 2012, CRIMINAL JUSTICE STATISTICS QUARTERLY UPDATE TO SEPTEMBER 2012 STATISTICS BULLETIN, [HTTPS://WWW.GOV.UK/GOVERNMENT/UPLOADS/SYSTEM/UPLOADS/ATTACHMENT_DATA/FILE/172773/CRIMINAL-JUSTICE-STATS-SEPT-2012.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/172773/criminal-justice-stats-sept-2012.pdf) (ACCESSED 30 APRIL 2013)

44. MINISTRY OF JUSTICE, 2011, CRIMINAL JUSTICE STATISTICS OUT OF COURT DISPOSALS SEPTEMBER 2012 (EXCEL FILE), TABLE Q2.1 [HTTPS://WWW.GOV.UK/GOVERNMENT/PUBLICATIONS/CRIMINAL-JUSTICE-STATISTICS-IN-ENGLAND-AND-WALES-EARLIER-EDITIONS-IN-THE-SERIES](https://www.gov.uk/government/publications/criminal-justice-statistics-in-england-and-wales-earlier-editions-in-the-series) (ACCESSED 29 APRIL 2013)

45. OFFENCES CHARGED RELATES TO THE NUMBER OF OFFENCES IN WHICH A PROSECUTION IS BROUGHT AND REACHES A FIRST HEARING AT MAGISTRATES COURT. IT DOES NOT REFER TO THE NUMBER OF DEFENDANTS AND CAN OFTEN REFLECT THE FACT AN INDIVIDUAL IS CHARGED WITH MORE THAN ONE DRUGS OFFENCE.

Additionally, the number of possession offences charged⁴⁵ by the Crown Prosecution Service has seen a rapid increase in recent years. Since 2007/08 the number of offences involving Class A drugs brought before the courts has decreased from 20,103 to 15,585 in 2011/12. In relation to Class B drugs, primarily cannabis as identified above, the trend is very different, with 28,300 offences being brought for prosecution in 2007/08 and rising to 47,979 in 2011/12.

It could be assumed that this increase in offences charged could be related to the reclassification of cannabis in 2009. However when looking at the Class C figures there was only a decline of 2,753 offences, from 6,698 charges in 2008/09 to 3,945 in 2009/10. The increase by almost 20,000 in Class B offences charged simply cannot be laid at the door of reclassification.

There is no clear explanation as to why the CPS is bringing so many prosecutions against people caught in possession of drugs falling within this class of controlled substances⁴⁶. This is despite CPS guidance stating that it may not be in the public interest to bring prosecutions 'where the drugs are of the so-called "softer" variety and where the amounts involved are small'.⁴⁷

Every year, between 10% - 15% of all indictable offences brought before the courts are for drugs possession. In a time of severe austerity, where every part of the criminal justice system is seeing swathing cuts, policy makers need to consider whether this is an effective use of resources and need to consider the cost to society of criminalising 10,000s of people every year.

AGE OF DEFENDANTS IN POSSESSION CASES

- 1 in 4 defendants in possession cases were aged 21 or under;
- 10% of those prosecuted for possession of drugs were aged 15 – 18 years old;
- 307 children aged 10 – 15 were subject to court proceedings for possession of a controlled drug (there was one child aged between 10 -12);

In addition to the ethnically based disproportionality introduced into the criminal justice system, large numbers of young people are unnecessarily criminalised as a result of minor drug offences.

This has a significantly detrimental impact on them because they are more likely to re-enter the criminal justice system as a result, and may experience negative outcomes in terms of future employment; educational aspiration and increased stigmatisation.

THE PROSECUTING OF BLACK PEOPLE FOR DRUG OFFENCES

As part of the research undertaken for this report we wanted to ascertain whether the racial disparity that existed in relation to the policing of drugs offences continued at the prosecution stage. To determine this, information was obtained via parliamentary questions and data held by the Ministry of Justice.⁴⁸

At this stage of the criminal justice system rates of racial disparity drift away for the Asian population, so we can conclude from the national picture and the MPS data above that it is only at the stop and search stage of drugs policing that there is a risk of disproportionality for this ethnic group in some parts of the country. The rest of this section will therefore only concentrate on the black population and the disproportionality they face in relation to the prosecution of drug offences and in particular drug possession offences.

46. THE INFORMATION CONTAINED IN THIS PARAGRAPH ABOUT THE CPS AND OFFENCES CHARGED IS SOURCED FROM A PARLIAMENTARY QUESTION TABLED BY EMILY THORNBERRY MP [HTTP://WWW.THEYWORKFORYOU.COM/WRANS/?ID=2012-12-18B.134369.H](http://www.theyworkforyou.com/wrans/?id=2012-12-18b.134369.h) (ACCESSED 30 APRIL 2013)

47. CROWN PROSECUTION SERVICE, 2013, DRUG OFFENCES, INCORPORATING THE CHARGING STANDARD, [HTTP://WWW.CPS.GOV.UK/LEGAL/D_TO_G/DRUG_OFFENCES/#A09](http://www.cps.gov.uk/legal/d_to_g/drug_offences/#A09) (ACCESSED 17 JULY 2013)

48. SENTENCING STATISTICS USED HERE ARE TAKEN FROM THE SUPPLEMENTARY TABLES FOR THE MINISTRY OF JUSTICE (2011) STATISTICS ON RACE AND THE CRIMINAL JUSTICE SYSTEM 2010, LONDON: MINISTRY OF JUSTICE, CHAPTER 4, DEFENDANTS: CAUTIONS, PROSECUTIONS AND SENTENCING, [HTTPS://WWW.GOV.UK/GOVERNMENT/UPLOADS/SYSTEM/UPLOADS/ATTACHMENT_DATA/FILE/172542/STATS-RACE-CJS-2010.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/172542/stats-race-cjs-2010.pdf) (ACCESSED 30 APRIL 2013).

49. IBID – FIGURES ARE FOR 2009 & 2010 AND BOTH REPORT RATES OF 4.3 TIMES MORE LIKELY TO BE SENTENCED THAN WHITE DEFENDANTS.

For all drug offences, including trafficking offences, black people are sentenced at court at more than 4 times the rate of white people.⁴⁹

When compared to other indictable offences the rate of disproportionality falls to 2 times, again demonstrating that policing and prosecution of drugs is driving racial disparity in our criminal justice system.

It is important to note that the rate of disproportionality is lower at the prosecution stage for two main reasons:

1. As previously stated, research shows that the CPS terminate higher rates of cases involving black and Asian people, the authors of this research suggested that this may be on the basis of insufficient evidence and the fact the police have based their assumptions on negative stereotyping of Asian and black people.⁵⁰
2. Additionally, the data for court proceedings details all cases where a person has been proceeded against for a possession or trafficking offence regardless of whether the alleged offence was detected through stop and search. This could include vehicle searches that fall outside PACE section 1, drug raids, people detected at nightclubs or festivals and where a search was not necessary.

