Submission to the Runnymede Trust: CERD 2021 Call for Evidence

8th March 2021

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.

Harm Reduction International (HRI) is a leading NGO dedicated to reducing the negative health, social and legal impacts of drug use and drug policy. We promote the rights of people who use drugs and their communities through research and advocacy to help achieve a world where drug policies and laws contribute to healthier, safer societies.

Release and **HRI** are both NGOs in Special Consultative Status with the Economic and Social Council of the United Nations.

We would like to thank additional contributors to this report: Dr. John Topping (Queen's University, Belfast), Ch. Insp Jason Kew (Thames Valley Police), and Scottish Drugs Forum.

The present report was submitted in response to **the Runnymede Trust's** call for evidence regarding the Government's implementation of the UN Convention on the Elimination of All Forms of Racial Discrimination. The Runnymede Trust collated evidence from civil society organisations and produced a final report based on this evidence in order to present an independent civil society perspective to the United Nations Committee on the Elimination of Racial Discrimination (**CERD**) by examining the situation of race and racism in England.

Drug law enforcement disproportionately targets ethnic minority communities, including people of African and Asian descent. As such, this report focuses on racism and discrimination in the context of **drug law enforcement** in the UK. This report will address issues pertaining to: (1) data collection and disaggregation; (2) disproportionate stop and search; (3) inequitable criminal justice outcomes; (4) exclusion from educational settings; and (5) health. The impact of the global COVID-19 pandemic is also highlighted where relevant.

Data collection

This section focuses on issues with: (1) data collection and (2) data disaggregation. Specifically, an inability to examine *intersectional* experiences of race in the context of other factors, is highlighted. This discussion is contextualized by CERD's 2016 para. **13** and **14** (p. 3-4).

The ability to adequately assess drug law enforcement discrimination continues to be hindered by the lack of complete, and disaggregated, data on drug policy, law enforcement, and health indicators by ethnicity, as well as by gender, sexual orientation, age, and other characteristics. In Scotland for example, disaggregated data on ethnicity are not effectively collected in the context of initial treatment engagement, thus the Scottish Drug Misuse Database does not disaggregate by ethnicity (despite disaggregating by gender, age, living situation, and more).[1] Annual ONS drug-related death figures, which record deaths due to drug poisoning occurring in England and Wales[2], do not collect ethnicity data as ethnicity has not traditionally been recorded on death certificates in England and Wales. The ONS are currently working on analysis of drug deaths by ethnicity group, including a data linkage project with the Census, but do not have a publication date as of yet.

In some instances, relevant data/disaggregation is collected, but not publicly presented.[3] For example, the annual Police Powers and Procedures report for England and Wales[4], which presents stop and search/ arrest data, *does* present a breakdown and comparison by ethnicity, and by sex, but disaggregation by sex *and* ethnicity is not presented in public-facing documents. This serves to invisibilise the experiences and needs of certain populations; with gender, sexual orientation, age, immigrant status, and class often intersecting with ethnicity, and creating uniquely negative outcomes. When intersectional experiences *are* measured and seen, phenomena such as the hugely disproportionate incarceration of Black women for drug offences compared to their White, female counterparts, can be observed[5]. Compounding this issue further is a distinct lack of *research* on intersectional experiences at every stage of the criminal justice system.

Where ethnicity data *is* collected, it is not always collected consistently or accurately. A recently released report from Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) highlights the inaccurate and inconsistent measurement of ethnicity by police forces in England and Wales during stop and search procedures, continuing that "a failure to record ethnicity data in an increasing proportion of records is *hiding* the true disproportionality rate. This means that some forces are not able to see the full picture".[6]

---

[1] Information provided by Scottish Drugs Forum. For more information see Public Health Scotland (2021) Scottish Drug Misuse Database – Overview of the Initial Assessment for Specialist Drug Treatment 2019/2020. Available: https://beta.isdscotland.org/find-publications-and-data/lifestyle-and-behaviours/substance-use/scottish-drug-misuse-database.

