

## Submission to Lammy Review of BAME representation in the Criminal Justice System ('CJS')

Release respectfully submits that the terms of this review are fundamentally flawed. It is of concern that the Review fails to consider the policing of BAME communities, it is impossible to properly assess the damage done to Black and Asian communities by the CJS without analysis of this aspect of it. Stop and search is the driver for over representation of BAME communities at all stages of the CJS, it is the catalyst for racial disproportionality at every single point of the system from arrest, to the use of out of court disposals and charge, through to sentencing. Frankly, attempting to consider the experience of Black and Asian people in the CJS without addressing stop and search is like doing a jigsaw with half the pieces missing. As such, our submission will address stop and search, out of court disposals (OCD) as well as sentencing, we have footnoted where sections relate to specific questions asked as part of the review.

Release is the national centre of expertise on drugs and drug laws providing free legal and drugs advice to the public. We actively engage and support young people and those from BAME communities who are disproportionately impacted by drugs policing through our youth programme Y-Stop<sup>1</sup>, and also campaign for the end of criminal sanctions for possession offences in recognition that the evidence supports that such an approach is unnecessary, harmful and undermines public health.<sup>2</sup>

It is important that the review directly addresses the issue of drugs policing and enforcement of drugs laws as it is BAME communities who bear the burden of this policy. In the USA African Americans are arrested for drug offences at three times the rate of white people and are imprisoned at 10 times the rate, Michelle Alexander in her seminal book on the 'War on Drugs' describes this as 'the New Jim Crow'.<sup>3</sup> Although drug policy in Britain is less punitive than in the US with less harsh sentencing and fewer people being sent to prison, the patterns of racial disparity are similar and lead to the criminalisation of large numbers of black people in particular. It is our view that the drug laws are being used as a form of social control, which involves the surveillance and repression of many BAME communities. Moreover, the impact of a criminal record for drug possession, largely levied against young people, can damage educational aspirations, employment opportunities and increase rates of recidivism, with low level drug offending acting as a gateway to the CJS.

Release's position is that if racial disparity in the CJS is to be meaningfully tackled we must immediately reform our drug laws, with the first step being the end of criminal sanctions for drug possession offences. As evidenced below, drugs policing drives racial disparity in the CJS. Other countries have adopted a model of decriminalisation, ending the use of criminal sanctions for drug possession offences, with no evidence

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<sup>1</sup> [www.y-stop.org](http://www.y-stop.org)

<sup>2</sup> Eastwood, N. Fox, E. & Rosmarin, A. (2016), *A Quiet Revolution: Drug Decriminalisation Across the Globe*, Release: London (<http://www.release.org.uk/publications/drug-decriminalisation-2016> accessed June 30, 2016)

<sup>3</sup> Alexander, M. (2012), *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, New York: The New Press.

of an increase in drug use and experiencing many positive health and social outcomes.<sup>4</sup> In fact in Portugal, where drug possession was decriminalised in 2001, police have reported improved relationships between the community and police.<sup>5</sup>

## Stop and search<sup>6</sup>

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 individuals if they have “reasonable grounds” to believe they will find an illegal or prohibited item.

The number of stops and searches increased massively since the introduction of PACE dipping briefly as a result of the Stephen Lawrence inquiry. The numbers increased steadily from 2001/2 from less than 750,000 to an all-time high in 2010/11 of more than 1.2 million with drug searches making up 50 per cent of the overall figure, making drugs by far the most common reason behind stop and search. The past few years have seen the overall stop and search rate steadily reduce to 539,788 searches in 2014/2015 yet the proportion of them targeting drugs has continued to increase to 59 per cent in this same year (it comprised 51 per cent in 2012/13 and 53 per cent in 2013/14).<sup>7</sup> The Metropolitan police, the police force conducting the most searches, currently report that 63.5 per cent<sup>8</sup> of their searches are looking for drugs jumping up to as high as 75 per cent in Tower Hamlets<sup>9</sup> when zooming in to borough level.