50. BOWLING B & PHILIPS C, 2003, 'POLICING ETHNIC MINORITIES COMMUNITIES', ORIGINALLY PUBLISHED IN NEWBURN, TIM, (ED.) HANDBOOK OF POLICING. WILLAN PUBLISHING, DEVON, UK, PP. 528-555, WILLAN PUBLISHING LTD, AVAILABLE: [HTTP://EPRINTS.LSE.AC.UK/9576/1/POLICING_ETHNIC_MINORITY_COMMUNITIES_\(LSERO\).PDF](http://eprints.lse.ac.uk/9576/1/POLICING_ETHNIC_MINORITY_COMMUNITIES_(LSERO).PDF) (ACCESSED 23 APRIL 2013)

**Figure 16
Persons sentenced for indictable offences at Magistrates' Court and Crown Court by ethnic appearance 2010, England and Wales**

DRUG OFFENCES	RATE PER 1,000 POPULATION					DISPROPORTIONALITY (OF WHITES)		
	WHITE	BLACK	ASIAN	OTHER	TOTAL	BLACK	ASIAN	OTHER
NUMBER SENTENCED	0.88	3.75	1.13	1.01	1.1	4.26	1.29	1.15
ABSOLUTE/ CONDITIONAL DISCHARGE	0.14	0.43	0.1	0.08	0.16	3.02	0.74	0.59
FINE	0.33	1.55	0.45	0.22	0.42	4.62	1.36	0.65
COMMUNITY SENTENCE	0.21	0.72	0.2	0.12	0.24	3.53	0.99	0.6
SUSPENDED SENTENCE	0.06	0.17	0.06	0.06	0.07	2.77	0.97	0.92
IMMEDIATE CUSTODY	0.11	0.64	0.26	0.5	0.17	5.56	2.31	4.34
OTHERWISE DEALT WITH	0.02	0.25	0.05	0.04	0.04	10.1	1.91	1.47
ALL INDICTABLE OFFENCES								
	WHITE	BLACK	ASIAN	OTHER	TOTAL	BLACK	ASIAN	OTHER
NUMBER SENTENCED	5.38	13	3.99	4.87	5.66	2.41	0.74	0.9
ABSOLUTE/ CONDITIONAL DISCHARGE	0.73	1.26	0.34	0.46	0.73	1.72	0.46	0.63
FINE	0.88	2.46	0.75	0.54	0.97	2.79	0.85	0.61
COMMUNITY SENTENCE	1.74	3.83	1.1	1.01	1.77	2.21	0.63	0.58
SUSPENDED SENTENCE	0.53	1.11	0.41	0.58	0.56	2.09	0.78	1.09
IMMEDIATE CUSTODY	1.24	3.45	1.16	2.06	1.35	2.78	0.94	1.66
OTHERWISE DEALT WITH	0.26	0.88	0.22	0.22	0.29	3.35	0.85	0.83

In terms of sentencing black people at both Magistrates' Court and Crown Court disproportionality exists at every stage. This is mainly driven by disparities introduced earlier in the process, particularly at the point of stop and search.

Sentencing decisions accentuate disproportionality in relation to immediate custody, with black people being imprisoned for drug offences at almost 6 times the rate of white people. It is this judicial response that elicits the highest rates of disparity and is much higher than immediate custodial sentences for other indictable offences. This judicial response is also apparent when comparing the rate at which black people are subject to immediate custody to the rate at which they are given a suspended sentence - the rate for a suspended sentence being almost half that of immediate custody.

Specific analysis of Magistrates' sentencing decisions in relation to possession only offences also highlighted notable levels of ethnic disproportionality. At Magistrates' Court⁵¹ black people are proceeded against at a rate 4.5 times that of whites. They are also found guilty of a possession offence at a rate of 4.5 times that of whites and are subject to custody at a rate of 5 times that of whites.

51. THE VAST MAJORITY OF POSSESSION ONLY CASES ARE DEALT WITH AT MAGISTRATES' COURT.

Whilst the risk of a custodial sentence for a drugs possession conviction is low (in 2011 1,247 people were sentenced to immediate custody for possession of drugs, approximately 50% of whom were serving concurrent sentences)⁵², it still seems absurd that people are going to prison for possession of drugs at all. Moreover, the risk of this occurring is much greater for those from the black community.

52. THIS INFORMATION WAS OBTAINED THROUGH A PARLIAMENTARY QUESTION TABLED BY BARONESS MEACHER.

The police stop people on their gut instinct, their gut instinct is racist even if they don't realise it themselves, individual police officers need to be brought to account to face up to how their actions reveal their thinking.

Children have both a fear of police officers and a fear of criminals. When adults talk about the actions of police officers that are seen as racist it affects the perceptions of their children. Seeing somebody they know being stopped and searched can be confusing and frightening for them.

The people who are struggling the most in society are targeted the most. That isn't to do with drugs.

Black British male, 53 years old, father of two sons aged 22 and 11, Youth Worker

WHAT IS DRIVING THE POLICING OF DRUGS?

"Despite assurances from the current Government about the removal of central targets there is still a really strong performance management culture in the service, which has created a generation of people who are great at chasing targets but do not always recognise that doing the right thing is the best thing for the public."⁵³

— **Chief Superintendent Irene Curtis**

It is difficult to assess the logic behind the way drugs are policed. One possibility is the embedded nature of the target culture after years of performance driven targets based on stop and search and sanctioned detections.

The most recent 'Crime Survey for England and Wales'⁵⁴ ('CSEW') identified that the significant increase in the number of recorded drug offences was linked to the previous government's Public Service Agreement targets (2004/05 and 2008/09). This led to a target driven approach whereby policing priorities were based on increasing the number of offences brought to justice.

The Office for National Statistics, who produced the CSEW, stated that this approach 'illustrates how proactive policing can increase crimes against society as the number of drug offences recorded by the police is heavily dependent on police activities and priorities'.⁵⁵ The report also goes on to say that the increases in police recorded drug offences were not a reflection of real increases in drug use.⁵⁶

Senior police officers advise that there are no targets set for those policing the streets, and whilst it is true that there is now no national policy⁵⁷ detailing the need for individual officers to meet performance indicators in terms of recorded sanctions, at a local level a different picture emerges.

Anecdotally, there is evidence that police performance continues to be measured on the basis of targets. The targets are linked to sanctioned detections: the tick in the box when a recorded crime is detected, the offender identified and the issue brought to justice. A resolved murder case counts as one sanctioned detection as does a rape case. A cannabis warning counts as one too.

