Release's written response to the Mayor of London's Police and Crime Plan 2021-25 Consultation

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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 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 in Special Consultative Status with the Economic and Social Council of the United Nations.

The document is submitted in response to the Mayor of London's Police and Crime Plan 2021-2025 consultation. This response focuses on discrimination and harm in the context of **drug law** and **drug law enforcement**. This report will therefore exclusively address issues pertaining to: (1) the Mayor's London Drugs Commission; (2) the London cannabis diversion scheme pilot; (3) breaking the link between serious youth violence and the drugs trade; and (4) drug policing's impact on communities and their confidence in the Police.

(1) London Drugs Commission

- *"The Mayor will establish a **London Drugs Commission** comprising independent experts and leading figures from the fields of criminal justice, public health, politics, community relations and academia. The Commission will pull together the latest evidence on the **effectiveness of our drugs laws**, but with particular focus on **cannabis**. Looking at the evidence in the round, and from across the globe, the Commission will come forward with policy recommendations." (Police and Crime Plan, p.17)*

Release welcomes the London Drugs Commission and the exploration of drug law efficacy. The 27th May, 2021 marked the 50th anniversary of the Misuse of Drugs Act (1971). This Act has caused harm to individuals and communities, undermined scientific research, failed to stop new and potentially lethal synthetic drug analogues from emerging, and entrenched social and racial injustice.[1] We consider the rising levels of drug use,[2] and the highest UK drug-related death rates on record[3] - the highest rates in *Europe*[4] - to be shocking indictments of the efficacy of current drug laws.

This will not be the first exploration of drug law efficacy in the UK. Previous Home Office research compared the legal framework of 14 countries and concluded that there was not "any obvious relationship between the toughness of a country's enforcement against drug possession, and levels of drug *use* in that country".[5] Despite this, tens of thousands of people are criminalised every year in the UK and it is estimated that since the Act's inception there have been over three million criminal records for possession-only offences. The central government spend on drug law enforcement and related activities is estimated to be approximately £1.6 billion per annum,[6] with the estimated central government spend on early drug intervention in a comparable year at only £215 million[7] (with an estimated £600 million on treatment and negligible spending on drug education[8]).

Whilst Release welcomes the Government's new 10 year UK Drug Strategy's plans to increase spending on drug treatment, this follows a decade of cuts to treatment spending. Among other concerns with regards to the strategy, we are concerned by the Home Office's Police Officer Uplift Programme, which seeks to increase the number of police officers in England and Wales by 20,000 by 2025.

The high spend on drug law enforcement continues despite evidence from the Government's own 2017 review of the 2010 UK Drug Strategy which concluded that enforcement activity designed to remove drugs from the market, for example, drug seizures, "has little impact on availability", and that enforcement activities impacting the operation of drug markets "is likely to be short lived… given the resilience of markets".[9] As part of Professor Dame Carol Black's independent review of drugs, commissioned by the Home Office, Black concluded that "Government interventions to restrict supply have had limited success" and added that it was not clear whether organisations such as the Police, Border Force, and the National Crime Agency, would be able to bring about a sustained reduction in drug supply, "given the resilience and flexibility of illicit drug markets".[10] Indeed, findings regarding global and UK-specific drug markets during the COVID-19 pandemic, including research conducted by Release, suggest limited impact on drug supply overall, and reports of increases in drug use; speaking directly to the resilience of the drug market despite unprecedented restrictions to movement due to national lockdowns and border closures.[11]

Cannabis *exceptionalism* should not limit the exploration of drug laws and policy in relation to all illicit substances and the harm caused by drug laws, particularly given that half of drug poisoning deaths registered in England and Wales involve *opioids*,[12] and emerging synthetic opioids have been linked to recent deaths[13] centred in London and the South East. However, the London Drug Commission's particular focus on **cannabis** is supported given that cannabis is: (1) the most widely used illicit drug in the UK;[14] (2) the drug that brings the largest number of people into contact with the criminal justice system;[15] (3) the key driver of police stop and search and of resulting racial inequity in searches and associated outcomes;[16] and in light of (4) cannabis legislation reform taking place across the world, including recent reforms in neighbouring European countries;[17] and (5) growing public support for cannabis reform in the UK.[18]

Whilst the decision to allow medicinal cannabis prescriptions by specialist doctors in the UK[19] was recognised as a positive step, it was one that did not go far enough.[20] Many who use cannabis for medicinal purposes do not meet the high threshold for prescription and continue to be prosecuted for possession, production, or cultivation for personal use whilst simply trying to alleviate their pain or symptoms. The harms produced by the prohibition of cannabis are primarily carceral - police stop and search, surveillance, criminalisation, incarceration - and are harmful to people *whether or not* they use cannabis.