Over this period rates of ethnic disproportionality in stop and search remain stubbornly high, where across England and Wales black people are currently over 4 times more likely to be searched than white people. Since the introduction of PACE rates of disproportionality have remained between 4-8 times for black people questioning claims of progress on the issue.

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<sup>4</sup> Eastwood, N. Fox, E. & Rosmarin, A. (2016), *A Quiet Revolution: Drug Decriminalisation Across the Globe*, Release: London (<http://www.release.org.uk/publications/drug-decriminalisation-2016> accessed June 30, 2016)

<sup>5</sup> Ibid. Pp. 28 – 30

<sup>6</sup> This section is relevant to questions 22, 26, 29, 31, 33, 34 and 35 in the call for evidence.

<sup>7</sup> Home Office (2015), *Police powers and procedures England and Wales year ending 31 March 2015: data tables*, (<https://www.gov.uk/government/statistics/police-powers-and-procedures-england-and-wales-year-ending-31-march-2015-data-tables> accessed on June 13, 2016 see also <https://www.gov.uk/government/statistics/police-powers-and-procedures-england-and-wales-year-ending-31-march-2014> and <https://www.gov.uk/government/statistics/police-powers-and-procedures-england-and-wales-2012-to-2013>)

<sup>8</sup> Mayor’s Office for Policing and Crime (2016), *Stops and Searches Monitoring Mechanism – April 2016*, ([http://www.met.police.uk/foi/pdfs/priorities\\_and\\_how\\_we\\_are\\_doing/borough/mps\\_stop\\_search\\_mon\\_report\\_april2016.pdf](http://www.met.police.uk/foi/pdfs/priorities_and_how_we_are_doing/borough/mps_stop_search_mon_report_april2016.pdf) accessed on June 15, 2016)

<sup>9</sup> Mayor’s Office for Policing and Crime (2016), *Stops and Searches Monitoring Mechanism – Tower Hamlets: April 2016*, ([http://www.met.police.uk/foi/pdfs/priorities\\_and\\_how\\_we\\_are\\_doing/borough/tower\\_hamlets\\_stop\\_search\\_mon\\_report\\_april2016.pdf](http://www.met.police.uk/foi/pdfs/priorities_and_how_we_are_doing/borough/tower_hamlets_stop_search_mon_report_april2016.pdf) accessed on June 15, 2016)

Release's report with LSE shines a light on the crucial role that drug policing plays in stop and search practice. It demonstrates that across all searches, in 2009/10 black people were 5 times more likely to be searched than their white counterparts but when looking specifically at drug searches that figure jumped to 6.3 times (the rate across reasons excluding drugs were 4.5 times).<sup>10</sup> Disproportionality existed across other BAME groups with Asians being 2.5 times more likely to be searched for drugs and mixed twice as likely. This is despite the fact that drug use is lower amongst both the black and Asian population when compared to the white population.<sup>11</sup> It is also worth noting that Her Majesty's Inspectorate of Constabulary confirmed in their review of stop and search that most searches were for low level possession offences.<sup>12</sup>

The higher rates of disparity when isolating drugs searches clearly indicate that the policing of drugs is a key driver of the ethnic disparities that exist in stop and search. In this context and when combined with the increasingly intensive targeting of drugs through stop and search it becomes clear that in spite of recent movement on the issue from the Home Secretary stop and search reform cannot be truly achieved without addressing our drug policy. The College of Policing has recently recognised this crucial link through issuing guidance stating that the smell of cannabis alone does not constitute reasonable grounds to conduct a stop and search.<sup>13</sup> All forces have signed up to use this guidance yet its impact will be limited if it has not been mandated.