53. PRESS ASSOCIATION, 2013, 'POLICE PERFORMANCE TARGETS CAUSE 'DYSFUNCTIONAL BEHAVIOUR' AND SHOULD BE CURBED SAYS NEW CHIEF SUPERINTENDENT' HUFFINGTON POST UK, [HTTP://WWW.HUFFINGTONPOST.CO.UK/2013/03/17/POLICE-TARGETS-CURBED_N_2897721.HTML](http://www.huffingtonpost.co.uk/2013/03/17/policetargets-curbed_n_2897721.html) (ACCESSED 05 MAY 2013)

54. OFFICE FOR NATIONAL STATISTICS, 2013, CRIME IN ENGLAND AND WALES, YEAR ENDING MARCH 2013: STATISTICAL BULLETIN, ONS, [HTTP://WWW.ONS.GOV.UK/DNS/DCP171778_318761.PDF](http://www.ons.gov.uk/dns/dcp171778_318761.pdf) (ACCESSED 04 AUGUST 2013)

55. *IBID* AT PAGE 72

56. *IBID*

57. THE COALITION GOVERNMENT SCRAPPED PERFORMANCE RELATED TARGETS IN 2010.

For police officers this approach means that there is an incentive to police low level easily detected crime, such as, the possession of cannabis, in order to hit targets.

Imagine that it is the end of the month and your target sanctioned detections for that period are not sufficient, the easiest way to obtain your quota is to go to an area where you know young people may be smoking cannabis.

One example of this comes from research that focused on the drivers for policing. This research found that policing of drugs was less about drugs policy and more about police performance.⁵⁸ The author's experience of the police reflected the target driven discourse, where officers were judged as succeeding based on the number of sanctioned detections they made.

58. BEAR D, 2012, 'QUESTIONING STOP AND SEARCH: COULD DRUGS POLICY ACTUALLY HAVE A NEGATIVE IMPACT ON THE COMMUNITIES THAT IT IS DESIGNED TO PROTECT?'; LSE, [HTTP://WWW2.LSE.AC.UK/RESEARCHANDEXPERTISE/RESEARCHHIGHLIGHTS/LAW/QUESTIONING-STOP-AND-SEARCH.ASPX](http://www2.lse.ac.uk/researchandexpertise/researchhighlights/law/questioning-stop-and-search.aspx) (ACCESSED 05 MAY 2013)

This research found that when dealing with a shoplifting case, it may take an officer 16 hours to process and for it to be recorded as a sanctioned detection. More serious cases such as burglary and sexual assaults are, in most cases, referred up to senior officers and therefore the sanctioned detection is not available to the officer policing the streets.

However, a cannabis warning takes on average between 30 minutes to an hour to issue and process, and as such is one of the easiest ways for a police officer to get a sanctioned detection.

To put this into context, the report's author describes a conversation with a police officer at the start of a shift:

'On several occasions I worked with officers who immediately upon starting their shift went out to find cannabis. I was quite surprised and I said straight off the bat, 'it is the beginning of the night shift why are we going to this park to look for cannabis?' The officer said quite bluntly 'well I need to get a sanctioned detection, this is a quick way to do it, and afterwards, if we get it now, I can spend the rest of the shift doing real policing. Doing the things that the community want, doing the things that I feel good about doing, and engaging in, so if I get this out the way now we can move on''⁵⁹

59. IBID - PODCAST AT 3.43 MINUTES.

For a police officer who needs to meet targets to show that he or she is doing a good job and might therefore be considered for promotion the policing of cannabis is probably the most expedient method of obtaining that sanctioned detection.

Finding cannabis is easy, most police officers will know where people, especially young people, are smoking it and so there is an incentive to police this activity even though it is not a priority for the community.

60. LONDON COMMUNITIES POLICING PARTNERSHIP, 2010, 'LONDON COMMUNITIES' CRIME CONCERNS', [HTTP://DATA.LONDON.GOV.UK/DATASTORE/PACKAGE/LONDON-COMMUNITIES-CRIME-CONCERNS](http://data.london.gov.uk/datastore/package/london-communities-crime-concerns) (ACCESSED 5 MAY 2013)

61. IPSO-MORI, 2011, 'POLICE FEDERATION: POLICING PRIORITIES', [HTTP://WWW.IPSOS-MORI.COM/ASSETS/DOCS/PUBLICATIONS/SRI_CRIME_AND_JUSTICE_POLICE_FEDERATION_POLICING_PRIORITIES_TABLES_22FEBRUARY_2011.PDF](http://www.ipsos-mori.com/assets/docs/publications/sri_crime_and_justice_police_federation_policing_priorities_tables_22february_2011.pdf) (ACCESSED 5 MAY 2013). A HIGHER PERCENTAGE, 38%, THOUGHT THAT THE POLICE SHOULD TARGET USE OF HEROIN AND OTHER HARD DRUGS. HOWEVER, THE TOP 3 PRIORITIES OF THOSE LISTED WERE BURGLARY (74%); DRUNKEN AND YOBBIISH BEHAVIOUR IN A PUBLIC PLACE (57%); DRUNK DRIVING (57%).

62. CHITTY A, 2013, 'THE LONDON MET: NOT RACIST, APPARENTLY', VICE MAGAZINE, [HTTP://WWW.VICE.COM/EN_UK/READ/RIOTS-JUNKIES-AND-GANGS-A-CONVERSATION-WITH-AN-EX-MET-POLICEMAN](http://www.vice.com/en_uk/read/riots-junkies-and-gangs-a-conversation-with-an-ex-met-policeman) (ACCESSED 5 MAY 2013)

63. BRAKENRIDGE J, 2011, 'MET POLICE FRONTLINE SERVICES ARE BEING CUT BY TARGET-DRIVEN SENIOR OFFICERS', THE GUARDIAN, [HTTP://WWW.GUARDIAN.CO.UK/COMMENTISFREE/2011/DEC/08/METROPOLITAN-POLICE-RESPONSE-TEAM-CUTS](http://www.guardian.co.uk/commentisfree/2011/dec/08/metropolitan-police-response-team-cuts) (ACCESSED 5 MAY 2013)

In a 2009 poll of Londoners' main crime concerns, drugs were ranked 19th as a priority.⁶⁰ Interestingly the number one priority was 'community engagement', something that is arguably undermined by stop and search tactics. Another survey carried out by an IPSOS Mori for the Police Federation in 2011 found only 9% of those surveyed thought that cannabis use was a priority for the police.⁶¹

I've been stopped and searched approximately 15 times in my life. I've never complained after a stop and search because I feel that it would be pointless and no action would be taken.

It feels that the police make up a reason on the spot to stop and search people and I think it is often down to racial stereotyping.

I think that the police trying to enforce laws against cannabis use and reduce its circulation and use at a street level is a complete waste of time. I think that they should tackle the main suppliers of the drug as opposed to the end users. The police stopping individuals from using cannabis will not lead to the police disrupting the cannabis industry as a whole.

If I were a police officer I would focus on street robbery, violent assaults and offensive weapons. I would not treat cannabis possession as a higher priority than these sorts of crimes.

Black Caribbean Male (British), 28 years old.