According to global research by the United Nations Office on Drugs and Crime - which examined reports from 69 countries between 2014 and 2018 - "cannabis is the drug that most brings people into contact with the criminal justice system, accounting for more than half of all drug law offence cases".[21] Cannabis prohibition is indeed the key driver of drug law enforcement inequity and the resulting overrepresentation of Black and other ethnic minority individuals in our criminal justice system.[22] Furthermore, it is *low-level* cannabis possession offences driving this disparity, with an estimated one in three of all police searches thought to be for cannabis possession alone.[23] Black and Asian people are then convicted of cannabis possession at 11.8 and 2.4 times the rate of White people respectively, despite lower rates of self-reported use, and more Black people are prosecuted for simple cannabis possession than for the supply of Class A and B drugs combined.[24]

Between 2007 and 2017, 3,861 people were given a custodial sentence for simple cannabis possession[25] and of them, 43% (1,663) were young people aged 12-24, and 18% (687) identified as Black - despite making up less than 4% of the population of England and Wales.[26] Imprisonment can have significant and harmful effects on all people; however, the pains of imprisonment are disproportionately impacting Black and other ethnic minority individuals, who are subject to significantly more searches, arrests, prosecutions, and harsher sentences, for the possession of cannabis.[27] The racial disparity that begins with stop and search[28] continues into outcome severity, with Black people found in possession of a controlled substance being much *less* likely to receive out of court disposals (many of which result in no criminal record) than their White counterparts.[29] The Sentencing Council's analysis of sentences imposed at the Crown Court for supply, possession with intent to supply, and conspiracy

to supply a controlled drug[30] found that an offender's ethnicity was associated with a significant difference in the likelihood of receiving an immediate custodial sentence, even after controlling for other factors associated with the offence(s).[31] Ministry of Justice statistics confirm that the overall custody rate for those drug offences included in the Sentencing Council's analysis is higher for Black and other ethnic minority offenders than for White offenders.[32]

Whilst it is relatively rare for people to be imprisoned for possession of cannabis, in the last decade nearly 222,000 people have been prosecuted for this offence in England and Wales[33] and hundreds of thousands more will have received a police caution. This creates criminal records that damage future education and employment opportunities,[34,35] visa applications, and potentially, access to housing and parental rights/access. Tens of thousands of others will have been convicted for supplying cannabis, with the majority of people involved in these types of offences being low-level suppliers who are driven to participate in the market because of their economic circumstances and lack of opportunities.[36]

Almost 8% of adults aged between 16 and 59 years old in England and Wales report having used cannabis in the last year[37] - with this figure increasing to almost 19% among 16 to 24-year-olds[38] - and in a recent survey of 16,017 UK University students, 44% described cannabis as their 'drug of choice'.[39] A punitive approach, centred in criminal justice responses, does not stop consumption, possession, or supply of the UK's (and the world's) most popular[40] illicit drug. Instead, vast numbers of the population are harassed, policed and criminalised because of our current legal framework, with a devastating impact on communities; most pointedly and unjustifiably, on the young and on Black and Brown communities.

Internationally evolving attitudes towards cannabis specifically, including significant growth in public support for cannabis reform, have seen a number of jurisdictions no longer willing to be complicit in the status quo or in accepting cannabis prohibition as a feasible approach. Malta is set to become the first European country to legalise cannabis for recreational use,[41] joining Canada, Uruguay, Mexico,[42] and over a third of US states.[43] Whilst cannabis reform in Europe has been slower than the Americas, there are reforms underway in a number of European countries as part of the "race to become Europe's first legal cannabis jurisdiction".[44] In addition to the reforms in Malta, there have been local pilot trials of legal cannabis production and sale for recreational use in Switzerland,[45] and Governments in both Luxembourg[46] and Germany[47] have announced their intentions to legalise and regulate cannabis for recreational use. This is in addition to the quasi-legal markets of the Netherlands[48] and Spain,[49] which have been in operation for decades. In the UK, there have also been debates[50,51] regarding recreational cannabis legislation and the possibility of reform - *including* the announcement of the Mayor's London Drugs Commission as part of this present police and crime plan.[52] There is growing public support for a different approach to cannabis use in the UK, with surveys demonstrating that more than *half* of Britons - and nearly two-thirds of those in London - support the legalisation of cannabis for adult recreational use.[53] With this in mind, it is important to consider the impact that cannabis legalisation and regulation would have in the UK.

