



**Release's Response to the Commission on Race and Ethnic Disparities' Consultation: *Ethnic Disparities and Inequality in the UK. December 2020.***

[Release](#) is the national centre of expertise on drugs and drugs law in the UK. The organisation, founded in 1967, is an independent and registered charity. Release provides free non-judgmental, specialist advice and information to the public and professionals on issues related to drug use and to drug laws. The organisation campaigns directly on issues that impact on its clients - it is their experiences that drive the policy work that Release does and why Release advocates for evidence-based drug policies that are founded on principles of public health rather than a criminal justice approach. Release believes in a just and fair society where drug policies should reduce the harms associated with drugs, and where those who use drugs are treated based on principles of human rights, dignity, and equality. Release is a NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

Release will be responding to questions pertaining to crime and policing (questions **8** and **9**) as part of the present call for evidence, dealing with question 9 first.

**Question 9. *What do you consider to be the main causes of the disparities in crime between people in different racial and ethnic groups, and why?***

Drug policy has historically been a breeding ground for systemic racism and social control. Release are of the view that disparities observed in recorded crime by ethnicity are heavily reflective of policing, and in particular the enforcement of drug laws, rather than greater levels of criminal activity per se. Key causes are discussed further below:

**1. Sustained inaction**

As an organisation, Release has previously submitted responses to various calls for evidence and has published widely on the racial injustice entrenched in drug law enforcement (*please see previous*

policy papers<sup>1</sup> and policy responses<sup>2</sup>). Release recommends that the present consultation asks not *why* there are ethnic disparities in crime (question 9), but instead asks why **more** has not been done to address the disproportionality in *recorded* criminality given the evidence of racially disparate outcomes throughout the criminal justice system, and the failure of multiple earlier reforms to adequately address this.

Discussions around how to address racial disparity within stop and search began over 30 years ago. The disproportionate policing of, and subsequent outcomes for, Black and minority ethnic groups have been widely evidenced - including within both the Lammy review<sup>3</sup> and the MacPherson inquiry<sup>4</sup>. Despite repeated calls for reform - including from the Equality and Human Rights Commission<sup>5</sup> - and numerous inquiries, high levels of racial disparity *persist*.

## 2. Police force prioritisation of low-level drug possession

The search for drugs drives racial disparity in the criminal justice system and drug laws have exacerbated racial profiling and mass criminalisation of ethnic minority groups and those living in deprivation. Stop and search has become increasingly concentrated on the search for drugs. In 2019/20, 63% of stop and searches in England and Wales were for drugs, compared to 16% for

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<sup>1</sup> Eastwood, N., Shiner, M. and Bear, D. (2013) *The Numbers in Black and White: Ethnic Disparities in the Policing and Prosecution of Drug Offences in England and Wales*, Release. Available at: <https://www.release.org.uk/publications/numbers-black-and-white-ethnic-disparities-policing-and-prosecution-drug-offences>; Shiner et al. (2018) *The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales*, Release. Available at: <https://www.release.org.uk/publications/ColourOfInjustice>

<sup>2</sup> Recent Release policy responses (since 2019) include: Written Submission to the Dame Carol Black Review (Phase 1). Available at: <https://www.release.org.uk/publications/written-submission-dame-carol-black-review>; Written Submission to the Dame Carol Black Review (Phase 2). Available at: <https://www.release.org.uk/publications/written-submission-dame-carol-black-review-0>; Written Submission to the Labour Campaign for Drug Policy Reform. Available at: <https://www.release.org.uk/publications/written-submission-labour-campaign-drug-policy-reform>; Written Submission to the Royal College of Psychiatrists. Available at: <https://www.release.org.uk/publications/written-submission-royal-college-psychiatrists>; Written submission to HMICFRS. Available at: <https://www.release.org.uk/publications/written-submission-hmicfrs>; Written submission to the United Nations Human Rights Committee. Available at: <https://www.release.org.uk/publications/submission-united-nations-human-rights-committee-ahead-eighth-periodic-review-united>; Written Submission to the International Commission of Jurists. Available at: <https://www.release.org.uk/publications/written-submission-international-commission-jurists> [full list of responses available [here](#)]

<sup>3</sup> Lammy, D. (MP) (2017) *The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System*. HM Government. Available at: <https://www.gov.uk/government/publications/lammy-review-final-report>

<sup>4</sup> Macpherson, W. (1999) *Inquiry into the Matters Arising from the Death of Stephen Lawrence*, London: The Stationery Office.

<sup>5</sup> Equality and Human Rights Commission (2010) *Stop and think: A critical review of the use of stop and search powers in England and Wales*. Available at: [ehrc\\_stop\\_and\\_search\\_report.pdf \(equalityhumanrights.com\)](http://ehrc.org.uk/publications/stop_and_search_report.pdf)

offensive weapons, and 10% for stolen property<sup>6</sup>. Evidence from HMICFRS<sup>7</sup> shows that drug searches are overwhelmingly for possession of cannabis for personal use. Confirmed by the Sentencing Council, offences for **possession** of a controlled drug are the most common of the drug offences - 24,474 people were sentenced for this offence in 2019, of which 54% of cases involved cannabis<sup>8</sup>. Possession offences make up 12% of all indictable/ triable either way cases brought before the courts, which is a large proportion compared to other offences, for example, burglary offences (which make up only 5% of indictable/triable either way offences)<sup>9</sup>. Possession is therefore one of the major drivers for racial disparity in the criminal justice system. The Commissioner of the Metropolitan Police Service, the Mayor of London, and a previous Home Secretary, called for increases in the use of stop and search to address knife crime<sup>10</sup> even though there is a significant body of evidence that shows this is likely to be ineffective<sup>11</sup>. These claims also ignore the way that stop and search is primarily used to target non-violent crime, including large numbers of low-level drug possession offences.