In order to ascertain whether officers perceived the notion of sanctioned detections and targets as a driver in the way they police, we analysed media stories and went onto some of the blogs and chat rooms where police officers freely discuss their role. Below are some of the comments we found:

"If you weren't doing at least three stop-and-searches per shift, you had to explain yourself."⁶²

"For consideration for promotion above the rank of inspector, the prospective candidate must be recommended by their direct line manager. This is highly subjective, and breeds nepotism. Following a recommendation, an application form based on "competencies" is required. This barely acknowledges public service, but relies almost entirely on the ability to achieve set performance targets. It is therefore in the interest of every promotion-hungry officer to chase targets."⁶³

“Forces were pushed to obtain ‘sanctioned detections’. In simple terms this meant that for every recorded crime, if it could be marked (subject to specific criteria) as ‘detected’ then it was a big positive tick in the statistical figures. Officers were put under pressure to ensure they met a certain quota of ‘sanctioned detections’ every month”.⁶⁴

64. THE CUSTODY RECORD, 2013, ‘GETTING CAUTIONS UNDERSTOOD’, [HTTP://THECUSTODYRECORD.WORDPRESS.COM/2013/04/04/GETTING-CAUTIONS-UNDERSTOOD/](http://thecustodyrecord.wordpress.com/2013/04/04/getting-cautions-understood/), (ACCESSED 05 MAY 2013)

“The problem is, in Blandmore, a good proportion of our detection rate comes from “street warnings” for cannabis, whereby an officer can fill out a quick questionnaire and claim a sanction-based detection towards his area’s performance”.⁶⁵

65. PC BLOGS – A 21ST CENTURY POLICE OFFICER, ‘LESS DANGEROUS THAN LUMBERJACKING’, [HTTP://PCBLOGS.BLOGSPOT.CO.UK/2009/11/LESS-DANGEROUS-THAN-LUMBERJACKING.HTML](http://pcblogs.blogspot.co.uk/2009/11/less-dangerous-than-lumberjacking.html) (ACCESSED 05 MAY 2013)

Simon Guilfoyle, a serving police inspector, in his book ‘Intelligent Policing: How Systems Thinking Methods Eclipse Conventional Management’⁶⁶ states that the official policy line of the last few years argues for more ‘officer discretion and common sense’⁶⁷, and less reliance on numerical targets. But Guilfoyle argues that this is not what happens in practice:

66. GUILFOYLE S, 2013, ‘INTELLIGENT POLICING: HOW SYSTEMS THINKING METHODS ECLIPSE CONVENTIONAL MANAGEMENT’, [HTTP://WWW.TRIARCHYPRESS.COM/DOWNLOADS/INTELLIGENT-POLICING-CHAPTER6.PDF](http://www.triarchypress.com/downloads/intelligent-policing-chapter6.pdf)

67. IBID AT PAGE 139

“We were recently told that our BCU [Basic Command Unit – in essence, a police division] PACE 1s [stop and searches] had fallen to an unacceptable level on our internal force league table and that we needed to stop-search more people.”⁶⁸

68. IBID AT PAGE 155

Guilfoyle refers to the research by the former Chief Constable Peter Neyroud and Dr. Emma Disley of the RAND Corporation, which stated that the effect of having a target driven culture would undermine the effective investigation of serious criminal offences. They state that police officers would inevitably focus on volume crimes at the expense of proper investigation of serious crimes.⁶⁹

69. IBID AT PAGE 148

So whilst the current government has attempted to do away with the target culture of the 1990’s and the first decade of the 21st century, it appears that the practice is still active on the ground. If this is the case then there is little doubt that the police are being incentivised to proactively seek out crimes that are easily detected, such as cannabis possession. The volume of stop and searches for drugs goes some way to supporting this position. The fact that a drug possession offence carries the same weight in terms of police targets as a serious crime is a significant problem. Equally problematic is the idea that rates of stop and search count towards performance indicators.

Some police forces have recognised that the sheer volume of stop and search is a problem that must be addressed. The Met Police Commissioner, Bernard Hogan Howe, has stated that the number of negative drug searches must fall by half, but did so in the year that the overall number of stop searches reached an all-time high. Reducing negative searches will not necessarily discourage officers

from seeking people who are in possession of drugs, especially cannabis, and will not address the real issue – that communities want police to deal with the crimes that are most damaging, property crimes and violent crimes. Although the number of stop searches in the Capital has fallen to just below 350,000 in the last 12 months, it was still the case that 190,000 or 54 per cent were for drugs.

Caution needs to be exercised when using ‘hit rates’ or arrest rates as a performance management target. Reducing negative drug searches is clearly desirable, but there is a danger that setting targets to this end will create perverse incentives, encouraging officers to pursue a formal sanction when they would not do so otherwise (so they get the ‘hit’) or to not make a record in an attempt to hide unsuccessful searches. Because arrest is an intermediate outcome and is not an end in itself, it is a poor indicator of success. A low hit rate is a matter for concern because it indicates that officers are setting the bar for reasonable suspicion too low, subjecting members of the public to unnecessary, and arguably illegal, searches. While a high hit rate may indicate more targeted use of stop and search it may, alternatively, be indicative of inappropriate use of formal sanctions, including poor quality arrests, pushing the problem deeper into the criminal justice system, or of selective record keeping. If arrests are to be used as a performance indicator it is vital that the police are able to distinguish between these possibilities.

THE REFORM OF STOP AND SEARCH IS POSITIVE FOR THE POLICE AND THE CRIMINAL JUSTICE SYSTEM

70. BOWLING B & PHILLIPS C, 2007, 'DISPROPORTIONATE AND DISCRIMINATORY: REVIEWING THE EVIDENCE ON POLICE STOP AND SEARCH', THE MODERN LAW REVIEW, 70(6) 939-961, AT PAGE 960

“It is time to look more fundamentally at the regulation of police coercive powers. If, as it appears to be the case, the broad power to stop and search citizens in a public place is still not being used fairly after eight years of reform ‘post-Lawrence’, then there is a very strong case for a fresh approach.”⁷⁰

As stated, the substantial level of stop and search in the name of locating drugs is a significant driver of racial disparity within the criminal justice system. With hundreds of thousands of people subject to police interference on the streets of England and Wales every year - with the specific aim of detecting drugs - and with only a 7% arrest rate, a review of drug policy and the decision to police low level drug use is the ‘fresh approach’ that is needed.

The existence of disproportionate policing is unjust. But added to this it is bad for policing. The benefits of reducing, or ending, stop and searches for drug possession could have a positive impact on both policing and on communities who are affected by high levels of over policing. Academic research in recent years has established that police legitimacy can be negatively affected by the use of stop and search in an unfair and discriminatory manner.

In those communities where young black or Asian men are repeatedly subjected to high levels of stop and search, their perception of the police is often a negative one.

Imagine you are someone who has been stopped and searched 30 times in the space of six months, often on the grounds of suspected cannabis possession. What impact would that have on your view of the police? If you were a victim of a crime or a witness to a crime would you be likely to report it to the police? What about your view of other state institutions, would their legitimacy be affected by your experiences of the police? Would you be pushed further away from mainstream society and therefore more likely to commit crime? What about those who live in your community? Would they view the police in a positive light or would they perceive the police as a negative presence in their neighbourhood? It is our position that the racial disparity that exists in the policing of drugs impacts on the ability of police to operate effectively in certain communities and that these communities feel as if they are being policed rather than being protected by the police.