[2] Latest report: ONS (2020) Deaths related to drug poisoning in England and Wales: 2019 registrations. Available: https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deathsrelatedtodrugpoisoninginenglandandwales/2019registrations

[3] *Unless one conducts their own secondary data analysis using the excel data spreadsheets which, in some instances, accompany reports.*

[4] *Latest report:* Home Office (2020) Police powers and procedures, England and Wales, year ending 31 March 2020 – Second Edition. Available: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929573/police-powers-procedures-mar20-hosb3120.pdf

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

[6] HMICFRS (2021) Disproportionate use of police powers A spotlight on stop and search and the use of force. Available: https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/disproportionate-use-of-police-powers-spotlight-on-stop-search-and-use-of-force.pdf., p.6.

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*".[7] There is now emerging evidence to suggest that racial disparity may be *increasing* in the midst of the current COVID-19 pandemic**.**

Already in 2016, CERD expressed specific concerns that the use of stop and search powers in the UK have a disproportionate impact on persons belonging to ethnic minority groups, especially young men.[8] Similarly in 2015, the Human Rights Committee noted that stop and search powers in the UK are exercised in an arbitrary and discriminatory manner, and recommended that authorities establish 'robust independent security and oversight' over them. The following discussion focuses on the continued *disproportionate* use of these powers to stop, search, and use force against, people of African and Asian descent - most often as part of a search for **drugs**. The evidence presented is in the context of CERD's 2016 para. **22, 26** and **27** (p. 6-7).

The disproportionate targeting of Black individuals and communities by drug law enforcement clearly emerges by the analysis of how stop and search is employed. 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.[9] The recent HMICFRS report reiterates that "drug searches influence the disproportionality rate more than other types of search".[10] 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.[11] This exemplifies the failure of reform to adequately address racially disproportionate policing, even if they lessen harm for some individuals.

Home Office figures released for 2019/20 reveal that the use of stop and search in England and Wales has increased again for a second consecutive year, and that individuals from a Black, Asian and minority ethnic background were stopped at a rate *4 times higher* than those who were from a White ethnic group.[12] The disparity is particularly pronounced for Black individuals, who remain *9 times* more likely to be stopped and searched than White people. Notably, 63% of all searches carried out in 2019/2020 were for drugs, and 76% of all searches resulted in no further action taken – 3% higher than in 2018/19.[13]

A recent study on stop and search operations conducted in London between July and September 2020, in the midst of the global pandemic, adds to the growing evidence of racial profiling by law enforcement, as well as of unjustified, disproportionate, and unreasonable use of these tactics.[14] 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

---

[7] Release (2020) Response to the Commission on Race and Ethnic Disparities' Consultation: Ethnic Disparities and Inequality in the UK. December 2020. Available: https://www.release.org.uk/publications/written-submission-commission-race-and-ethnic-disparities-ethnic-disparities-and.
[8] Committee on Elimination of Racial Discrimination (2016) Concluding Observations on the combined twenty-first to twenty-third periodic reports of the United Kingdom of Great Britain and Northern Ireland, UN Doc. CERD/C/GBR/CO/21-23 (3 October 2016), para. 22-23, 26, 27.
[9] Home Office (2019) Police powers and procedures, England and Wales year ending 31 March 2019, stop and search statistics data tables: police powers and procedures year ending 31 March 2019. Available: https://www.gov.uk/government/statistics/police-powers-and-procedures-england-and-wales-year-ending-31-march-2019.
[10] HMICFRS (2021). Disproportionate use of police powers A spotlight on stop and search and the use of force. Available: https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/disproportionate-use-of-police-powers-spotlight-on-stop-search-and-use-of-force.pdf., p.6.
[11] Shiner et al. (2018) The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales, Release. Available: https://www.release.org.uk/publications/ColourOfInjustice, p.viii.
[12] Home Office (2020) Police powers and procedures, England and Wales, year ending 31 March 2020 – Second Edition. Available: https://www.gov.uk/government/statistics/police-powers-and-procedures-england-and-wales-year-ending-31-march-2020
[13] *Ibid*
[14] Ashby, M. (2020) Stop and Search in London – July to September 2020, UCL. Available: http://discovery.ucl.ac.uk/id/eprint/10115766/

further decreased from 2018 is additional indication that the ongoing resort to this practice is unjustified.[15] 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.[16] 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.[17]

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"[18]. Notably, the disproportionality in stop and search cannot be explained by existing trends in drug use. In fact, repeated self-report studies[19] 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[20]. Analysis of the Crime Survey for England and Wales (2018/19) confirms these findings[21].