Beyond these statistics the damage that stop and search does to the black community cannot be underestimated. Young black people are almost twice as likely as their white peers to enter the criminal justice system as a consequence of being stopped and searched by the police<sup>14</sup> and as the findings from our report show, drug searches are the gateway to a criminal justice system that unleash expansive inequalities on BAME groups that cannot be explained away by the features of the offence or the criminal histories of individuals. This is supported by research into differential treatment in the youth justice system which highlights the prime significance of police activity in "recruiting" young people to the system

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<sup>10</sup> Bear, D., Eastwood, N., & Shiner, M. (2013), *The Numbers in Black and White: Ethnic Disparities in the Policing and Prosecution of Drug Offences in England and Wales*. Pp. 21- 22

(<http://www.release.org.uk/sites/default/files/pdf/publications/Release%20-%20Race%20Disparity%20Report%20final%20version.pdf> accessed June 13, 2016)

<sup>11</sup> Home Office (2012), *Drug Misuse Declared: Findings from the 2011/12 Crime Survey for England and Wales*, (<https://www.gov.uk/government/publications/drug-misuse-declared-findings-from-the-2011-12-crime-survey-for-england-and-wales--2> accessed June 30, 2016)

<sup>12</sup> 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> accessed June 30, 2016)

<sup>13</sup> College of Policing (2016) *Authorised Professional Practice on Stop and Search*. Pp. 25-26 (consultation version – unpublished. Updated version due August 2016) (<https://www.app.college.police.uk/app-content/stop-and-search/> accessed May 15 2016)

<sup>14</sup> House of Commons Home Affairs Committee (2007) *Young Black People and the Criminal Justice System*. Second Report of Session 2006/07 Volume 1, paragraph 166 (<https://www.publications.parliament.uk/pa/cm200607/cmselect/cmhaff/181/181i.pdf> accessed June 30, 2016)

by creating inflows that the justice system must then respond to<sup>15</sup> and that contact with the criminal justice system is likely to result in “enhanced offending than diminished offending”.<sup>16</sup> Through stop and search and the adoption of more adversarial policing tactics towards young BAME people, it states both that differential representation of some ethnic minority groups in the youth justice process occurs largely at the point of inflow and that this is especially true for drug offences.<sup>17</sup>

Stop and search is solely a police encounter yet our community engagement work with BAME youth commonly shows us that it is uniquely placed to shape their views and understanding of state agencies at large, from courts to prison staff. The absence of procedural justice experienced during stop and search fuels mistrust and disengagement with these actors leading them to be less likely to engage with police as a witness or a victim of crime, to respond positively to youth offending services and prison, including satisfaction rates, and ultimately increase recidivism. Through Release’s youth engagement programme Y-Stop young people have shared their experiences of stop and search with us, highlighting the impact repeated police interactions have on them, their loved ones and their perceptions of police;

*“two of the police officers began to search the car, they said to my brother and the rest of the group they had suspicions that there were drugs and a firearm in the car. But why did they think that? Because.. they were all just youth of coloured boys and were criminals? They weren’t allowed to drive decent cars and if they were they are immediately drug dealers? ..they didn’t discover anything illegal in the car, the police officers removed the cuffs off their hands then said “ you nigga’s were lucky, now get away”. My brother was still confused and shaken up when he arrived home, when he reached home he took off his clothes ...he saw bruises on some parts of he’s body, he couldn’t find the courage to tell my mum because he didn’t want mum to worry.”*

*"Where are you off to youngster?" Confused and in a rush I replied "work, I am actually running late". The officers chuckled as if to say I was lying, annoyance was building up inside but I tried to remain completely calm. In the same tone the officer replied "Do you really expect us to believe that? If you had said you have just come from supplying drugs, maybe we would consider believing you". The other officer laughed, with*

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<sup>15</sup> May, T. Gyateng, T. & Hough, M. (2010). *Differential Treatment in the Youth Justice System*. Equality and Human Rights Commission Research Report 50. Pg. 8  
([https://www.equalityhumanrights.com/sites/default/files/differential\\_treatment\\_in\\_the\\_youth\\_justice\\_system\\_f inal.pdf](https://www.equalityhumanrights.com/sites/default/files/differential_treatment_in_the_youth_justice_system_f inal.pdf) accessed on June 14, 2016)