It is difficult to explain to children why they are being treated differently than their white peers and it is difficult to report any other crimes to police as I have lost all confidence in their ability to protect me and my family.

I distrust the police and think most of them have a racial bias against black people.

Black African male.

The issue of the disproportionate policing of BME communities is not a new one. Stop and search powers have been repeatedly cited as a flashpoint in some of the greatest disturbances witnessed in modern day Britain. Both the Brixton Riots of the 1980s and the more recent riots of August 2011 were linked to the discriminatory use of stop and search.⁷¹ The tragic murder of Stephen Lawrence, and the subsequent MacPherson inquiry into policing, highlighted the problems that exist in relation to stop and search, and drew particular attention to the issue of drugs legislation.

For over 30 years stop and search has been in the spotlight and despite the calls for reform and the various inquiries, the level of racial disparity has continued to rise.

Recent reports by the Equality and Human Rights Commission⁷² and the Police Foundation⁷³ have highlighted the continued problems and increasing rates of racial disparity that exist in relation to stop and search.

“The blunt reality, more than a decade after Macpherson and several years after the reforms were implemented, is that aggregate- measured levels of disproportionality for grounds-based searches have not improved. Moreover compared to the later 1990s, the situation has become worse for black and Asian people. The relative chances of people in these groups being searched, compared to whites have apparently increased.”⁷⁴

This presents a rather bleak picture in that the level of racial disparity has worsened in the last decade. Sadly the recommendations of the Scarman report and the Stephen Lawrence Inquiry seem to have had little, if any, impact.

As already indicated, the impact of disproportionate policing has wider implications beyond inequality and unfairness. It also affects the ability of the police to perform their role effectively and potentially creates a number of other unintended consequences. The issue of police legitimacy and procedural fairness has received greater attention in the UK over the last decade. Repeatedly academics both in the UK and the US have stated that the public care more about police treatment and that ‘fair [police] treatment is linked to trust, legitimacy, cooperation and compliance with the law’⁷⁵ than they do about ‘police effectiveness’.⁷⁶ As highlighted by Bradford et al ‘when people do not feel a duty of deference toward the police, do not feel that police share their values, and who believe the police do not abide by the rules, legitimacy is fragile and may, in certain communities at least, be effectively absent.’⁷⁷

71. THE SCARMAN REPORT, 1981; LEWIS, PAUL, NEWBURN, TIM, TAYLOR, MATTHEW, MCGILLIVRAY, CATRIONA, GREENHILL, ASTER, FRAYMAN, HAROLD AND PROCTOR, ROB (2011) READING THE RIOTS: INVESTIGATING ENGLAND'S SUMMER OF DISORDER. READING THE RIOTS, THE LONDON SCHOOL OF ECONOMICS AND POLITICAL SCIENCE AND THE GUARDIAN, LONDON, UK, [HTTP://EPRINTS.LSE.AC.UK/46297/](http://eprints.lse.ac.uk/46297/) (ACCESSED 25 JULY 2013)

72. EQUALITY AND HUMAN RIGHTS COMMISSION, 2011, 'STOP AND THINK, LONDON, PAGE 3 ([HTTP://WWW.EQUALITYHUMANRIGHTS.COM/UPLOADED_FILES/RACEINBRITAIN/EHRC_STOP_AND_SEARCH_REPORT.PDF](http://www.equalityhumanrights.com/uploaded_files/raceinbritain/ehrc_stop_and_search_report.pdf) - ACCESSED 09 APRIL 2013)

73. THE POLICE FOUNDATION, 2012, THE BRIEFING: STOP AND SEARCH, SERIES 2, EDITION 3 - MARCH 2012, LONDON, PAGE 9 ([HTTP://WWW.POLICE-FOUNDATION.ORG.UK/UPLOADED/CATALOGERFILES/STOP-AND-SEARCH/STOP_AND_SEARCH_BRIEFING.PDF](http://www.police-foundation.org.uk/uploads/catalogerfiles/stop-and-search/stop_and_search_briefing.pdf) - ACCESSED 09 APRIL 2013) - THIS BRIEFING WAS BASED ON 2011 DATA FROM THE MINISTRY OF JUSTICE.

74. MILLER, J, 2010, 'STOP AND SEARCH IN ENGLAND AND WALES: A REFORMED TACTIC OR BUSINESS AS USUAL? BRITISH JOURNAL OF CRIMINOLOGY, 50(5): 954-974.

75. BRADFORD B, JULY 2011, 'ASSESSING THE IMPACT OF POLICE-INITIATED STOP POWERS ON INDIVIDUALS AND COMMUNITIES: THE UK PICTURE', PAGES 1 - 15, AT PAGE 2 [HTTP://WWW.JJAY.CUNY.EDU/UK_BRADFORD_IMPACT_ON_COMMUNITIES.PDF](http://www.jjay.cuny.edu/uk_bradford_impact_on_communities.pdf) (ACCESSED 09 APRIL 2013)

76. MYHILL A & QUINTON P, 2011, 'IT'S A FAIR COP? POLICE LEGITIMACY, PUBLIC COOPERATION AND CRIME REDUCTION', NATIONAL POLICING IMPROVEMENT AGENCY, PAGE 3. POLICE EFFECTIVENESS IS DEFINED IN TERMS OF 'RESPONDING TO EMERGENCIES, PREVENTING AND DETECTING CRIME, AND KEEPING ORDER'.

77. BRADFORD B, JACKSON J & HOUGH M, 2013, 'POLICE FUTURES AND LEGITIMACY: REDEFINING 'GOOD POLICING'', INVITED POSITION PAPER FOR THE LORD STEVENS' INDEPENDENT COMMISSION INTO THE FUTURE OF POLICING IN ENGLAND AND WALES, [HTTP://WWW.ACADEMIA.EDU/2110461/POLICE_FUTURES_AND_LEGITIMACY_REDEFINING_GOOD_POLICING](http://www.academia.edu/2110461/policing_futures_and_legitimacy_redefining_good_policing) (ACCESSED 07 AUGUST 2013)

A negative encounter with the police can undermine cooperation between the police, individuals and communities. For individuals who have been frequently stopped and searched, or who have had a negative encounter with the police, they are unlikely to seek the assistance of the police whether as victims of a crime or witnesses to one.

This in turn will have an adverse impact on the communities where they live which 'will suffer collectively as issues of law and disorder are less likely to be addressed – and even when police action is forthcoming its effectiveness will be damaged if officers are unable to rely on the assistance of local people, whether as victims, witnesses, or sources of information'.⁷⁸ Additionally, there is evidence that those who do perceive the police as lacking legitimacy are more likely to 'engage in 'self-help' violence'⁷⁹, clearly an extremely damaging consequence. Finally, it appears that negative experiences of the police can increase the risk of social exclusion⁸⁰ and lead to a greater likelihood of an individual entering the criminal justice system.⁸¹

The high rates of disproportionality that exist throughout the criminal justice system are largely driven by policing practices. However, judicial decision making does result in higher rates of black people being imprisoned for drug offences, including possession offences. When comparing the rates of ethnic disparities that exist in relation to sentencing of other offences (excluding drugs) it is clear that it is drug offences that are driving the disproportionality in the judicial process.