In a recent UK survey, 85% of Black respondents were not confident that they would be *treated* the same as a White person by the police.[22] The recently released 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.[23,24] 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'[25] 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."[26]

Much of the available evidence on disproportionate stop and search in the UK is based on data for England and Wales. Regrettably, virtually no information exists on Scotland, and only limited data are available for Northern Ireland. Dr. John Topping of Queen's University, Belfast has provided the following summary in relation to the national picture in relation to Northern Ireland:

In Northern Ireland, police stop and search for non-terrorist powers mirror those in England and Wales – namely powers under the Misuse of Drugs Act 1971 (MDA) and the Police and Criminal Evidence (NI) Order 1989 (PACE). Stop and search by the Police Service of Northern Ireland (PSNI) (all powers) provides a notable exception in terms of volume use compared to the average in England and Wales – having dropped from a peak of 34 per 1000 of population in 2010 to 14 per 1000 in 2020[27]. However, most of this downward variation is

---

[15] Dodd, V. (2020) Young Black males in London "19 times more likely to be stopped and searched", The Guardian (3 December 2020). Available: http://www.theguardian.com/law/2020/dec/03/young-black-males-in-london-19-times-more-likely-to-be-stopped-and-searched

[16] Ashby, M. (2020). Stop and Search in London – July to September 2020, UCL. Available: http://discovery.ucl.ac.uk/id/eprint/10115766/, p 5.

[17] Bernard, J. & Robinson, I. (2020) UK Policing During The COVID-19 Pandemic. Talking Drugs. Available: https://www.talkingdrugs.org/uk-policing-during-the-covid-19-pandemic

[18] Eastwood, N., Fox, E. and Rosmarin, A. (2016). A Quiet Revolution: Drug Decriminalisation Across The Globe. Release. Available: https://www.release.org.uk/publications/drug-decriminalisation-2016, p.6

[19] *The most reliable basis for assessing levels and patterns of offending* [Thornberry, T.P. & 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, & B. Ostrom (eds) Innovations in Measurement and Analysis, Washington DC: National Institute of Justice, p. 33].

[20] Shiner, M. (2009) *Drug Use and Social Change*: *The Distortion of History*, Basingstoke: Palgrave Macmillan.

[21] 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: https://www.gov.uk/government/statistics/drug-misuse-findings-from-the-2018-to-2019-csew

[22] Henry, C., Imafidon, K. & McGarry, N. (2020) The Black Community and Human Rights, Available: https://publications.parliament.uk/pa/jt5801/jtselect/jtrights/correspondence/The-Black-Community-Human-Rights-Report.pdf.

[23] HMICFRS (2021). Disproportionate use of police powers A spotlight on stop and search and the use of force. Available: https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/disproportionate-use-of-police-powers-spotlight-on-stop-search-and-use-of-force.pdf.

[24] *To note: whilst data about the use of Tasers/firearms has been collected for several years, data about use of force in general has been collected only since 2017, and so is not yet fully developed and has some limitations.*

[25] *Compliant handcuffing means handcuffs are applied when the subject is compliant.*

[26] HMICFRS (2021). Disproportionate use of police powers A spotlight on stop and search and the use of force. Available: https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/disproportionate-use-of-police-powers-spotlight-on-stop-search-and-use-of-force.pdf, p.5.

[27] Topping, J. & Bradford, B. (2018) Now You See It, Now You Don't: On The (In)Visibility of Police Stop and Search Powers in Northern Ireland, *Criminology and Criminal Justice*, Available: https://pure.qub.ac.uk/en/publications/now-you-see-it-now-you-dont-on-the-invisibility-of-police-stop-an

accounted for by drops in counter-terrorist stop and search powers rather than the main (MDA or PACE) powers[28] - which have remained almost entirely stable. Overall, PSNI remain as one of the highest users of stop and search powers in the UK across the past decade bar the Metropolitan Police.

Available evidence suggests that ethnic disproportionality related to stop and search appears to be less prominent an issue in Northern Ireland compared to in England and Wales, possibly because the ethnic minority population in the country is very small – just 1.8% of the total[29]. Moreover, the correspondence between ethnic minority status, class and marginalisation is complicated by the deeply embedded distinctions between the two main Protestant and Catholic communities such that in Northern Ireland being from a visible ethnic minority does not necessarily mark one out as being of special interest to the police in the same fashion as it may in the rest of the UK. This does not mean that the burden of stop and search falls equally across the population; nor is it to argue that ethnic disproportionality in stop and search does not exist (although public figures are limited).