Declines in stop and search *had* been witnessed over the last decade, driven further by the introduction of the Home Office's Best Use of Stop and Search (BUSS) scheme in 2014, whereby all police forces in England and Wales agreed to improve transparency and accountability in their use of stop and search<sup>12</sup>. Recorded stop-searches (under the main police powers) in England and Wales fell

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<sup>6</sup> *Ibid*

<sup>7</sup> Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (2017) PEEL: Police legitimacy 2017 A national overview, Available at: <https://www.justiceinspectors.gov.uk/hmicfrs/wp-content/uploads/peelpolice-legitimacy-2017-1.pdf> ; Her Majesty's Inspectorate of Constabulary (2013) Stop and Search Powers: Are the police using them effectively and fairly?, Available at: <https://www.justiceinspectors.gov.uk/hmicfrs/media/stop-and-search-powers-20130709.pdf>

<sup>8</sup> Ministry of Justice (2020) Outcomes by Offence 2009 to 2019: Pivot Table Analytical Tool for England and Wales. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/888664/outcomes-by-offence-tool-2019.xlsx](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/888664/outcomes-by-offence-tool-2019.xlsx)

<sup>9</sup> *Ibid*

<sup>10</sup> Weaver, M. (2017) 'Met police chief says more stop and search may help reduce knife crime,' The Guardian, 8th August 2017, Available at: <https://www.theguardian.com/law/2017/aug/08/met-police-chief-stop-and-search-increase-reduce-knife-crime-cressida-dick>; Dearden, L. (2018) 'Sadiq Khan to 'significantly increase' stop and search in London', The Independent, 10<sup>th</sup> January 2018, Available at: <https://www.independent.co.uk/news/uk/crime/sadiq-khan-stop-search-london-crime-plan-violence-police-metropolitan-stabbings-acid-murder-moped-a8152371.html>; Weaver, M. and Mason, R. (2017) 'Amber Rudd backs Met police chief on use of stop and search,' The Guardian, 9th August 2017, Available at: <https://www.theguardian.com/law/2017/aug/09/amber-rudd-backs-met-police-chief-cressida-dick-stop-and-search>

<sup>11</sup> McCandless, R., Feist, A., Allan, J. and Morgan, N. (2016) Do initiatives involving substantial increases in stop and search reduce crime? Assessing the impact of Operation BLUNT 2, Home Office, Available at: [http://whatworks.college.police.uk/Research/Documents/SS\\_and\\_crime\\_report.pdf](http://whatworks.college.police.uk/Research/Documents/SS_and_crime_report.pdf); Ward, I. Nicholas, S. and Willoughby, M. (2011) An assessment of the Tackling Knives and Serious Youth Violence Action Programme (TKAP) – Phase II, Research Report 53, Home Office, Available at: <https://www.gov.uk/government/publications/an-assessment-of-the-tackling-knives-and-serious-youth-violence-action-programme-tkap-phase-ii>; StopWatch (2015) Less stop and search does not mean more knife crime, StopWatch and the Open Society Justice Initiative submission to the UN Human Rights Council, Available at: <http://www.stop-watch.org/news-comment/story/more-stop-and-search-does-not-equal-less-knife-crime>

<sup>12</sup> Home Office (2014) Best use of stop and search scheme. Available at: <https://www.gov.uk/government/publications/best-use-of-stop-and-search-scheme>

from 1.2 million in 2010/11 to 303,228 in 2016/17: the lowest number of searches for 15 years<sup>13</sup>. However, over this period of sustained decline, the disparity gap *widened* as arrests from drug searches halved for White people but remained stable for Black people<sup>14</sup>. This exemplifies the failure of reform to adequately address racially disproportionate policing, even if they lessen harm for some individuals.

The Home Office figures<sup>15</sup> released for 2019/20 reveal that the use of **stop and search** has *increased* again for a second consecutive year, resulting in **577,054** stop and searches conducted in 2019/20 *excluding* searches conducted in Greater Manchester as this force were unable to provide accurate data to the Home Office. Of those 577,054 stop and searches in 2019/20, an overwhelming majority of searches (**76%**) resulted in no further action taken – 3% higher than in 2018/19. Indeed, most searches result in officers finding *nothing*. In 2019/20, **only 20%** of Section 1 PACE (and related legislation including section 23 of the Misuse of Drugs Act, 1971) stop and searches resulted in an outcome that was linked to the reason for the search - for example, finding cannabis when the reason for the search was suspicion of drug possession. Furthermore, this was the case in **only 4%** of searches conducted under Section 60 of the Criminal Justice and Public Order Act 1994 - the legislation which expands the power of the police to stop and search people *without* any reasonable suspicion (driven by the aforementioned calls to increase stop and search for knife crime).