Organisations such as the Transform Drug Policy Foundation have long considered how to successfully regulate the UK cannabis market; publishing their guide to Cannabis Regulation in 2016.[54] The question to be carefully considered is not whether cannabis laws will be reformed in the UK, but *how* we will ensure that those most vulnerable to the harms of prohibition are protected by changes to policy and prioritised in new licit markets. Informed by the experiences of jurisdictions across North America who have already established a legal market, Release have recently published a report that outlines the need to make social equity and public health the primary goals of cannabis law reform in the UK.[55] This report received widespread civil society support, with 15 national non-governmental organisations (leading in the field of drug policy reform) publicly endorsing the document, along with support from the Green Party, and the Liberal Democrats for Drug Reform.[56]

This new commission is welcomed by Release, but must include **civil society** representation, given that non-governmental organisations have been generating and collating large bodies of evidence around UK drug laws, including Release's own: (1) review of disproportionate drug law enforcement in the UK;[57] (2) review of decriminalisation models across the globe;[58] and (3) review of existing cannabis legalisation and regulation models across North America.[59]

(2) London Diversion Pilot

- *"MOPAC will work with partner agencies in the criminal justice service to strengthen diversion work for both adults and young people recommendations." (Police and Crime Plan, p.18)*

Whilst countries around the world are progressing with cannabis reform (see section 1), the London pilot cannabis diversion scheme, taking place in three London Boroughs, is considered by Release to be a positive but limited move forward, and an acknowledgement that our current, punitive approach to drug use is not only failing, but causing harm, in particular to young Black boys. The proposed pilot involves depenalisation of drug possession - not decriminalisation in law - though is a welcomed step and arguably as far as the Mayor is able to go at present given that the powers to decriminalise cannabis and other drugs are reserved to Westminster. This section details our response to the London cannabis diversion pilot and provides evidence to support the consideration of decriminalisation (of cannabis and other drugs) in law as part of the Mayor's London Drugs Commission.

Release advocate for full de jure (in law) decriminalisation as the best option for those who use drugs and the society that surrounds them. The vast majority of people who use drugs do so 'recreationally', that is, without experiencing problematic use (9 in 10).[60] As such, Release support a **no punishment** model of decriminalisation in law for drug use and possession - which is the approach taken by Spain, the Netherlands, and Uruguay.[61] It is also the approach we *currently* have in the UK in relation to the psychoactive substances which fall under the Psychoactive Substances Act, 2016,[62] as opposed to those falling under the Misuse of Drugs Act, 1971.[63]

Research undertaken by Release looked at countries across the world that no longer criminalised use or possession of drugs; none experienced increases in drug consumption linked to policy.[64] Countries such as Australia (which had decriminalised cannabis possession in a number of states and had diversion schemes for all controlled substances in every state), Portugal, and the Czech Republic, reported improved physical and mental health outcomes when compared to individuals who were criminalised. Decriminalisation has also been associated with reduced rates of recidivism, reduced burden on police resources, and savings to public spending related to social costs.[65] By decriminalising the possession of controlled drugs for personal use, resources could be diverted from the criminal justice system into health and other services for people who use drugs, as well as wider community programmes, thus ensuring a greater return on investment for communities and criminal justice agencies. Portugal, for example, decriminalised the use and personal possession of all drugs in 2001, whilst also investing in harm reduction and treatment programmes. The number of annual drug overdose deaths reduced from 318 in 2000 to 55 in 2018.[66] A 2015 study found an 18% reduction in the social costs of drug use in the first ten years of decriminalisation in Portugal.[67] The proportion of the prison population sentenced for drug offences in Portugal has fallen from over 40% to 15%, rates of drug use have remained consistently below the EU average, and Portugal has gone from accounting for over 50% of yearly HIV diagnoses linked to injecting drug use in the EU to 1.7%.[68]