Of note from stop and search statistics during the recent 'lockdown period', members of the Irish Traveller Community, for example, represent 0.04% of the Northern Irish population, but comprise 1.5% of all PSNI stop and searchers. And similarly, all recorded PSNI BAME categories in the country are significantly more likely to stopped and searched under MDA than PACE powers – but with an arrest rate of 4% or below (except for Irish Traveller)[30].

Set within those figures, finer levels of granularity are not available for PSNI stop and search in comparison to England and Wales, particularly for age and ethnicity. But it should be noted that PSNI's overall MDA arrest rate between January 2020 – December 2020 sits at just 5%; while the arrest rate for 'young people' in the country (25 and under) sits at 3.9% for the same period.

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.[31] 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".[32]

The following discussion focuses on institutional racism within the criminal justice system and the targeting of people of African and Asian descent. The evidence presented is in the context of CERD's 2016 para. **28** and **29** (p.7).

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.[33]

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[34]:

---

[28] Topping, J. (2019) The Use of 'Everyday Police Stop and Search Powers, *Just News*, Committee on the Administration of Justice. Available: https://caj.org.uk/wp-content/uploads/2019/10/Just-News-Autumn-2019.pdf

[29] https://www.nisra.gov.uk/sites/nisra.gov.uk/files/publications/2011-census-results-key-statistics-northern-ireland-report-11-december-2012.pdf

[30] https://pureadmin.qub.ac.uk/ws/portalfiles/portal/218383564/BAME_PSNI_Stop_and_Search_Profile_1st_April.pdf

[31] Lammy, D. (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: https://www.gov.uk/government/publications/lammy-review-final-report

[32] HMICFRS (2021). Disproportionate use of police powers A spotlight on stop and search and the use of force, available: https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/disproportionate-use-of-police-powers-spotlight-on-stop-search-and-use-of-force.pdf, p.2.

[33] Lammy, D. (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

[34] 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

- 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[35].

Health

The following discussion focuses on health inequalities in relation to drug dependency and available treatment for ethnic minority individuals. The evidence presented is in the context of CERD's 2016 para. **30** and **31** (p. 7-8).

Disproportionate drug policing, prosecution, and sentencing along racial lines not only results in higher incarceration rates, but also produces significant secondary harms. The experience of imprisonment has itself been repeatedly shown to increase the likelihood of drug use and drug dependency,[36] and recent analysis found that the proportion of people 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.[37]

In the UK, substantial barriers are reported in accessing drug treatment services for ethnic minority individuals. People of colour, in particular Black people, face multiple and complex disadvantages and require service provision which is both culturally and religiously sensitive, and yet, there is a lack of drug treatment options that are appropriate to their needs.[38] Significant regard must be given to how health systems more generally fail this population, and that distrust is born out of this failure, therefore working directly with groups that have been impacted is vital.[39]

School exclusion

The stigmatisation of young people's involvement in drug use, and low-level supply, namely the 'county lines' rhetoric, is arguably rooted in *school exclusion* in the first instance - which disproportionately impacts young, ethnic minority males. The following discussion focuses on disproportionate exclusion from schools of pupils belonging to Black and other ethnic minority communities. The evidence presented is in the context of CERD's 2016 para. **34** and **35** (p. 8).

---

[35] 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

[36] Penfold, C., Turnbull, P.J. & 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: https://www.researchgate.net/publication/237776662_Tackling_Prison_Drug_Markets_An_Exploratory_Qualitative_Study; User Voice (2016) Spice: The Bird Killer. What Prisoners Think about the use of Spice and other legal highs in Prison. Available: https://www.uservoice.org/consultations/spice-use-in-prison/; HM Inspectorate of Prisons (2015) Changing Patterns of Substance Misuse in Adult Prisons and Service Responses, pp. 37– 38.

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

[38] UKDPC (2010) Drugs and Diversity: Ethnic Minority Groups', UK Drug Policy Commission. Available: https://www.ukdpc.org.uk/wp-content/uploads/Policy%20report%20-%20Drugs%20and%20diversity_%20ethnic%20minority%20groups%20(policy%20briefing).pdf.