The Office for National Statistics highlight that proactive drug policing can actually *increase* crimes against society: “there are also some categories of crime (such as drug possession offences) where the volume of offences recorded are heavily influenced by *police activities and priorities*”<sup>16</sup>. 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 policy<sup>17</sup> detailing the need for individual officers to meet performance indicators in terms of recorded sanctions, officers have previously reported strong managerial

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<sup>13</sup> Home Office (2017) Police powers and procedures, England and Wales, year ending 31 March 2017 – Second Edition. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/658099/police-powers-procedures-mar17-hosb2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/658099/police-powers-procedures-mar17-hosb2017.pdf)

<sup>14</sup> Shiner et al. (2018) The Colour of Injustice: ‘Race’, drugs and law enforcement in England and Wales, Release. Available at: <https://www.release.org.uk/publications/ColourOfInjustice>, p.viii

<sup>15</sup> Home Office (2020) Police powers and procedures, England and Wales, year ending 31 March 2020 – Second Edition. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/929573/police-powers-procedures-mar20-hosb3120.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929573/police-powers-procedures-mar20-hosb3120.pdf)

<sup>16</sup> Office for National Statistics (2020) User guide to crime statistics for England and Wales. Available at: <file:///C:/Users/Laura/Downloads/User%20guide%20to%20crime%20statistics%20for%20England%20and%20Wales.pdf>, p.20

<sup>17</sup> Home Office (2010) Police reform: Theresa May's speech to the National Policing Conference. Available at: <https://www.gov.uk/government/speeches/police-reform-theresa-mays-speech-to-the-national-policing-conference>

pressures to carry out high volumes of searches<sup>18</sup>. Anecdotally, there is evidence that police performance *continues* to be measured on the basis of targets (linked to sanctioned detections), providing an incentive to police low-level crime in order to hit targets<sup>19</sup>. The question is raised: *who* are the targets of drug arrests? Evidence suggests that the police have tended to focus on stereotypes: an example of which being the recent focus on so-called “county lines”, and the targeting of those they perceive as gang members, leading to racially skewed data on who is involved in such activities<sup>20</sup>: feeding into what has already become a racialised narrative. It is clear that police activity contributes to a false impression of drug markets, namely, an overrepresentation of the involvement of Black and Asian people.

### 3. Disproportionate policing of drug offences

The dominance of the search for *drugs* explains in part the pronounced racial disparity in stop and search data, given that we know that drug laws are often “*imposed most harshly against ethnic minority communities, despite prevalence rates among these groups being no higher than among the White population*”<sup>21</sup>.

Furthermore, repeated self-report studies<sup>22</sup> have indicated that Black and minority ethnic groups tend to broadly use drugs at a **lower rate** than White people, with detailed analysis demonstrating that this is partly a function of broader lifestyle differences, including levels of alcohol consumption, culturally distinct orientations to intoxication, and religious influences<sup>23</sup>. Analysis of the Crime Survey for England and Wales 2018/19 confirms previous findings: with Black, Asian and Chinese/other respondents reporting lower rates of drug use in the previous year than their White counterparts<sup>24</sup>.

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<sup>18</sup> Chainey, S. and Macdonald, I. (2012) Stop and search, the use of intelligence and geographic targeting available at: [https://whatworks.college.police.uk/Research/Documents/Stop\\_search\\_geographic\\_targeting\\_Report.pdf](https://whatworks.college.police.uk/Research/Documents/Stop_search_geographic_targeting_Report.pdf)

<sup>19</sup> 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. Available at: <http://www2.lse.ac.uk/researchAndExpertise/researchHighlights/Law/Questioning-stop-and-search.aspx> (accessed 23 November 2020)

<sup>20</sup> Esbensen, F. and Lynskey, D. (2001) Young gang members in a school survey. In *The Eurogang Paradox*, Springer Netherlands. pp 93-114

<sup>21</sup> Eastwood, N., Fox, E. and Rosmarin, A. (2016). A Quiet Revolution: Drug Decriminalisation Across The Globe. Release. Available at: <https://www.release.org.uk/publications/drug-decriminalisation-2016>; p.6

<sup>22</sup> *The most reliable basis for assessing levels and patterns of offending* (Thornberry, T.P., and Krohn, M.D. (2000) The Self-Report Method for Measuring Delinquency and Crime’ in D. Duffee, R.D. Crutchfield, S. Mastrofski, L. Mazerolle, D. McDowall, and B. Ostrom (eds) *Innovations in Measurement and Analysis*, Washington DC: National Institute of Justice, p. 33).

<sup>23</sup> Shiner, M. (2009) *Drug Use and Social Change: The Distortion of History*, Basingstoke: Palgrave Macmillan.

<sup>24</sup> Home Office (2019) *Drug Misuse: Findings from the 2018/19 CSEW: Data Tables* (Table 3.01 Proportion of 16 to 59-year olds reporting use of drugs in the last year by personal characteristics, 2018/19). Available at: <https://www.gov.uk/government/statistics/drug-misuse-findings-from-the-2018-to-2019-csew>

The 2019/20 stop and search figures reveal that once again, Black people are consistently more likely to be stopped and searched than White people and continue to “bear the brunt of heavy-handed policing”<sup>25</sup>. For all stop and searches in 2019/20, people self-defining as ‘Black, Asian, and Minority Ethnic’ were **4 times** more likely to be searched than White people<sup>26</sup>. The disparity is particularly pronounced for Black individuals, who are **9 times** more likely to be stopped and searched than White people: with both Asian, and Mixed Ethnic groups being 3 times more likely to be searched than White people<sup>27</sup>.