Criminalisation is acknowledged as an obstacle to treatment access, while decriminalisation is backed by all 31 UN Agencies[69] and acknowledged by the World Health Organization as a 'critical enabler' of service access.[70] Both the Health and Social Care Select Committee[71] and the Scottish Affairs Committee[72] in their inquiries on drugs in 2019 have directly recommended that the UK government consult on reforming the law to end criminal sanctions for possession offences. However, the Government's new 10 year Drug Strategy dismisses decriminalisation early in the text, reducing it to a "simple solution" that would "leave organised criminals in control while risking an increase in drug use." Such a statement ignores the fact that the current strategy of prohibition will leave drug markets in the hands of organised crime, and is ignorant of evidence from the now over 30 countries that have ended criminal sanctions for drug possession. Release has published multiple resources on how drug decriminalisation, when done correctly, can improve health outcomes, reduce drug-related deaths, and reduce offending - the exact targets of the Government's drug strategy. This is in addition

to evidence that policy liberalisation is not related to prevalence of drug use in countries that have reformed their laws[73,74]

In the *absence* of decriminalisation de jure (in law), Police forces should implement **diversion** schemes to divert people who use drugs away from the criminal justice system, improve outcomes, and reduce costs. The political opposition the Mayor has received in response to the announcement of the diversion pilot in three London Boroughs is surprising and disappointing given that: (1) plans to double "out-of-court disposal schemes" by the end of 2024/25 are included within the new 10-year drug strategy; (2) police have been dealing with cannabis via warnings and on the spot fines since the early 2000s; and (3) diversion schemes are evidence-based.

There are a growing number of existing police diversion schemes in England and Wales (with some including minor drug possession offences only and others including minor supply offences). One example is 'Checkpoint', a scheme introduced by Durham police force which diverts people for low level offences after arrest on the condition that they undertake a four-month programme to address their offending behaviour. Initial findings from the pilot period found those who were diverted to Checkpoint had lower reoffending rates and improved outcomes in relation to: substance misuse, alcohol misuse, accommodation, relationships, finances, and mental health.[75] Durham's diversion scheme was initially post-arrest for both possession and intent to supply for those who are dependent or economically deprived, however they have since adapted their scheme to allow for diversion at street level to a less intensive intervention as we have seen in other parts of the country. Avon and Somerset Police force implemented an on-the-street diversion programme in Bristol for those caught in possession of drugs for their own personal use. Findings from 'Drug Education Programme' ('DEP') are similar to that of Durham Police, with attendees of the DEP less likely to re-offend when compared to those who had gone through the criminal justice system during the baseline period.[76] Similar schemes are operating in North Wales, Thames Valley, and in the West Midlands police forces (among others) and there is mounting evidence of diversion programme-success[77] and support for these schemes.[78]

The Mayor of London's cannabis diversion pilot does have the potential to reduce contact with the criminal justice system for people in possession of cannabis - which is the drug that brings the *most* people into contact with the system, and is a major driver of racial disparity (see section 1). However, the announced pilot is **limited** in that it only applies to three of the 32 London Boroughs, those in possession of cannabis, and people aged 18 to 24. We would like to see this scheme expanded to include all drug types and people of all ages, which is what we see with other pre-arrest diversion schemes in operation across a number of police authority areas in England and Wales (which are open to all age groups and low-level possession of *any* illicit drugs, as well as other low-level charges). We also need to see evidence that the new scheme is being applied *equitably* by police across the participating Boroughs. If this diversion pilot allows room for police discretion in offering diversion, this may allow for racial disparities or overrepresentation of people from deprived communities to be sustained in the criminal justice system,[79] and potentially, the phenomena of net-widening and mesh-thinning.[80]

Addition detail is also required on how the diversion scheme will be used for *repeat* offenders. While it is important to avoid bringing new people into the criminal justice system, the new pilot must allow for people to be repeatedly diverted (as is the case with the West Midlands' diversion scheme for example), otherwise the London Boroughs involved will be simply criminalising those who are drug *dependent*, or those who are disproportionately *targeted* by police stop and search, which is contrary to the motivations for piloting the scheme.

