

LIBERTY

**LIBERTY'S WRITTEN SUBMISSION TO
REIMAGINING POLICING: REPORT OF THE
INTERNATIONAL INDEPENDENT EXPERT
MECHANISM TO ADVANCE RACIAL JUSTICE
AND EQUALITY FOR AFRICANS AND PEOPLE
OF AFRICAN DESCENT IN THE CONTEXT OF
LAW ENFORCEMENT**

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ABOUT LIBERTY

Liberty is an independent membership organisation. We challenge injustice, defend freedom and campaign to make sure everyone in the UK is treated fairly. We are campaigners, lawyers and policy experts who work together to protect rights and hold the powerful to account.

Liberty provides policy responses to Government consultations on all issues which have implications for human rights and civil liberties. We also submit evidence to Select Committees, inquiries and other policy fora, and undertake independent, funded research.

Liberty's policy papers are available at libertyhumanrights.org.uk/policy.

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INTRODUCTION

1. Liberty welcomes the opportunity to respond to the call for inputs from the mandate of the International Independent Expert Mechanism to advance racial justice and equality for Africans and people of African descent¹ in the context of law enforcement, to be presented at the fifty-fourth session of the Human Rights Council, and subsequently transmit it to the General Assembly.²
2. In its upcoming report, the Expert Mechanism will explore its mandate to advance racial justice and equality in the context of law enforcement *inter alia* by “making recommendations with regard to addressing systemic racism, in law enforcement and the criminal justice systems, closing trust deficits, strengthening institutional oversight, adopting alternative and complementary methods to policing and the use of force, and encouraging stocktaking of lessons learned.” We acknowledge that the Expert Mechanism welcomes information on the following areas:
 - a. Laws, policies, guidelines and procedures compliant with the international legal framework governing the use of force and firearms by law enforcement officials.
 - b. Promising initiatives and positive or good practices being taken to address systemic racism in law enforcement and the criminal justice systems beyond individual violations, including in an institutionalized police culture.
 - c. Promising initiatives and positive or good practices on prevention and accountability measures for human rights violations by law enforcement. These may include oversight, monitoring, and reporting of violations, gathering and publishing comprehensive disaggregated data, human rights training, recruitment, and retention processes, and awareness-raising.
 - d. Good practices, challenges and lessons learned on alternative methods of policing, strengthening institutional oversight, and closing trust deficits.

¹ Please note that in the following submission, we refer to Black people, people of colour, and sometimes Black and Minority Ethnic (BME) people, as per the common lexicon in the UK, rather than ‘Africans and people of African descent.’

² Call for Inputs available at: <https://www.ohchr.org/en/calls-for-input/2023/reimagining-policing-report-international-independent-expert-mechanism-advance>

3. We recognise that this important work is informed by the mass, worldwide protests after the murder of George Floyd on 25 May 2020, and is part of a wider UN agenda towards transformative change for racial justice and equality. As such, we understand that the framing of this Consultation centres around ‘reimagining policing’ and forwarding a positive vision with respect to redressing the violences done by police and the criminal justice system.
4. Liberty takes as its starting point the immense racial inequality and injustice present in the UK, as a result of decades of institutionalised oppression – including through the history, and continued legacy of colonialism and the trade in enslaved African people, and the reality that racism remains a matter of life and death for Black people in this country.
5. However, we take concern with the premise of this call for evidence that policing must be ‘reimagined’, or that racial justice and equality may be advanced in law enforcement. As our submission will make clear, British policing and the criminal justice system are in crisis. And in fact, as many communities know – particularly Black communities – it always has been. Since 2020, a series of shameful scandals have brought the police and criminal justice system deeper into public disrepute and highlighted the violent racism running through it: the deaths of Oladeji Omishore³ and Chris Kaba,⁴ the strip search of Child Q, a Black schoolchild, while on her period;⁵ the revelation that two officers guarding the bodies of murdered sisters Bibaa Henry and Nicole Smallman had circulated photos of the deceased women on WhatsApp, alongside offensive comments.⁶ This is only a few of the most high-profile cases. The vast majority of the harm done to Black communities, and communities of colour by policing in this country goes unreported in the mainstream media.
6. From the 1998 Macpherson report after the murder of young Black teenager, Stephen Lawrence, which found the Metropolitan Police to be institutionally