The Metropolitan Police Service (MPS) accounts for a large proportion of all stop and searches and in 2019/20, the MPS conducted 48% of all recorded searches. Controlling for the size of the City of London’s resident population, in 2019/20 the MPS had the highest stop and search rate (31 searches per 1,000 population), and the highest *arrest* rate of any force in England and Wales. Overall rates of stop and search are higher among inner than outer London boroughs, and the variations between boroughs have been strongly linked to levels of **deprivation and inequality**<sup>28</sup>. This is seen to *fuel* disproportionality because people from Black and some other minority ethnic groups tend to live in such areas in relatively large numbers<sup>29</sup>. Furthermore, disproportionality is highest in relatively affluent boroughs, where White people are subject to very low rates of stop and search, whilst Black people *continue* to experience heightened rates of intervention: a pattern described as “consistent with ethnic profiling because it indicates that black people are singled out for suspicion”<sup>30</sup>.

An HMICFRS assessment of stop and search records found broadly similar find rates (the rate at which the object searched for is found after a search) across ethnic groups. However, when drug searches were examined, they found that searches of Black people were consistently *less* likely to

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<sup>25</sup> StopWatch (2020) Blog entry published 27th October, 2020. Available at: <https://www.stop-watch.org/news-comment/story/stop-and-searches-increase-50-racial-disparity-remains-the-same> (accessed 18 November 2020)

<sup>26</sup> *Calculations by ethnic group are based on 2011 Census population data*

<sup>27</sup> Home Office (2020) Police powers and procedures, England and Wales, year ending 31 March 2020 – Second Edition. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/929573/police-powers-procedures-mar20-hosb3120.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929573/police-powers-procedures-mar20-hosb3120.pdf)

<sup>28</sup> MVA and Miller, J. (2000) Loc. cit; Chainey, S. and Macdonald, I. (2012) Loc. cit.

<sup>29</sup> Shiner et al. (2018) The Colour of Injustice: ‘Race’, drugs and law enforcement in England and Wales, Release. Available at: <https://www.release.org.uk/publications/ColourOfInjustice>

<sup>30</sup> *Ibid*, p.30

result in drugs being found compared to those involving White people and other ethnic groups<sup>31</sup>. This suggests that searches of Black people for drugs are likely based on **weaker grounds**. Given the invasive nature of the power to stop and search, and its disproportionate impact on Black and minority ethnic groups, the lack of safeguarding related to its use is extremely concerning.

#### 4. Inequitable criminal justice outcomes

Ethnic disparities introduced by stop and search and other forms of police activity follow through to prosecution, conviction and sentencing. Research undertaken by Release, StopWatch, and LSE in 2018 identified a number of ways in which sentencing disparities further perpetuate injustice<sup>32</sup>:

- Black people were prosecuted for drug offences at more than eight times the rate of White people in 2017
- Black and Asian people were convicted of cannabis possession at 11.8 and 2.4 times the rate of White people, despite their lower rates of self-reported use, providing prima facie evidence of discrimination
- White people were more likely to receive an out of court disposal, such as community resolutions or cautions, when compared to Black people who are much more likely to be proceeded against
- Black people were sentenced to immediate custody for drug offences at 9.1 times the rate of White people, but given suspended sentences at 5.6 times the rate of White people

The lack of measures to address ethnic disproportionalities in drug law enforcement, and the disproportionality in criminal justice outcomes for drug offences, is seen to particularly impact **Black women**. This is evidenced by the hugely disproportionate *incarceration* of Black women for drug offences compared to their White, female counterparts: with analysis of Crown Court sentences for drug offences in 2014 revealing that Black women were about 25% more likely than white women to be sentenced to custody at Crown Court<sup>33</sup>.

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<sup>31</sup> Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (2017) PEEL: Police legitimacy 2017 A national overview, Available at: <https://www.justiceinspectors.gov.uk/hmicfrs/wp-content/uploads/peelpolice-legitimacy-2017-1.pdf>, p.30

<sup>32</sup> Shiner et al. (2018) The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales, Release. Available at: <https://www.release.org.uk/publications/ColourOfInjustice>

<sup>33</sup> GOV.UK (2016) Black, Asian and Minority Ethnic disproportionality in the Criminal Justice System in England and Wales. Available at: <https://www.gov.uk/government/publications/black-asian-and-minority-ethnic-disproportionality-in-the-criminal-justice-system-in-england-and-wales>, p.19

A **further** harm done to those communities affected by disproportionate policing, prosecution, and sentencing is the *secondary* harm that results from receiving comparatively harsher criminal justice outcomes. Drug arrests can lead to employment barriers and may lead to future engagement in crime: “for people introduced to the criminal justice system for minor drug possession offences...the sanctions applied restrict their employment opportunities, alienate them and reduce their ability to achieve their potential. Consequently, many sink deeper into crime, turn to drugs – or both”<sup>34</sup>.