Depenalisation is preferable to immediate prosecution, and as such, the cannabis diversion pilot is supported by Release: it is hoped that this will the *beginning* of more positive change. However, this scheme needs to go beyond cannabis possession alone, should apply to all ages, and must allow for people to be repeatedly diverted. Included in the evaluation of the pilot scheme should be analysis of whether the scheme is being applied equitably, with similar analysis currently being undertaken by Release in relation to the pre-arrest diversion scheme operating in the West Midlands. While formal de jure (in law) decriminalisation of cannabis and other drugs is not currently within the Mayor's power, a no punishment model of decriminalisation in law should be explored and reviewed as part of the Mayor's London Drugs Commission.

(3) Breaking the link between serious youth violence and the drugs trade

- *"The Mayor is determined to end the criminal exploitation of young Londoners by gangs and wider criminal networks, a known driver of violence affecting young people in our city. As well as supporting the MPS to crack down on the organised criminals preying on young people to deal drugs, MOPAC has invested in a three-year Rescue and Response programme to better understand, target and respond to County Lines offending and victimisation. MOPAC and the VRU, the MPS and the British Transport Police (BTP) will continue to work with national partners to safeguard young people caught up in drug dealing and to disrupt criminal gangs." (Police and Crime Plan, p.17)*

'County Lines'

The focus on targeting those who *supply* drugs has not only been acknowledged by the Government as doing little to impact the *availability* of drugs,[81] but it will also continue to harm communities that are already over-policed in the UK. A lynchpin of the Government's new 10 year drug strategy, and a phenomenon referred to in the Mayor's police and crime plan, 'county lines', is being framed as an altogether *new* phenomenon that facilitates the supply of mostly heroin and crack cocaine into non-metropolitan areas, even though heroin and crack markets in these areas already existed.[82] Those that have studied county lines have shown that the entry of drugs into rural areas, sometimes via the involvement of young people, is no new feature of an unregulated drug market. It is also the case that for some young people, they will not be involved in the drugs market due to exploitation, but rather they will choose to engage in the market because of limited life choices and opportunities.[83] Whilst there are certainly human abuses conducted by organised crime, the reality of the situation is being overstated and used to justify a nation-wide "crackdown" on drugs. It is also a tool of distraction used by Government to distance its role in serious youth violence, which a decade of austerity has undoubtedly contributed to, as youth centres and funding for youth programmes have closed.

School exclusion

The stigmatisation of young people's involvement in drug use, and low-level supply, is arguably rooted in school exclusion in the first instance - which disproportionately impacts Black children. If we are to address concerns about young people in the current climate, including the risk of some young people becoming dependent on drugs or becoming involved in serious violence or the drugs trade, then we should be addressing: the high rates of school exclusions; the closure of youth centres due to austerity;[84] the lack of opportunities for employment and advancement in communities that have been further decimated by austerity; the removal of the educational maintenance award; and the trauma caused by the financial and housing insecurity faced by many children's parents. It is these issues that place a young person at greater risk of drug dependency, or involvement in the illegal market, and increases the likelihood of a range of health and social harms.

Analysis of permanent and fixed exclusions in England demonstrates that exclusion disproportionately impacts students from certain ethnicity groups.[85] The Government-commissioned 'Timpson Review' shows that after controlling for other factors, Black Caribbean children are around 1.7 times more likely to be permanently excluded compared to White British children, while Mixed White and Black Caribbean children are around 1.6 times more likely, and Indian and Bangladeshi pupils are around half as likely.[86]

It is important that we roll out school-led schemes which seek to replace exclusion given the evidence of exclusion inequity and the established link between school exclusion and young people's risk of exploitation and involvement in criminal activity.[87]

(4) Drug policing's impact on communities and confidence in the Police

- *"MOPAC will work with the MPS and communities to ensure that all the commitments in the Mayors Action Plan for Transparency, Accountability and Trust in Policing are delivered in full. These include: an overhaul of community monitoring structures to ensure that Londons diverse communities are better represented; stricter oversight and scrutiny of the smell of cannabis used as sole grounds for stop and search; and developing community-led training for police officers. Throughout this term we will continue to tackle disproportionality and improve the confidence and trust of Black Londoners in their police service." (Police and Crime Plan, p.25)*
- *"We must stamp out discrimination in all its forms, root out those who abuse their trusted position as officer." (Police and Crime Plan, p.26)*
- *"We will continue to implement the Tackling Ethnic Disproportionality in Youth Justice Action Plan which compliments the Mayors Action Plan and builds on the work of youth justice agencies in tackling black and minority ethnic over-representation in youth justice. MOPAC will take this further by seeking to work with partners to develop a similar plan to tackle ethnic disproportionality in the adult justice service." (Police and Crime Plan, p.27)*