³ INQUEST (22 June 2022) ‘Chelsea Bridge death: The family of Oladeji Omishore raise concerns about misinformation.’ Available at: <https://www.inquest.org.uk/oladeji-omishorestatement2>

⁴ Weaver, M. (2022) ‘Chris Kaba was not a suspect before being fatally shot by police, hears inquest’, The Guardian, 4 October. Available at: <https://www.theguardian.com/uknews/2022/oct/04/chris-kaba-was-followed-by-police-beforebeing-fatally-shot-hears-inquest>

⁵ Davies, C. (2022) ‘Child Q: four Met police officers facing investigation over strip-search’, The Guardian, 15 June. Available at: <https://www.theguardian.com/uk-news/2022/jun/15/child-q-four-met-police-officers-facing-investigationover-strip-search>

⁶ BBC (2021) ‘Bibaa Henry and Nicole Smallman: Met PCs jailed for crime scene-images’, 6 December. Available at: <https://www.bbc.co.uk/news/uk-england-london-59474472>.

racist; to the Angiolini Review into deaths in police custody, set up following a number of high profile preventable deaths in police contact, alongside pressure from the families of two Black people, Olaseni Lewis and Sean Rigg.⁷ And from the 2017 Lammy Review on the treatment and outcomes for BME individuals in the criminal justice system, which found that there is greater disproportionality in the number of Black people in prisons here than in the United States;⁸ to the 2023 Casey Review, which yet again found the police to be institutionally racist.⁹ There have been numerous endeavours and a great deal of resources distributed in the name of reforming policing and the criminal justice system within the United Kingdom.

7. Yet, in response to this avalanche of scandal and challenge, far from seeing powers stripped from the police, we are seeing the UK Government grant further powers, including through anti-protest legislation which expanded the use of suspicionless stop and search, which we know is particularly racially disproportionate.¹⁰
8. There are also existing human rights mechanisms and standards that endeavour to prevent and redress the harm and violence done by the police and the criminal justice system. This includes Article 14 of the European Convention on Human Rights (protection from discrimination), the Equality Act 2010, and specifically the Public Sector Equality Duty which introduces a legal duty on public bodies to take due regard to address racism. And yet, harm still occurs on a daily basis: in police stations, in courtrooms, in schools, in homes, and on the street.¹¹

⁷ Report of the Independent Review of Deaths and Serious Incidents in Police Custody (January 2017), Rt. Hon. Dame Elish Angiolini DBE QC. Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/655401/Report_of_Angiolini_Review_ISBN_Accessible.pdf

⁸ The Lammy Review (2017): An Independent Review into the Treatment of, and Outcomes for, Black, Asian and Minority Ethnic Individuals in the Criminal Justice System. Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf

⁹ Casey Review (March 2023), An Independent Review into the Standards of Behaviour and Internal Culture of the Metropolitan Police Service. Available at:

<https://www.met.police.uk/SysSiteAssets/media/downloads/met/about-us/baroness-casey-review/update-march-2023/baroness-casey-review-march-2023a.pdf>

<https://www.met.police.uk/SysSiteAssets/media/downloads/met/about-us/baroness-casey-review/update-march-2023/baroness-casey-review-march-2023a.pdf>

¹⁰ Liberty (January 2023), *Briefing on the Public Order Bill for Report Stage in the House of Lords*. Available at: <https://www.libertyhumanrights.org.uk/wp-content/uploads/2019/03/Liberty-briefing-for-Report-Stage-of-the-Public-Order-Bill-January-2023.pdf>