For those who receive a **custodial** sentence for drug offences, it is well evidenced that “nowhere are drugs more rife than in prisons” (Andrew Neilson cited in McBride 2017, p. 75<sup>35</sup>). The experience of imprisonment has itself been repeatedly shown to *increase* the likelihood of drug use and drug dependency<sup>36</sup>, and recent analysis found that the proportion of people in prison reporting the development of a drug problem in prison in England and Wales rose 8.4 percentage points to almost 15% between 2013-14 and 2018-19<sup>37</sup>.

#### **Question 8. What could be done to enhance community relations and perceptions of the police?**

Aside from the *inefficacy* of stop and search, and the feelings of *degradation* that can result from being searched, particularly strip and intimate searches<sup>38</sup>, the racial disparity that exists in the policing of drugs impacts the ability of police to operate effectively in communities where young Black or Asian men are repeatedly subjected to high levels of stop and search.

In Release’s 2013 paper, ‘The Numbers in Black and White’, we posed the following “*Imagine you are someone who has been stopped and searched 30 times in the space of six months, often on the*

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<sup>34</sup> Hamilton, I., 2016. The most damaging gateway to hard drugs? Drugs policy itself. *The Conversation*. Available: <https://theconversation.com/the-most-damaging-gateway-to-hard-drugs-drugs-policy-itself-55410>

<sup>35</sup> McBride, G., 2017. High Stakes Drugs Crisis in English Prisons. In *Plotting Change: Volteface Journal*, 1, pp. 37-86.

<sup>36</sup> Penfold, C., Turnbull, P.J. and Webster, R. (2005) Tackling prison drug markets: An exploratory qualitative study. London: Home Office.; HMIP. 2016. Annual Report 2015–16. London: Her Majesty’s Inspectorate for England and Wales. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/571732/hmip-annual-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/571732/hmip-annual-report.pdf); User Voice (2016) Spice: The Bird Killer. What Prisoners Think about the use of Spice and other legal highs in Prison. Available at: <http://www.uservoice.org/news/user-voice-news-blog/2016/05/nhs-report-by-user-voice-hears-directly-from-inmates-the-true-horrors-of-nps-use-in-prisons/>; HM Inspectorate of Prisons (2015) Changing Patterns of Substance Misuse in Adult Prisons and Service Responses, pp. 37– 38.

<sup>37</sup> Shilson-Thomas, A. (2020) The prison system: Priorities for investment. Reform. Available at: <https://reform.uk/research/prison-system-priorities-investment>

<sup>38</sup> Balfour, G. (2018) Searching prison cells and prisoner bodies: Redacting carceral power and glimpsing gendered resistance in women’s prisons. *Criminology & Criminal Justice*, 18(2), pp. 139-155.

grounds of suspected cannabis possession. What impact would that have on your view of the police?”<sup>39</sup>. The Lammy review directly linked stop and search to lower confidence in the police felt by ethnic minorities<sup>40</sup> and as a result, a reduced likelihood to report crime: undermining the police’s stated goal of community-led enforcement of the law. The House of Commons itself recently reiterated the damage done to police-community relations<sup>41</sup> and prior to outlining recommendations for improvements to police-community relations, we must acknowledge that for some, the damage done to this relationship is irreparable; others still have never experienced a positive relationship with the police. However, efforts to address this should include the following:

### 1. Recognition of *community* priorities

Bradford and colleagues highlight that “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”<sup>42</sup>. There is a clear **misalignment** between police force priorities and the priorities of the *communities*. In a 2009 poll of Londoners’ main crime concerns, drugs were ranked 19th as a priority<sup>43</sup>. Interestingly the number one priority was ‘community engagement’, something that we know to be undermined by stop and search tactics. Another survey carried out by IPSOS Mori for the Police Federation in 2011 found only 9% of those surveyed thought that cannabis use was a priority for the police<sup>44</sup> – which contrasts with the high level of police activity dedicated to the detection of drug, and in particular cannabis, possession.

Similarly, in a more recent survey conducted by HMICFRS, respondents in England and Wales were asked to rank the areas they felt police should prioritise. Only **9%** of respondents cited ‘drug

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<sup>39</sup> Eastwood, N., Shiner, M. and Bear, D. (2013) The Numbers in Black and White: Ethnic Disparities in the Policing and Prosecution of Drug Offences in England and Wales, Release. Available at: <https://www.release.org.uk/publications/numbers-black-and-white-ethnic-disparities-policing-and-prosecution-drug-offences>

<sup>40</sup> Lammy, D. (MP) (2017) The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System. HM Government. Available at: <https://www.gov.uk/government/publications/lammy-review-final-report>

<sup>41</sup> House of Commons Library (2020) Police powers: stop and search. Available at: <https://commonslibrary.parliament.uk/research-briefings/sn03878/>

<sup>42</sup> Bradford, B., Jackson, J. and 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, Available at: [http://www.academia.edu/2110461/Police\\_Futures\\_and\\_Legitimacy\\_Redefining\\_Good\\_Policing](http://www.academia.edu/2110461/Police_Futures_and_Legitimacy_Redefining_Good_Policing)

<sup>43</sup> London Communities Policing Partnership (2010) London Communities’ Crime Concerns. Available at: <http://data.london.gov.uk/datastore/package/london-communities-crime-concerns>

<sup>44</sup> IPSO-Mori (2011) Police Federation: Policing Priorities. Available at: [http://www.ipsosmori.com/Assets/Docs/Publications/sri\\_crime\\_and\\_justice\\_police\\_federation\\_policing\\_priorities\\_tables\\_22february\\_2011.pdf](http://www.ipsosmori.com/Assets/Docs/Publications/sri_crime_and_justice_police_federation_policing_priorities_tables_22february_2011.pdf)

offences’ as part of their top 3 offences for police to prioritise<sup>45</sup>. Within the same survey, ‘drug offences’ also appeared among the five offences respondents felt it was **least** important for the police to prioritise<sup>46</sup>.