<sup>16</sup> Bradford, B. (2015), “Unintended Consequences,” in Delsol, R. & Shiner, M. (Eds.) (2015), *Stop and Search: The Anatomy of a Police Power*, Palgrave Macmillan: London. Pg. 116

<sup>17</sup> May, T. Gyateng, T. & Hough, M. (2010). *Differential Treatment in the Youth Justice System*. Equality and Human Rights Commission Research Report 50. Pp. 90-92  
([https://www.equalityhumanrights.com/sites/default/files/differential\\_treatment\\_in\\_the\\_youth\\_justice\\_system\\_f inal.pdf](https://www.equalityhumanrights.com/sites/default/files/differential_treatment_in_the_youth_justice_system_f inal.pdf) accessed on June 14, 2016)

*a shocked and surprised look I realised that they had no reason to stop me and it was just for their own amusement.”*

*“They started asking him what he referred to as weird questions like what is his immigration status? How did he get his car? What was he doing outside of his home at that time of the night? What type of drugs does he deal? Then, one of them made snide comments that ‘immigrants do nothing but to steal, sell drugs and kill people in the UK. At this point he did not argue with him because he realised that his car was stopped as a result of racism. The incident made him realised how much immigrants, especially black people, are hated by the police. He became very much aware that institutional racism can never be eradicated and black people can never be respected by the police in the UK.” (3<sup>rd</sup> Party interview)*

*“When I was stopped and searched, half the time there wasn’t a reason, when people think you’re always committing crime it makes you just think you may as well do it. If you’re always getting stopped when you’re not doing anything it makes you think you might as well be doing stuff. They would say I half match the description. Half matching the description is not good enough.”<sup>18</sup>*

### **Arrest and out-of-court disposals for drug offences<sup>19</sup>**

In Release’s 2013 report with LSE, the racial disproportionality witnessed in drug stops and searches continued at the level of arrest rates and out-of-court disposals (OOCs). For example, black people were found to be arrested at six times the rate of white people for drug offences in 2009/10, a ratio owing to the disproportionality witnessed at the level of stop and search.<sup>20</sup>

It should be noted that during that reporting period, only 7 per cent of drug stops and searches resulted in arrest. Though this rate has risen to 11 per cent for the 2014/15 period<sup>21</sup>, the extremely low percentage actually arrested raises serious questions about the efficacy of drug stops and searches more broadly, not just the disproportionality within them.

The higher arrest rate for black people compared to white people for drug offences in 2009/10 was a result of the disproportionality with which OOCs – e.g. cannabis warnings, Penalty Notice for Disorder (PND), and a caution – were handed out. Indeed, in London the Metropolitan Police Service (MPS) were

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<sup>18</sup> Y-Stop (2014) (<http://y-stop.org/stories/if-people-think-youre-always-committing-crime-you-may-as-well-do-it> accessed June 15, 2016)

<sup>19</sup> This section is relevant to questions 8, 11, 13, 21, & 29, in the call for evidence.

<sup>20</sup> Bear, D., Eastwood, N., & Shiner, M. (2013), *The Numbers in Black and White: Ethnic Disparities in the Policing and Prosecution of Drug Offences in England and Wales*. Pg. 28 (<http://www.release.org.uk/sites/default/files/pdf/publications/Release%20-%20Race%20Disparity%20Report%20final%20version.pdf> accessed May 27, 2016)

<sup>21</sup> Home Office (2015), *Police powers and procedures England and Wales year ending 31 March 2015: data tables*, (<https://www.gov.uk/government/statistics/police-powers-and-procedures-england-and-wales-year-ending-31-march-2015-data-tables> accessed on May 27, 2016)

five times more likely to charge black people than white people for cannabis possession. This rate varies depending on which London borough you are in, with black people in Kensington and Chelsea around 13 times more likely to be charged for cannabis possession than white people.<sup>22</sup> Asian people were charged at 1.3 times the rate of white people for this offence in London.