Release welcome the Mayor's commitment to tackle police officer discrimination and tackle ethnic disproportionality in the justice service. However, there are a series of issues in relation to the disproportionate policing of **drugs** that negatively impact ethnic minority individuals and communities directly, and undoubtedly drive the confidence gaps observed within the Mayor's plan between different ethnicity groups.

Disproportionate stop and search

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 in the UK - including within both the Lammy review and the MacPherson inquiry. In a written submission to the Commission on Race and Ethnic Disparities, Release emphasised that "despite repeated calls for reform - including from the Equality and Human Rights Commission and numerous inquiries - high levels of racial disparity *persist*".[88]

Over half a million people are subject to police stop and search every year in England and Wales, with 63% of all searches under the main police powers in 2019/20 being searches for drugs.[89] In the last 12 months, 65.5% per cent of all searches carried out by the Metropolitan Police were for drugs, this will largely be for suspected possession.[90] Black and other ethnic minority groups are consistently more likely to be stopped and searched than White people. For all stop searches in 2019/20 in England and Wales, people self-defining as 'Black, Asian, and Minority Ethnic' were 4.1 times more likely to be searched than White people. The disparity is particularly pronounced for Black people, who were 8.9 times more likely to be stopped and searched than White people,[91] despite being no more likely than the White population to use controlled substances.[92] Whilst disparities in stop and search at the national level can mask differences in the size and make up of local populations within each police force area, Black people *consistently* endure the highest recorded stop and search rate. In light of this inequity, alongside evidence that the majority of searches result in officers finding nothing - with only 20% of searches under the main police powers in 2019/20 resulting in an outcome linked to the reason for the search[93] - Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS), which examines police efficacy, has called for "an evidence-based national debate on the use of stop and search in the policing of controlled drugs".[94]

There is evidence of a 24% increase in stop and search under the main police powers during the global COVID-19 health pandemic[95] - when we were meant to be keeping our distance - and emerging evidence to suggest that racial disparity in stop and search continued in the midst of the pandemic**.** A study on stop and search operations conducted in London between July and September 2020 adds to the growing evidence of racial profiling by law enforcement, as well as of unjustified, disproportionate, and unreasonable use of these tactics.[96] Of the over 65,000 people stopped and searched in that period (an increase from 2018 and 2019), 65% were searched for drugs, with over three quarters of all searches resulting in no further action being taken. In other words, over 48,000 people were stopped and searched – predominantly for drugs – on the basis of unfounded suspicions. That *success* rates of stop and search further decreased from 2018 is additional indication that the ongoing resort

to this practice is unjustified.[97] Figures on racial and age disparity are revealing, with Black men aged 18-24 being *19 times* more likely to be stopped and searched than the general population. Black children (aged 10 – 17) were also stopped and searched at significantly higher rates than White adults and White children.[98] Furthermore, in the context of the COVID-19 pandemic, it is concerning to see that the London boroughs with the highest proportion of searches were Westminster, Lambeth, Tower Hamlets, Newham and Southwark - boroughs with some of the highest number of reported deaths related to COVID-19.[99]

Furthermore, in response to the COVID-19 pandemic, the UK government introduced unprecedented police powers under the Health Protection (Coronavirus) Regulations and the Coronavirus Act to enforce the first lockdown with heavy fines and the threat of criminal penalties. In a "collision of crises" as described by the Runnymede Trust, research by Liberty Human Rights and the NPCC[100] found stark disparity with which these powers were used against people of colour compared with White people: across England and Wales, people of colour were 1.6 times more likely to be fined than White people.