In a UK survey of members of the public, conducted by UKDPC<sup>47</sup>, it was found that whilst those with a history of drug dependence faced significantly *negative* public attitudes and stigmatisation, the *majority* of people viewed drug dependence as an illness similar to other chronic conditions and were **supportive** of efforts to address and overcome drug dependence. This suggests a further disconnect between the public’s support for *prevention* efforts, and the current over-policing of drug use. The recent high-profile charging of drug reform activist, Peter Krykant, for obstructing police who sought to enter his mobile Drug Consumption Room in Glasgow<sup>48</sup> (operating with the intention of reducing the spread of blood-borne viruses and overdose rate in Scotland<sup>49</sup>) to search service users is one example of police *prioritising* the search for drugs and interrupting a health intervention in operation to do so.

## 2. Separation of drug possession and policing

The continued criminalisation and incarceration of people who use drugs (PWUDs) and those involved in low-level supply, is rooted in racial injustice and stigmatisation, undermines efforts for those seeking treatment, and defies much scholarly evidence supporting a *public health* approach to drug use as opposed to our current, punitive model. In Release’s paper, ‘A Quiet Revolution’<sup>50</sup>, we examine at length the positive outcomes seen across the globe as a result of drug **decriminalisation** and we are supportive of a decriminalisation *de jure* (by law) model for all illicit drugs (controlled substances) in the UK.

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<sup>45</sup> Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (2018) Public perceptions of policing in England and Wales 2018, Available at: <https://www.justiceinspectors.gov.uk/hmicfrs/publications/public-perceptions-of-policing-in-england-and-wales-2018>, p. 53

<sup>46</sup> *Ibid*, p. 55.

<sup>47</sup> Singleton, N. (2010) Attitudes to Drug Dependence: Results from a Survey of People Living in Private Households in the UK. UKDPC. Available at: [https://www.ukdpc.org.uk/wp-content/uploads/Evidence%20review%20-%20Attitudes%20to%20drug%20dependence\\_%20survey%20results.pdf](https://www.ukdpc.org.uk/wp-content/uploads/Evidence%20review%20-%20Attitudes%20to%20drug%20dependence_%20survey%20results.pdf)

<sup>48</sup> Busby, M. (2020) Operator of Glasgow safe drug-use van charged at service. The Guardian [online]. Available at: <https://www.theguardian.com/society/2020/oct/24/operator-of-glasgow-safe-drug-use-van-peter-krykant-arrested-and-charged>

<sup>49</sup> Newman, M. (2019) Could drug consumption rooms save lives? BMJ, 2019; 366: l4906. Available at: <https://www.bmj.com/content/366/bmj.l4906>

<sup>50</sup> Eastwood, N., Fox, E. and Rosmarin, A. (2016) A Quiet Revolution: Drug Decriminalisation Across the Globe. Release. Available at: <https://www.release.org.uk/publications/drug-decriminalisation-2016>

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, in combination with continually low find rates, a review of drug policy and the decision not to police low-level drug use at all is the ‘fresh approach’ that is needed<sup>51</sup>. In Release’s paper, ‘The Numbers in Black and White’, we conclude that for decades, “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”<sup>52</sup>. Ending stop and search for drug possession could have a positive impact on both policing and on communities who are most affected by high levels of over policing.

Research has indicated that scaling-back stop and search is key to **improving** relationships with local communities<sup>53</sup>. Furthermore, Release’s examination of decriminalisation across 25 countries (whereby criminal sanctions had been ended either for all drugs or for cannabis only), revealed that none had experienced statistically significant increases in the prevalence of drug use<sup>54</sup> and that for many, there had been reductions in the spread of blood-borne viruses and the number of drug-related deaths among PWUDs<sup>55</sup>. Drug-related deaths are the *gravest* form of harm experienced by PWUDs. When compared to other EU member states the UK has one of the highest rates of drug-related deaths in Europe - with a rate of 74 deaths per million in 2016 – and “9 out of 10 overdose deaths (89%) involved some form of opioid<sup>56</sup>.”