78. BRADFORD B, JULY 2011, 'ASSESSING THE IMPACT OF POLICE-INITIATED STOP POWERS ON INDIVIDUALS AND COMMUNITIES: THE UK PICTURE', [HTTP://WWW.JJAY.CUNY.EDU/UK_BRADFORD_impACT_on_communities.pdf](http://www.jjay.cuny.edu/uk_brADFORD_impACT_on_communities.pdf) (ACCESSED 15 APRIL 2013)

79. IBID AT PAGE 7

80. IBID AT PAGE 9

81. IBID AT PAGE 9- 12; BOWLING B & PHILIPS C, 2003, 'POLICING ETHNIC MINORITY COMMUNITIES', LSE, PAGE 24 [HTTP://EPRINTS.LSE.AC.UK/9576/1/policing_ethnic_minority_communities_\(LSE0\).pdf](http://eprints.lse.ac.uk/9576/1/policing_ethnic_minority_communities_(LSE0).pdf) (ACCESSED 15 APRIL 2013)

Stop and search embitters our children when we have taught them to be law abiding, disciplined and honest. When you are constantly stopped and searched, what's the point of being law abiding then?

Black Caribbean female

HOW CAN THE POLICE OPERATE IN A MORE FAIR AND EFFECTIVE MANNER?

Procedural fairness is cited as a theory the police should base their practices on. This approach is 'characterized by neutrality on the part of the authorities, voice in the interaction on part of the individual, treatment that is respectful, open and dignified, and the development of mutual trust'.⁸² So in order for the police to behave in a procedurally fair manner they must not be seen as acting in the interests of one part of society, they must treat the individual being stopped with respect and must give that individual the opportunity to air their views on the interaction.

82. *IBID AT PAGE 2*

Additionally the concept of distributive fairness⁸³, (the activity of policing must be equally applied to all in society), must be adhered to. Clearly, the racial disparity that exists in the policing of all offences undermines the principles of procedural and distributive fairness. Whilst we would advocate that all stop and searches should be carried out in a respectful, fair and equitable way, this does not go far enough in addressing the levels of disproportionality within the criminal justice system. Equally, it is impossible for the police to monitor all drug possession and therefore it is time for a rethink on how we best manage drug use in a 21st century society.

83. JACKSON, JONATHAN, TYLER, TOM R, BRADFORD, BEN, TAYLOR, DOMINIC AND SHINER, MIKE (2010) LEGITIMACY AND PROCEDURAL JUSTICE IN PRISONS. PRISON SERVICE JOURNAL (191). PP. 4-10, [HTTP://EPRINTS.LSE.AC.UK/29676/1/LEGITIMACY_AND_PROCEDURAL_JUSTICE_\(LSERO_VERSION\).PDF](http://eprints.lse.ac.uk/29676/1/LEGITIMACY_AND_PROCEDURAL_JUSTICE_(LSERO_VERSION).PDF) (ACCESSED 25 JULY 2013)

For over 30 years there has been debate on how to address racial disparity within stop and search. Despite well-meaning reports and inquires nothing has changed and arguably things have got worse. Change will only be achieved by meaningful policy reform in this area. Taking drug possession out of the criminal justice system is one way of significantly reducing the levels of stop and search we are currently witnessing.

HOW CAN THE JUDICIARY MAKE FAIRER DECISIONS?

From the analysis above it is apparent that the judiciary are sentencing black people to immediate custody at a higher rate than they are giving suspended sentences. This disproportionality needs to be addressed as the significant damage done by imprisoning people cannot be overstated. Not only does prison have a negative impact on the individual in terms of employment and future opportunities but it also can be detrimental to the family of the person sentenced.

Custodial sentences should only be used for those whose criminal activity means they are a danger to others. The use of prison for those caught in possession of drugs should be abolished.

Whilst the numbers of people imprisoned for possession are small, it will invariably be those who have previously committed drug or drug related offences. Often this group will be problematic drug users and as such prison is a wholly inappropriate environment, where their drug use is treated as a criminal justice problem rather than a health issue.

TAKING DRUG POSSESSION OUT OF POLICING – THE BENEFITS?

The policing of drugs takes up a significant amount of police time, accounting for over 50% of stop and searches annually. Crucially, it drives racial disparity within the criminal justice system. In a time of limited resources and economic austerity is this the best use of police time? Do communities want the police to be focussed on low level drug use at the expense of investigating crimes people care about like violent and property crimes? We argue that the answer to both of those questions is no. By focusing police efforts on procedural and distributive fairness instead of diverting resources and energy to the pursuit of low-level drug possession, the following can be achieved:

- Improved confidence in the police by reducing the number of negative encounters;
- Freeing up police time so that they can target serious crime;
- Improved cooperation between individuals, communities and the police;
- Reduced risk of public disorder.

For over 30 years the police have demonstrated that they cannot address or tackle the racial disparity in stop and search. The only genuine reform that would have immediate benefits is the removal of stop and search powers for drug possession.

CONCLUSION

The policing and prosecution of drug offences is not being equally applied to all those who use drugs. It is impossible for the State to police the estimated 3 million people who use drugs annually in the UK. Instead, certain groups are the focus of enforcement.

In the USA the disproportionate impact of the drug laws on the black community has led to the 'War on Drugs' being referred to as 'The New Jim Crow'.⁸⁴ Although the historical context is different in the UK, what can be said is that 'The deliberately inflicted pains of drug control have usually fallen most heavily on the poor and visible minorities'.⁸⁵

The inequality that exists throughout the criminal justice system demonstrates that many from the black community are subject to substantially different treatment than those from the white community. Not only does this disproportionality harm individuals policed and prosecuted for minor drug offences, but this potentially seriously impacts on the trust and confidence these communities will have in the police and the criminal justice system.

The policing of cannabis has been driving the trend for increased stop and searches and prosecutions. Indeed part of the reason for developing the cannabis warning scheme was, according to the MPS, because: "As the majority of people accused of cannabis possession are young male adults, it is hoped the policy will have had a positive effect in reducing friction between young people and police, thereby improving public/police relations".⁸⁶ The evidence from this report demonstrates that cannabis warnings are not being used proportionality across ethnic groups, and in fact the policy has been counterproductive. This scheme has led to net widening whereby significantly more people are caught up in the criminal justice than prior to the introduction of cannabis warnings.

There are fundamental problems in the policing and prosecution of drug possession offences in the UK. Despite decades of identifying poor policing practices that result in a negative relationship, and treatment, of the black community, little has changed in terms of the racial disparity that occurs, and arguably the rates and depth of disparity have worsened. Significant policy reform is the only way to achieve a positive change in policing practices in this area. In other parts of world, where drug policing has been used as a tool to control and contain certain sections of society, the issue of drug policy reform has been at the forefront of the debate.