When it came to being charged for cocaine in London in 2009/10, the picture was even bleaker for black people caught in possession – 22 per cent of this group received a caution, while the remaining 78 per cent were charged. This stands in stark contrast to the white population of whom only 44 per cent were charged.<sup>23</sup> For Asian people caught possessing cocaine, 64 per cent were charged with an offence.

Though we don't currently have data to this level of detail, Ministry of Justice statistics published last year show that in 2014 a larger proportion of black and Asian people arrested for drug offences were dealt with through a court conviction rather than a caution compared to white people.<sup>24</sup> Around 75 per cent of black people caught with drugs were convicted with the remainder receiving a caution. For Asian people just over 70 per cent were convicted, while for white people under 60 per cent were convicted.

All of these figures highlight that people from BAME communities are punished more harshly than white people when they first come into contact with police for a drug offence.

Finally, when looking at specific charging and cautioning data for the different classes of drugs it is odd to note that once arrested for a possession offence a person is more likely to receive a caution for a Class A substance than either a Class B or C drug.<sup>25</sup> In 2014, of those arrested for possession of a Class A substance (primarily cocaine) 52 per cent were cautioned and the remainder charged, for Class B the cautioning rate was 38 per cent (primarily cannabis) and for Class C it was 34 per cent. This raises questions of who is being arrested and why those caught in possession of Class B and C drugs – for which the Crown Prosecution Service states a caution is more appropriate<sup>26</sup> – are facing a more punitive response.

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<sup>22</sup> Bear, D., Eastwood, N., & Shiner, M. (2013), *The Numbers in Black and White: Ethnic Disparities in the Policing and Prosecution of Drug Offences in England and Wales*. Pp. 32-34

(<http://www.release.org.uk/sites/default/files/pdf/publications/Release%20-%20Race%20Disparity%20Report%20final%20version.pdf> accessed May 27, 2016)

<sup>23</sup> Ibid. Pg. 35

<sup>24</sup> Ministry of Justice (2015), *Statistics on Race and the Criminal Justice System 2014: A Ministry of Justice publication under Section 95 of the Criminal Justice Act 1991*. Pg. 89

([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/480250/bulletin.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/480250/bulletin.pdf) accessed on May 27, 2016)

<sup>25</sup> The Economist (2015), *Prosecuting Drug Offenders: A Matter of Class*,

(<http://www.economist.com/news/britain/21672286-those-arrested-harder-drugs-have-easier-time-matter-class> accessed June 30, 2016)

<sup>26</sup> Crown Prosecution Service (2016), *Drug Offences: Legal Guidance: The Crown Prosecution Service: Public Interest Considerations* ([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 June 30, 2016)

## Prosecution and Sentencing<sup>27</sup>

In 2014 drug offences accounted for nearly 20% (46,900 of 244,850) of all indictable offences within the Court system, exceeding all other offence groups except theft offences.<sup>28</sup> The Ministry of Justice report from that year also conceded that **“drug offences were the most common indictable offence proceeded against for Black and Asian defendants...Conversely, prosecutions for drug offences as a proportion of all prosecutions was lowest for White defendants.”**<sup>29</sup>

In Release’s 2013 report with LSE<sup>30</sup>, which analysed criminal justice statistics from 2009/10, we found that:

- Black people were sentenced for all drug offences at 4 times the rate of white people.
- Black people were 5 times more likely than white people to receive an immediate custodial sentence for a drug offence.
- The rates of disparity significantly reduced when considering all indictable offences, indicating that drug offences were driving this disproportionality.

To determine a more recent position for the purpose of this submission, we carried out the same analysis<sup>31</sup> of sentencing outcomes as in our previous report but using the 2014 Ministry of Justice statistics<sup>32</sup> (see figure 1 below). This analysis revealed increases in disproportionality in the 4/5 year period, including:

- Black people were proceeded against (charged and summonsed) at a rate of nearly 6 times that of white people.
- Black people were convicted at a rate of nearly 6 times that of white people.