### 3. Equitable diversion schemes

In the **absence** of decriminalisation of drug possession offences, Release would strongly support the rolling out of pre-arrest drug diversion schemes nationally. Release have expressed this in our response to phase 2 of the Black Review<sup>57</sup>, where we also noted that the schemes that have been

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<sup>51</sup> Eastwood, N., Shiner, M. and Bear, D. (2013) The Numbers in Black and White: Ethnic Disparities in the Policing and Prosecution of Drug Offences in England and Wales, Release. Available at: <https://www.release.org.uk/publications/numbers-black-and-white-ethnic-disparities-policing-and-prosecution-drug-offences>, p.49

<sup>52</sup> *Ibid*, p.53

<sup>53</sup> Magson, J. (2014) Drugs, Crime and Decriminalisation: Assessing the Impact of Drug Decriminalisation Policies on the Efficiency and Integrity of the Criminal Justice System, Winston Churchill Fellowship, 27. Available at: <https://www.wcmt.org.uk/users/jessicamagson2013>

<sup>54</sup> Eastwood, N., Fox, E. and Rosmarin, A. (2016) A Quiet Revolution: Drug Decriminalisation Across the Globe. Release. Available at: <https://www.release.org.uk/publications/drug-decriminalisation-2016>

<sup>55</sup> *Ibid*

<sup>56</sup> EMCDDA (2019). European Drug Report: Trends and Developments. Available at: [https://www.emcdda.europa.eu/system/files/publications/11364/20191724\\_TDAT19001ENN\\_PDF.pdf](https://www.emcdda.europa.eu/system/files/publications/11364/20191724_TDAT19001ENN_PDF.pdf)

<sup>57</sup> Release’s Written Submission to the Dame Carol Black Review (Phase 2). Available at: <https://www.release.org.uk/publications/written-submission-dame-carol-black-review-0>

established so far exist due to police leadership, and in the absence of political leadership on this issue. We are of the view that many of those who have implemented these schemes were driven by frustration with the “endless conveyer belt of mainly young, poor, Black, and Asian people being churned through the criminal justice system...they know our drug policy does not work, but diversion schemes are the limit of how far they can go in terms of the law”<sup>58</sup>. Local and international evidence suggests that police diversion schemes can effectively reduce harms experienced by PWUDs and/or are involved in supply, as well as reduce future offending. For example, a national review of eight jurisdictions’ diversion schemes in Australia<sup>59</sup> demonstrated that a majority of people did not reoffend following diversion.

To date, five police forces have implemented specific drug diversion schemes in the UK, with **West Midlands Police** force being the latest to bring a scheme into operation in the last few months. In Release’s response to phase 2 of the Black Review, we detail the various diversion schemes in operation<sup>60</sup>:

- **Durham Police** force’s diversion scheme, “[Checkpoint](#)”, operates for a range of low-level offences, including drug possession (and low-level supply offences where the offender is determined to be a user-dealer). This scheme has recently adapted to divert possession offences *pre*-arrest, and low-level supply offences *post*-arrest, on the condition that they undertake a four-month programme to address their offending behaviour. Initial findings found lower reoffending rates and re-arrest rates<sup>61</sup>. Checkpoint participants also reported improved outcomes in relation to: substance misuse; alcohol misuse; accommodation; relationships; finances and mental health.
- **Avon and Somerset Police** force implemented an *on-the-street diversion programme* for those caught in personal possession of drugs. Attendees of the Drug Education Programme ([‘DEP’](#)), which launched as a pilot scheme in Bristol in 2016, experience lower rates of recidivism when compared to those going through the criminal justice system. A majority of attendees reported cessation/reduction in drug use. The DEP saved police officers significant resources. The success of the DEP pilot led to the roll out of this scheme to other areas of Avon and Somerset in 2018.

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<sup>58</sup> *Ibid*, p.29

<sup>59</sup> Payne, J., Kwiatkowski, M. and Wundersitz, J. (2008) Police drug diversion: a study of criminal offending outcomes. Research and public policy series no. 97. Canberra: Australian Institute of Criminology. Available at: <https://www.aic.gov.au/publications/rpp/rpp97>

<sup>60</sup> Release’s Written Submission to the Dame Carol Black Review (Phase 2). Available at: <https://www.release.org.uk/publications/written-submission-dame-carol-black-review-0>, p.29

<sup>61</sup> Weir, K., Routledge, G. and Kilili, S. (2019) Checkpoint: An innovative programme to navigate people away from the cycle of reoffending: Implementation phase evaluation. *Policing: A Journal of Policy and Practice*. Available at: <https://doi.org/10.1093/police/paz015>

- **Thames Valley Police** force have also implemented a street diversion programme for people caught in possession of drugs and are reporting initial successes.
- **North Wales** police have recently launched a mix-model of diversion where people caught in possession are diverted at street level and low-level drug suppliers are referred to a Checkpoint type scheme.

A necessary next step is the monitoring of the outcomes of the diversion schemes operating in the UK to ensure that diversion schemes are operating *equitably*, and are not sustaining, or exacerbating, racial disparities through mechanisms of net widening or net deepening (namely, that they are not *increasing* police contact and surveillance for ethnic minorities)<sup>62</sup>. Release recommends that this kind of evaluation be an integral part of all reforms implemented moving forward.

In the absence of diversion schemes, and in light of the fact that community sentences (generally) have declined by half in the last decade<sup>63</sup>, more must be done to encourage sentencers to use these disposals as an alternative to a custodial sentence. Research undertaken by Reform reveals that sentencers perceive these disposals to be less effective than custody<sup>64</sup>. Therefore, a crucial step will be to work with sentencers to help them understand the efficacy of such sentences in reducing recidivism, and the limitations of custodial sentences, particularly for those with drug dependency. Included within this must be recognition that any sentence that incorporates drug treatment must only be applied with informed consent from the individual without any element of coercion. For this reason, we are opposed to drug courts – like those proposed in the government’s recent White Paper on Sentencing<sup>65</sup> - that have mandatory guilty pleas, regular drug testing, and graduated sanctions and incentives as core elements of the model. Furthermore, increases in community sentences will require the proper resourcing of those organisations responsible for delivery of the relevant programmes – we discuss funding in more detail below.