¹¹ #EndStripSearch coalition. <https://www.endstripsearch.co.uk/>. See also Taylor, D (15 Nov 2021), *Black Boy in Stop and Search '30 times' Accuses Met Police of Racist Profiling*. Available at:

9. As a result, rather than focus on existing good practice *within* policing and the criminal justice system as per the aforementioned areas which make up the UN Mandate's Inquiry, this submission will focus on the practices within policing and the criminal justice system that must be **dismantled**. **This is because any mission to advance racial justice and equality in the context of law enforcement, must go hand in hand with the rolling back of police powers.** And we caution any mission to advance racial justice and equality in the context of law enforcement devoid of intention to undertake this work: **reform cannot come in the place of a substantial reduction in police power.**
10. Finally, in line with the last question, we will look to the non-policing solutions to the challenges we face in society. This is because policing and the criminal justice system treat symptoms, not causes – symptoms which manifest under conditions informed by broader racist policy decisions. They do little to change the conditions in which many harms occur, such as inequality, social exclusion, and the deepening crisis in mental health care to name a few. **The rolling back of powers must therefore go hand in hand with the decentring of police and criminal justice system from the conversation about the solutions to social issues.** In their place, we turn to alternative solutions that put power and resources back in the hands of communities, and which have fairness, participation and social justice at their heart.

A. LAWS, POLICIES, GUIDELINES, AND PROCEDURES COMPLIANT WITH THE INTERNATIONAL LEGAL FRAMEWORK GOVERNING THE USE OF FORCE AND FIREARMS BY LAW ENFORCEMENT OFFICIALS

11. As a human rights organisation, we recognise the importance of mitigating the harms of state violence, including by the police and the criminal justice system, and the role that laws, policies, guidelines and procedures compliant with the international legal framework play. A large proportion of police interactions with the public engage individual rights; of all State agencies, police wield exceptional powers to use force, including weapons; enter people's homes, and deprive them

<https://www.theguardian.com/uk-news/2021/nov/15/black-boy-in-stop-and-search-30-times-accuses-met-police-of-racist-profiling>

of liberty. In addition to what may be considered to be the more obvious rights engaged or breached in policing interactions, such as the right to life, liberty, privacy, and freedom from torture, it is important to consider the impact on a person's rights to participate in the life of the community, free expression, free assembly and association, and other relevant rights protected by international law.

12. At the same time, we call attention to the limitations of legal frameworks – both governing the use of force and firearms by law enforcement officials, as well as the underlying policies informing the wider policing and criminal justice system. Key human rights principles such as questions of lawfulness, legitimacy, effectiveness or proportionality, fail to fully address the harms that policing and the criminal justice system inflict, even within the bounds of human rights law.
13. Taking each principle in turn, the police and Government often claim that common law powers are sufficient to ensure the lawfulness of the use of new practices and technologies, or that decisions governing deployment are “an operational matter” for individual forces. Alternatively, as with facial recognition technology, they may contend that existing law, such as the Data Protection Act 2018, is sufficient to regulate the use of a new tool or technology, even when that existing law does not contain an express power enabling use. Just because a practice is prescribed by law (i.e. that it is lawful), does not make it right. **A legalistic regulatory approach is therefore insufficient for addressing the full breadth of risks to communities of colour in the UK.**
14. Another key question for human rights law, is the pursuit of a legitimate aim: for an interference with a qualified right to be permitted, it must, among other conditions, be for a legitimate aim. For the purposes of policing, the prevention, detection, and investigation of crime is considered a legitimate aim, and a significant proportion of policing activities fall under this heading. The very concepts of ‘crime’ and ‘safety’ – two issues that make up the main mandate of the police and criminal justice system – are political, racialised and classed concepts. Indeed, over the past few years, the UK Government has swept in a vast array of anti-protest legislation that expands the notion of illegal protest, and the bounds of what constitutes crime is ever-changing thanks to the whims of an increasingly authoritarian Government. **As such there are severe limitations on the human rights legal concept of legitimacy as an adequate principle to govern**

police powers. The rights impacts of a specific policy or practice should not be considered in a vacuum: they should be considered in conjunction with other State policies or practices that may be at play.