The level of disproportionality in terms of the total numbers sentenced for drug offences has also increased - to 5.75 times the rate of white people. When compared to all indictable offences the rate of

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<sup>27</sup> This section is relevant to questions 17 - 21 in the call for evidence.

<sup>28</sup> Ministry of Justice (2015), *Statistics on Race and the Criminal Justice System 2014: A Ministry of Justice publication under Section 95 of the Criminal Justice Act 1991*, Chapter 5: Defendants’ Tables at Table 5.04 (<https://www.gov.uk/government/statistics/race-and-the-criminal-justice-system-2014> accessed on May 27, 2016)

<sup>29</sup> Ministry of Justice (2015), *Statistics on Race and the Criminal Justice System 2014: A Ministry of Justice publication under Section 95 of the Criminal Justice Act 1991*. Pg. 46 ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/480250/bulletin.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/480250/bulletin.pdf) accessed on May 27, 2016)

<sup>30</sup> Bear, D., Eastwood, N., & Shiner, M. (2013), *The Numbers in Black and White: Ethnic Disparities in the Policing and Prosecution of Drug Offences in England and Wales*. Pg. 41 (<http://www.release.org.uk/sites/default/files/pdf/publications/Release%20-%20Race%20Disparity%20Report%20final%20version.pdf> accessed May 27, 2016)

<sup>31</sup> As with the previous report the 2011 Census data was used– this is not ideal as the population shifts over time, but it is the most recent data available.

<sup>32</sup> Ministry of Justice (2015), *Statistics on Race and the Criminal Justice System 2014: A Ministry of Justice publication under Section 95 of the Criminal Justice Act 1991*, Chapter 5: Defendants’ Tables (<https://www.gov.uk/government/statistics/race-and-the-criminal-justice-system-2014> accessed on May 27, 2016)

disproportionality falls to just over 2.5 times, demonstrating that policing and prosecution of drugs is still driving racial disparity in our criminal justice system.

The rates at which black people appear in Court for a drug offence is perhaps explained by the disproportionality that exists at the preceding stages shaping the outcome at this point. However, at the point of sentencing one would expect that judicial independence and impartiality would level the playing field and the disparity would disappear or at least reduce significantly. Unfortunately that is not the case, and in fact we found that the rates of disproportionality have increased since our previous report.

As figure 2 below shows, racial disparity is in fact further emphasised when considering the types of sentence that people receive at Court, which suggests racial bias in the way in which black people are sentenced. Disproportionality exists for all sentence types, but the most concerning indicator is that **black people are 8 times more likely to be given an immediate custodial sentence for a drug offence**. As at other points, the disproportionality rate reduces to just over 3 times for all indictable offences. This would suggest there is a prejudicial element to judicial decision making, which is also evident when considering that the rate of disproportionality for an immediate custodial sentence for a drug offence is more than twice that for a suspended sentence.

The disproportionality that exists for Asian people earlier in the criminal justice process appears to tail off once these defendants reach Court. However, as for black people, disparity still exists in relation to an immediate custodial sentence for a drug offence as compared to all indictable offences.

**Figure 1 – Persons proceeded against and convicted for indictable offences at all Courts by ethnic appearance 2014, England and Wales**

DRUG OFFENCES	RATE PER 1,000 POPULATION				DISPROPORTIONALITY (OF WHITES)		
	WHITE	BLACK	ASIAN	MIXED	BLACK	ASIAN	MIXED
PROCEEDED AGAINST	0.76	4.49	1.06	1.9	5.91	1.39	2.5
CONVICTED	0.7	4.02	0.93	1.66	5.74	1.33	2.37
ALL INDICTABLE OFFENCES	WHITE	BLACK	ASIAN	MIXED	BLACK	ASIAN	MIXED
PROCEEDED AGAINST	5.12	15.59	4.24	8.33	3.04	0.83	1.63
CONVICTED	4.18	11.96	3.15	6.31	2.86	0.75	1.23