Systemic racial discrimination in the use of police powers is well-evidenced, with *drug* law enforcement driving this trend given that over 60% of all searches in England and Wales are carried out for drugs.[101] The 2021 HMICFRS report reiterates that "drug searches influence the disproportionality rate more than other types of search".[102] Although recorded stop-searches (under the main police powers) in England and Wales did decrease between 2011 and 2017 - boosted by the Home Office's Best Use of Stop and Search (BUSS) scheme in 2014 (whereby all police forces agreed to improve transparency and accountability in their use of stop and search) - over this period, the disparity gap in fact *widened*. Arrests from drug searches halved for White people but remained stable for Black people.[103] This exemplifies the failure of reform to adequately address racially disproportionate policing, even if they lessen harm for some individuals.

The dominance of the search for **drugs** explains in part the pronounced racial disparity in stop and search data, given 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"[104]. Notably, the disproportionality in stop and search cannot be explained by existing trends in drug use. Repeated self-report studies[105] have indicated that Black, Asian, Chinese and other minority ethnic group individuals tend to 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.[106] Analysis of the Crime Survey for England and Wales (2018/19) confirms these findings[107].

The skewed enforcement of drug laws has exacerbated racial profiling and the hyper-criminalisation of ethnic minority individuals. It has also unfavourably impacted those who are socio-economically deprived, and of other disadvantaged groups[108] - thereby creating a population who are not afforded basic civil and human rights. This creates distrust in the police and lowers confidence. In a 2020 UK survey, 85% of Black respondents were not confident that they would be treated the same as a White person by the police.[109] The 2021 HMICFRS report on disproportionate use of police powers in England and Wales confirms that disproportionality and discrimination extend beyond *who* is searched to the actual *execution* of such searches.[110,111] 2019/20 data indicates that Black people were almost 6 times more likely to have force used on them than White people. The data further shows that officers were more than 9 times as likely to have drawn Tasers (but not discharged them) on Black people than on White people. Additionally, Black people were 8 times more likely to be 'compliant handcuffed'[112] than White people, and over 3 times more likely to have a spit and bite guard used on them than White people. The HMICFRS report continues that "the reasons for this are unclear. It could mean that force is used on Black people with less justification than on White people, or there could be other explanations. This needs further exploration."[113]

Inequitable criminal justice outcomes

Drug law enforcement, and the prioritisation of low-level drug offences by the police, are a key factor in the overrepresentation of ethnic minority individuals in the criminal justice system. The damage caused by this disparity spreads to greater disruption to education, interpersonal relationships, and future employment opportunities.[114] The HMICFRS report, which focuses on disproportionate use of police powers in England and

Wales, adds that "it feeds perceptions among the public and police about Black people and crime, and may also influence how the police allocate and deploy resources".[115]

Ethnic disparities introduced by stop and search and other forms of police activity follow through to prosecution, conviction, and sentencing. The 2017 Lammy Review concluded that the odds of receiving a prison sentence for a drug offence were around 240% higher for ethnic minority offenders compared to White offenders.[116]

Research undertaken by Release, StopWatch, and LSE in 2018 identified a number of ways in which sentencing disparities in England and Wales further perpetuate the injustice that begins at stop and search:[117]

- 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 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 disproportionality in drug law enforcement, and criminal justice outcomes for drug offences, is seen to particularly impact *Black women*. This is evidenced by the 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[118].

Trauma informed approaches

- *"City Hall will work with partners to embed a trauma-informed approach to victims of crime and all groups at higher risk of exploitation and harm. recommendations" (Police and Crime Plan, p.39)*

Release welcome the embedding of trauma-informed approaches to groups at higher risk of, or victim to, exploitation. This is discussed in relation to young people exploited in the drugs trade, which we have discussed above. For many people who develop problematic use of drugs, including alcohol,[119] and for some young people who become involved in drug supply[120] this will be a response to trauma(s) - including adverse childhood experiences - that they have experienced. 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.[121] In Release and Harm Reduction International's joint response to the United Nations Committee on the Elimination of Racial Discrimination (CERD), we advised that such trauma-informed services also include specialist services for Black and minority ethnic individuals experiencing trauma directly related to racial disparity and disproportionate policing in the UK.

Release urge the Mayor to pay specific and dedicated attention to the role of drug policy in creating and exacerbating racial inequalities, ensure that *intersectional* experiences of discrimination are made visible and consider the trauma of police stop and search. In particular, the diverse and multi-cultural make up of London means that the inequity of policing, and persistent racial disparities, are strongly seen and felt across the capital. It will take significant policy and policing reform to change that, but drugs policing is certainly a good starting point.

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