[39] *For more on this issue, see* 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; Bignall. T. et al. (2019) Racial Disparities in Mental Health: Literature and evidence review, Race Equality Foundation. Available: https://raceequalityfoundation.org.uk/wp-content/uploads/2020/03/mental-health-report-v5-2.pdf

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; the lack of opportunities for employment and advancement in communities that have been further decimated by austerity; the removal of the educational maintenance award; 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 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[40]. 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[41]. Equally, children in some ethnic groups do not appear to be permanently excluded at a different rate from White British pupils, such as Black African children.

Recommendations

The evidence presented by this brief submission identifies clear failures by the UK in implementing several recommendations outlined in CERD 2016's concluding observations, particularly in relation to data collection, stop and search, criminal justice, and health. It is thus recommended that CERD reiterates such recommendations and urges the government to identify practical steps for addressing racial discrimination in those areas, with specific and dedicated attention to the role of drug policy in creating and exacerbating racial inequalities. Specifically, drug control should be acknowledged as a policy that significantly contributes to the disproportionate policing, arrest, and incarceration of people of African, and Asian, descent; and **decriminalisation** of drug use and possession should be endorsed by CERD. This endorsement would align with the UN's common position on drugs; promoting "decriminalization of drug possession for personal use… and the principle of proportionality to address prison overcrowding and overincarceration by people accused of drug crimes".[42]

As well as the need for large-scale datasets to record ethnicity consistently and accurately, it is necessary that these data are included in *public-facing* documents. It is recommended that disaggregation by ethnicity as well as by other protected characteristics, is also conducted, and publicly presented, to ensure that **intersectional** experiences, and discrimination (if present), can be made visible. Importantly, calls for collecting and releasing more accurate data should not translate to increased control and surveillance of already heavily-policed groups; but rather focus on the need to adequately evaluate the impact of drug policies, and in turn develop and implement more just and effective ones.

The central government spend on drug law enforcement and related activities is estimated to be approximately £1.6 billion per annum;[43] despite growing evidence of its ineffectiveness from drug control, health, and human rights perspectives. In a comparable year, the estimated central government spend on early drug intervention is only £215 million[44]. This, in combination with significant 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. This call *grows* in response to 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.

---

[40] ONS (2020) Permanent and fixed-period exclusions in England: 2018 to 2019. Available: https://www.gov.uk/government/statistics/permanent-and-fixed-period-exclusions-in-england-2018-to-2019

[41] Timpson, E. (2019). *Timpson Review of School Exclusions*. Available: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/807862/Timpson_review.pdf, p.34.

[42] United Nations (2019), Summary of Deliberations [November 2018 sessions]. Available: https://digitallibrary.un.org/record/3792232?ln=en, p.14.

[43] 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

[44] *Ibid*

For many people who develop problems with drugs, including alcohol, it will often be a response to trauma(s) that they have experienced[45]. 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.[46] Release and HRI advise 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.

It is clear that the policing of drugs, which currently occupies a significant amount of police time[47], is driving racial disparity in the criminal justice system. The continued criminalisation and incarceration of people who use drugs 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. Release's paper, 'A Quiet Revolution', highlighted positive outcomes seen across the globe as a result of drug **decriminalisation.** [48] As organisations, Release and HRI are supportive of a decriminalisation *de jure* model for all illicit drugs (controlled substances) in the UK.

In the *absence* of decriminalisation, Release and HRI support the rolling out of pre-arrest drug *diversion* schemes nationally. The handful of diversion schemes that have been established so far exist due to police leadership, in the absence of political leadership, on this issue. Thames Valley Police, as an example, piloted a drug diversion scheme in the West Berkshire Local Policing Area (LPA) using diversion to a drug service provider in lieu of traditional criminal justice pathways. TVP then shared their learning of diversion with schools in the LPA so that schools were able to adopt, and lead, a similar scheme in relation to finding proportionate alternatives in lieu of school *exclusion*. 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[49].

For more information, contact:

Dr. Laura Garius (Policy Lead, Release): 020 7324 2997 | laura@release.org.uk

Giada Girelli (Human Rights Analyst, HRI): Giada.Girelli@hri.global

[45] Rudzinski, K., McDonough, P., Gartner, R. & 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.
[46] 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.
[47] 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
[48] 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
[49] IPPR (2017) Making the Difference: Breaking the Link Between School Exclusion and Social Exclusion. Available:https://www.ippr.org/files/2017-10/making-the-difference-report-october-2017.pdf