Figure 2 - Persons sentenced for indictable offences at all Courts by ethnic appearance 2014, England and Wales

DRUG OFFENCES	RATE PER 1,000 POPULATION				DISPROPORTIONALITY (OF WHITES)		
	WHITE	BLACK	ASIAN	MIXED	BLACK	ASIAN	MIXED
<b>NUMBER SENTENCED</b>	0.69	3.97	0.92	1.63	5.75	1.33	2.36
<b>ABSOLUTE/CONDITIONAL DISCHARGE</b>	0.12	0.58	0.1	0.24	4.83	0.83	2
<b>FINE</b>	0.26	1.68	0.38	0.69	6.46	1.46	2.65
<b>COMMUNITY SENTENCE</b>	0.1	0.52	0.1	0.28	5.2	1	2.8
<b>SUSPENDED SENTENCE</b>	0.08	0.27	0.08	0.13	3.38	1	1.62
<b>IMMEDIATE CUSTODY</b>	0.1	0.8	0.23	0.24	8	2.3	2.15
<b>ALL INDICTABLE OFFENCES</b>	<b>WHITE</b>	<b>BLACK</b>	<b>ASIAN</b>	<b>MIXED</b>	<b>BLACK</b>	<b>ASIAN</b>	<b>MIXED</b>
<b>NUMBER SENTENCED</b>	4.14	11.88	3.14	6.23	2.87	0.76	1.52
<b>ABSOLUTE/CONDITIONAL DISCHARGE</b>	0.57	1.24	0.28	0.66	2.17	0.49	1.16
<b>FINE</b>	0.74	2.72	0.65	1.27	3.67	0.88	1.72
<b>COMMUNITY SENTENCE</b>	0.86	2.48	0.6	1.51	2.88	0.7	1.75
<b>SUSPENDED SENTENCE</b>	0.58	1.41	0.47	0.75	2.43	0.81	1.29
<b>IMMEDIATE CUSTODY</b>	1.12	3.54	1	1.73	3.16	0.89	1.54

## Recommendations

We would recommend that the review considers specific measures in relation to three areas: i) policy, ii) implementation of laws and procedures, and iii) data collection.

### Policy

- 1) There should be an urgent review of drug policy in the UK in recognition of the fact that drugs policing and enforcement is driving racial disparity in the CJS and that the law is applied in an inequitable manner.
- 2) Drug offences should be explicitly analysed in s95 Criminal Justice Act 1991 reports.

### Implementation

- 3) “Smell of cannabis” alone should not be grounds for stop and search and this should be codified within PACE.
- 4) Practices around charging standards for drug possession offences need to be monitored and clear guidance should be put in place to avoid differential treatment among BAME communities. We would recommend an assessment matrix for charging being implemented to ensure equitable treatment in the system.
- 5) CPS decisions to bring prosecutions should be subject to review especially where Class B and C drugs are involved, in recognition of current CPS charging guidance.
- 6) 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.
- 7) Cases involving cannabis should be reviewed to ensure the 2009 ACPO guidance on cannabis possession for personal use has been followed.

### Data

- 8) Stop and search records should distinguish between what class of drugs the stop and search was aimed at and whether the officer suspected possession or dealing – so that there is accurate data for making assessments of effectiveness.
- 9) Data on outcomes for drug possession offences should be made available as part of the Ministry of Justice’s Criminal Justice System Statistics – this should include analysis of cannabis warnings, penalty notices for disorder, cautions, charge, and disposal broken down by ethnicity.
- 10) Training on ethnic disparities should be provided to the judiciary so that they can take into account how racial disproportionality occurs at the various stages of the criminal justice system and how that impacts on the ethnic breakdown that exists at the sentencing stage.

For more information contact Edward Fox, Policy and Communications Manager, at [edward@release.org.uk](mailto:edward@release.org.uk) or call 020 7324 2978.