84. ALEXANDER M, 2012, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS*, USA, NEW PRESS

85. STEVENS A, 2011, 'DRUGS, CRIME AND PUBLIC HEALTH: THE POLITICAL ECONOMY OF DRUG POLICY', ROUTLEDGE, UNITED KINGDOM, PAGE 95

86. MPS., 2010, *MONITORING REPORT FOR THE POLICY ON ENFORCEMENT OF CANNABIS POSSESSION AS A CLASS B CONTROLLED DRUG*, LONDON: METROPOLITAN POLICE SERVICE, [HTTP://WWW.MET.POLICE.UK/FOI/PDFS/POLICIES/CANNABIS_MONITORING_REPORT.PDF](http://www.met.police.uk/foi/pdfs/policies/cannabis_monitoring_report.pdf) (ACCESSED 17 JULY 2013)

New York City has one of the worst rates of racial disparity in terms of its citizens being stopped and frisked. Nearly 400,000 were stopped and frisked in NYC in 2011 alone. Like in the UK, this was largely driven by drugs (primarily cannabis) and it disproportionately impacted on blacks and Hispanics.⁸⁷

87. SERWER A & LEE, 2013, 'CHARTS: ARE THE NYPD'S STOP-AND-FRISKS VIOLATING THE CONSTITUTION?', MOTHER JONES, [HTTP://WWW.MOTHERJONES.COM/POLITICS/2013/04/NEW-YORK-NYPD-STOP-FRISK-LAWSUIT-TRIAL-CHARTS](http://www.motherjones.com/politics/2013/04/new-york-nypd-stop-frisk-lawsuit-trial-charts) (ACCESSED 05 MAY 2013)

The situation in New York has led to politicians, including the Governor, to call for reforms in state drugs legislation that would decriminalise the possession of cannabis in a public place. State officials have recognised that the only way to change police behaviour is to change the law around the possession of cannabis. It is time for the UK government to address the significant damage being done by the policing of drug possession offences and to consider the alternative, namely, the decriminalisation of drug possession.

88. ROSMARIN A & EASTWOOD N, 2012, 'A QUITE REVOLUTION - DRUG DECRIMINALISATION POLICIES IN PRACTICE ACROSS THE GLOBE', RELEASE, UNITED KINGDOM [WWW.RELEASE.ORG.UK/PUBLICATIONS/DRUG-DECRIMINALISATION-POLICIES-IN-PRACTICE-ACROSS-THE-GLOBE/](http://www.release.org.uk/publications/drug-decriminalisation-policies-in-practice-across-the-globe/) (ACCESSED 5 MAY 2013)

Drug decriminalisation has been adopted in over 20 countries⁸⁸ around the world and has not led to an increase in drug use. We could learn from these experiences to ensure the implementation of this model is effective in its aim of reducing the negative impact of criminal justice interventions and treating drug use as educational and public health issues.

Every year we needlessly stop and search hundreds of thousands of people for drugs subjecting individuals to an intrusive and humiliating experience. In the last 15 years we have convicted over half a million people for possession of a controlled drug and a further half million have received a caution for this offence, meaning we have criminalised approximately a million people in England and Wales for simple possession of a drug. Of those million, well over 50 per cent were criminalised for cannabis possession.⁸⁹

89. THE STATISTICS DETAILING THE NUMBER OF PEOPLE FOUND GUILTY OF DRUG POSSESSION OFFENCES OR CAUTIONED FOR SUCH OFFENCES WAS OBTAINED FROM A PARLIAMENTARY QUESTION TABLED BY CAROLINE LUCAS MP [HTTP://WWW.THEYWORKFORYOU.COM/WRANS/?ID=2013-04-25C.150855.H](http://www.theyworkforyou.com/wrans/?id=2013-04-25C.150855.H) (ACCESSED 5 MAY 2013)

The human cost of a criminal record can be devastating. As well as stigmatising it impacts negatively on employment opportunities and educational aspirations. Evidence shows that criminalising someone for possession of drugs has a negative impact in terms of employment, accommodation and relationships. It also confirms that those subject to criminal justice interventions are more likely to reoffend.⁹⁰ The economic cost to the UK in terms of police resources, CPS time, defence costs and court costs is clearly significant. Additionally, there is a loss to the State and society in relation to a person losing their employment or not reaching their potential.

90. ROSMARIN A & EASTWOOD N, 2012, 'A QUITE REVOLUTION - DRUG DECRIMINALISATION POLICIES IN PRACTICE ACROSS THE GLOBE', RELEASE, UNITED KINGDOM [WWW.RELEASE.ORG.UK/PUBLICATIONS/DRUG-DECRIMINALISATION-POLICIES-IN-PRACTICE-ACROSS-THE-GLOBE/](http://www.release.org.uk/publications/drug-decriminalisation-policies-in-practice-across-the-globe/) (ACCESSED 5 MAY 2013) AT PAGE 18.

The only way to significantly change the practices of the police is to change the fundamental nature of policing and what the police are charged with investigating or searching for. Arguably ending the criminalisation of drug use would remove the need to unnecessarily search hundreds of thousands of people every year. Thus ensuring that the numbers of people, especially those from the black community, caught up in the criminal justice system is significantly reduced.

RECOMMENDATIONS

The principle recommendation of this report is that there is an immediate review of drug policy in the UK, in recognition of the urgency and need to address the disproportionate impact of drug law enforcement on those from BME communities.

In relation to current policing practices the following recommendations should be considered:

1. Policing Strategies

- Sanctioned detections for cannabis should be abolished or should be weighted to represent the complexity and seriousness of a detected crime thus dis-incentivising officers from policing low level drug crimes.
- Officers' performance should be evaluated based on factors that improve community relations and detect serious crime rather than using crude assessments, such as stop and search numbers and sanctioned detections.
- The stop and search record should distinguish between what class of drugs the search was aimed at and whether the officer suspected possession or supply – so that there is accurate data for making assessments of effectiveness.
- Those caught in possession of cannabis should be dealt with in accordance with the 2009 ACPO guidance on cannabis possession for personal use.

2. Charging Practices – police and prosecution authorities

- Clear guidance needs to be provided on charging standards for drug possession offences. The lack of uniformity in charging practices demonstrates the need for:
 - higher thresholds implemented for charging in relation to drug possession; **and**
 - increased supervision and monitoring of police and CPS decision making in relation to charging decisions.

3. Sentencing Decision Making

- Custodial sentences should only be used for those whose criminal activity means they are a danger to others. The use of prison for those caught in possession of drugs should be abolished.
- Judicial sentencing decisions related to drug offences should be reviewed and monitored by the Ministry of Justice - guidance should be issued if racial disparity in sentencing is demonstrated.
- The judiciary should be provided with training on the ethnic disparities that occur at the various stages of the criminal justice system and how that impacts on the ethnic breakdown that exists at the sentencing stage.

4. Government monitoring

- Data relating to charge and caution for drug possession offences should form part of s95 Criminal Justice Act 1991 reports.

ANNEX 1 – METHODOLOGY

The data collected for this research has come from a number of sources including Freedom of Information requests submitted to police forces in England and Wales; Ministry of Justice criminal justice statistics; and parliamentary questions. National policing and Ministry of Justice data was analysed for 2009/10 and 2008/09. The 2009/10 data was used for the report but it is important to note that the 2008/09 data showed similar patterns.