#### 4. Redirect funding

<sup>62</sup> Cohen, S. (1979) The punitive city: notes on the dispersal of social control. *Contemporary crises*, 3(4), pp.339-363.

<sup>63</sup> Her Majesty’s Prison and Probation Service, Table Q5.1a - Offenders Sentenced at All Courts, by Offence Group and Outcome, 12 Months Ending March 2009 to 12 Months Ending March 2019, Overview Tables, Criminal Justice System Statistics Quarterly: March 2019, 15 August 2019. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/830020/overview-tables-march-2019.ods](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/830020/overview-tables-march-2019.ods)

<sup>64</sup> Shilson-Thomas, A. (2020) The prison system: Priorities for investment. Reform. Available at: <https://reform.uk/research/prison-system-priorities-investment>

<sup>65</sup> Ministry of Justice. (2020) A Smarter Approach to Sentencing. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/918187/a-smarter-approach-to-sentencing.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918187/a-smarter-approach-to-sentencing.pdf) , p.54

The central government spend on drug law enforcement and related activities is estimated to be approximately £1.6 billion per annum<sup>66</sup>. In a comparable year, the estimated central government spend on early drug intervention is only £215 million<sup>67</sup>. This, in combination with further funding cuts to such services, have prompted growing calls to **reallocate** this expenditure away from drug law enforcement and towards interventions and services which address the social inequalities and conditions that cause criminality.

Further, for many people who develop problems with drugs, including alcohol, it will often be to address trauma(s) that they have experienced, especially as children<sup>68</sup>. Many will have experienced violence (sexual and/ or physical), abuse and neglect, attachment problems, bereavement, abandonment, been in care, or will suffer from mental health conditions. Expenditure on drug law enforcement should therefore be *reallocated* towards social and economic programmes that reduce the risk of drug dependency as well as specifically *trauma* informed services and mental health support for children and young people: which the Advisory Council on the Misuse of Drugs (ACMD) argue is especially *lacking* in strategies to address substance use and related harm<sup>69</sup>. Release advise that such trauma-informed services also include specialist services for Black and minority ethnic people experiencing trauma directly related to ethnic disparities in the UK.

Funding for treatment providers must be increased to support those diverted away from prison into treatment, and whilst clearly treatment is better than being imprisoned it must also be recognised that “forced” treatment will have significant limitations. Release have argued, as part of our response to phase 2 of the Black Review<sup>70</sup>, that “a whole systems approach needs to be taken to address people’s economic and social needs, including access to benefits, addressing any outstanding legal issues, ensuring stable housing – it is these factors that will help stabilise someone’s drug use, alongside well-funded and high-quality drug services, meaning they are more likely to engage in treatment”.

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<sup>66</sup> HM Government (2017) Evaluation of the 2010 Drug Strategy. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/628100/Drug\\_Strategy\\_Evaluation.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/628100/Drug_Strategy_Evaluation.PDF)

<sup>67</sup> *Ibid*

<sup>68</sup> Rudzinski, K., McDonough, P., Gartner, R. and Strike, C. (2017) Is there room for resilience? A scoping review and critique of substance use literature and its utilization of the concept of resilience', *Subst. Abuse Treat Prev. Policy*, 12 (1), p 41.

<sup>69</sup> ACMD (2018) Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/761123/Vulnerability\\_and\\_Drug\\_Use\\_Report\\_04\\_Dec\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/761123/Vulnerability_and_Drug_Use_Report_04_Dec_.pdf)

<sup>70</sup> Release’s Written Submission to the Dame Carol Black Review (Phase 2). Available at: <https://www.release.org.uk/publications/written-submission-dame-carol-black-review-0>, p.30

It is clear that the policing of drugs, which currently occupies a significant amount of police time<sup>71</sup>, is **driving racial disparity** in the criminal justice system. Do communities want the police to be focused on low-level drug use at the expense of investigating crimes people care about like violent and property crimes? We argue in our paper, 'The Numbers in Black and White', that the answer to this question is **no**<sup>72</sup>. Release is of the view that by focusing efforts *away* from 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; and improved cooperation between individuals, communities and the police; and reduced risk of public"<sup>73</sup>.

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<sup>71</sup> Home Office (2020) Police powers and procedures, England and Wales, year ending 31 March 2020 – Second Edition. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/929573/police-powers-procedures-mar20-hosb3120.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929573/police-powers-procedures-mar20-hosb3120.pdf)

<sup>72</sup> Eastwood, N., Shiner, M. and Bear, D. (2013) The Numbers in Black and White: Ethnic Disparities in the Policing and Prosecution of Drug Offences in England and Wales, Release. Available at: <https://www.release.org.uk/publications/numbers-black-and-white-ethnic-disparities-policing-and-prosecution-drug-offences>

<sup>73</sup> *Ibid*, p.53