The analysis presented draws on the methodology developed by the Home Office. Under Section 95 of the Criminal Justice Act 1991, the secretary of state is required to publish information to enable those involved in the criminal justice system to avoid discrimination on grounds of race, sex or any other improper grounds (Home office, 2000). Since the introduction of this legislation the Home Office, and latterly the Ministry of Justice, has regularly published statistics showing the rate at which different ethnic groups come into contact with the criminal justice system through, for example, police stop and search.⁹¹

Disproportionality ratios directly compare the experience of black and minority groups with the experience of the white population. Thus, for example, the number of stop searches per 1,000 black people is compared to the number of stop searches per 1,000 white people. According to the traditional approach developed by the Home Office such calculations were based on annual population estimates derived from the Census, adjusted to take account of increases in the total population. Several concerns were raised about the accuracy of these estimates, however, prompting the development of a revised approach (Ministry of Justice, 2010; EHRC, 2010; Miller, 2010). Black and minority ethnic groups have a younger age structure than the white population, with the result that they tend to grow at a faster rate. Over time this means that the Census underestimates the relative size of black and minority ethnic groups, which has the effect of exaggerating the rates at which they are subject to stop and search, thereby inflating disproportionality ratios. In light of these concerns, the Ministry of Justice moved over to using experimental population estimates provided by the Office of National Statistics, which draw on recent surveys to take account of the faster growth of black and minority ethnic communities. These estimates are known as 'Population Estimates by Ethnic Group' or PEEGs.

91. HOME OFFICE (2000) STATISTICS ON RACE AND THE CRIMINAL JUSTICE SYSTEM, LONDON: HOME OFFICE, [HTTP://WEBARCHIVE.NATIONALARCHIVES.GOV.UK/20110218135832/RDS.HOMEOFFICE.GOV.UK/RDS/SECTION951.HTML](http://webarchive.nationalarchives.gov.uk/20110218135832/rds.homeoffice.gov.uk/rds/section951.html)

92. POPULATION ESTIMATES BY ETHNIC GROUP (PEEGS) TEAM (2011A) POPULATION ESTIMATES BY ETHNIC GROUP: METHODOLOGY PAPER, LONDON: OFFICE OF NATIONAL STATISTICS. POPULATION ESTIMATES BY ETHNIC GROUP (PEEGS) TEAM (2011B) POPULATION ESTIMATES BY ETHNIC GROUP: IMPORTANT NOTE ON RELIABILITY OF ESTIMATES FOR SUBNATIONAL AREAS, LONDON: OFFICE OF NATIONAL STATISTICS.

Population estimates are themselves subject to various sources of potential error and PEEGs are officially classified as ‘experimental’ statistics that are yet to receive formal National Statistics status (PEEGs Team, 2011a and 2011b).⁹² The Office of National Statistics advises that these estimates should be used with ‘appropriate caution’, particularly when being applied to subnational areas (such as police force areas). Comparisons with other data-sources and user feedback suggest that PEEGs ‘may have drifted from the true values for subnational areas between 2001 and 2009’ (PEEGs Team, 2011b). In relation to London, for example, there is some evidence that the black and minority ethnic populations have been underestimated, due possibly to the influence of migration flows. The accuracy of PEEGs is being assessed on the basis of comparisons with the 2011 Census and the Office of National Statistics is not publishing further estimates until this work has been completed (PEEGs Team, 2011b).

Our own comparisons indicate that the concerns about subnational estimates are well-founded. According to the most recent PEEGs (2009), black and minority ethnic groups account for 30 per cent of London’s population, well below the figure of 40 per cent from the 2011 Census. Outside of London the figures are much more closely aligned (9 per cent and 10 per cent respectively). Given the apparent inaccuracy of PEEGs, we have used population figures from the 2011 Census. While the police stop and search figures we have used are from a slightly earlier period (latest published figures relate to 2008/9 and 2009/10), any changes to the population over this period are likely to have been minor. As such our estimates are as robust as it is currently possible to be.

As part of the research for this paper Freedom of Information requests were sent to every police force in England and Wales asking for the ethnic breakdown for 2009/10 of:

- those who were subject to stop and search for drugs;
- those who received cannabis warnings and penalty notices for disorder;
- those who received cautions;
- and finally those who were subsequently charged.

The purpose of this information was to determine whether racial disparity existed throughout the police’s processing of those caught in possession of drugs and whether those from BME (‘Black and Minority Ethnic’) backgrounds were more likely to receive a harsher response.

Of the 42 forces contacted 28 provided a response to the questions posed. Those who did not provide data cited financial cost as the reason they could not meet the requirements of the request. However, only a limited number of forces provided sufficient data, from those providing such data the Metropolitan Police Service was chosen for more detailed analysis as the information they provided was robust and because the MPS undertakes 50% of all stop and searches for drugs in England and Wales – the analysis was undertaken by LSE.

Release

Drugs, The Law & Human Rights

124-128 City Road, London EC1V 2NJ

Helpline: 0845 4500 215

Tel: +44 (0)207 324 2979

Email: ask@release.org.uk

Web: www.release.org.uk

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This report is the second in a series of reports Release has published to support our campaign 'Drugs - It's Time for Better Laws'. This campaign was launched in June 2011 and saw the organisation write to David Cameron, the British Prime Minister, calling for a review of current UK drug policy. The letter was supported by high profile individuals including Sting, Richard Branson, Caroline Lucas MP and Baroness Meacher and received significant media coverage.

The first report 'A Quiet Revolution: Drug Decriminalisation Policies in Practice Across the Globe' looked at 21 jurisdictions that had adopted some form of decriminalisation of drug possession (whereby non-criminal sanctions, and in some cases no sanctions, are applied to the possession of some or all drugs). The research showed that such an approach does not lead to an increase in drug use. Importantly, by not criminalising those who use drugs, the evidence demonstrated that there were improved outcomes in terms of employment and relationships, reduced stigma and that people were less likely to enter or re-enter the criminal justice system.

This second report demonstrates that the policing and prosecutions of drug possession offences in England and Wales is unduly focussed on black and minority ethnic communities. This report looks at racial disparity rates at stop and search, arrest, prosecution and sentencing and clearly demonstrates that the drug laws in the UK are a major driver of the disproportionality that exists in our criminal justice system.

As the first report demonstrated, criminalisation does not act as a deterrent when someone decides to use drugs but it does cause significant harms in terms of a criminal record. This report goes further and establishes that those harms are being applied in an unfair manner. An urgent review of UK drug policy is necessary to reduce this disparity, and bring equitable justice to all communities.

**More information about the campaign can be accessed at:
www.release.org.uk/decriminalisation**

Release
Drugs, The Law & Human Rights

124-128 City Road, London EC1V 2NJ

Helpline: 0845 4500 215
Tel: +44 (0)207 324 2979
Email: ask@release.org.uk
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