15. Similarly, on the question of effectiveness, we acknowledge that policing and criminal justice practices and technologies are introduced into a vacuum of evidence. This may happen in the context of an active public relations campaign by a manufacturer that promises to save the police and criminal justice system money in the long-term, as in the case with predictive policing automated decision making programmes;¹² or, as in the case with police use of facial recognition technology, operational use of new technologies may be simply labelled a "trial", but with little or no oversight – and no consent from those who end up as unwitting participants.¹³
16. On the flip side, the police and the criminal justice system regularly ignore evidence. As will be discussed below in the context of stop and search, the practice remains despite the array of evidence that confirms its ineffectiveness. **As a result, effectiveness is not the best or full measure: a fundamentally rights-violative practice, especially one based on fundamentally rights-violative policy, can never be rehabilitated on the basis of efficiency or effectiveness.**
17. Finally, we contend that a proportionality analysis is a helpful tool to consider in the deployment of police tools and tactics, and in the context of wider criminal justice policy. Nevertheless, even when a practice is evidently *disproportionate* – and the vast array of policing and criminal justice practices do fall disproportionately on Black and other marginalised communities – it is yet again declared reasonable on the basis of weak justifications. For instance, during the passage of the Police, Crime, Sentencing and Courts Act and in its own Equality Impact Assessment, the Home Office acknowledged that both in terms of who is given a Serious Violence Reduction Order (SVRO) and who is stopped and searched under SVRO provisions, Black males are likely to be disproportionately

¹² For example, companies like Experian, Axon, Accenture and BAESystems pitch their technologies to law enforcement.

¹³ Liberty (January 2019), *Policing by Machine*. Available at: <https://www.libertyhumanrights.org.uk/issue/policing-by-machine/>

affected (even though the Home Office itself would expect the majority of SVROs to be given to white people).¹⁴

18. In conclusion, while human rights principles like lawfulness, legitimacy, effectiveness and proportionality, “demand that we look more closely at state policies and institutions to see if the vast resources allocated to them are actually achieving their stated aims,” human rights law is primarily concerned with “ensuring people’s treatment by the state doesn’t fall below a minimum standard.”¹⁵ As a result, if the Mandate truly wants to advance racial justice and equality for Africans and people of African descent in the context of law enforcement, it requires a vision that is “far more expansive than the aims of human rights law.”¹⁶ This principle forms the basis of our answer to the final question in this submission.

B. PROMISING INITIATIVES AND POSITIVE OR GOOD PRACTICES BEING TAKEN TO ADDRESS SYSTEMIC RACISM IN LAW ENFORCEMENT AND THE CRIMINAL JUSTICE SYSTEM BEYOND INDIVIDUAL VIOLATIONS, INCLUDING IN AN INSTITUTIONALIZED POLICE CULTURE

19. In line with the above, we call attention to the limitations of initiatives and practices to address systemic racism in law enforcement and the criminal justice system, even beyond individual violations, and towards an institutionalized police culture. Police in the UK have been found to have been institutionally racist since the Macpherson Inquiry in 1998, and this was recently re-affirmed in the 2023 Casey Review. Despite this evidence, the Chief of the biggest police force in the UK (the Metropolitan Police) denies the existence of institutional racism in the

¹⁴ Home Office measures in the Police, Crime, Sentencing and Courts Bill: Equalities Impact Assessment (9 May 2022). Available at: <https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-equality-statements/home-office-measures-in-the-police-crime-sentencing-and-courts-bill-equalities-impact-assessment>

¹⁵ Gracie Bradley (2023), Afterword, Holding Our Own: A Guide to Non-policing Solutions to Serious Youth Violence. Available at: <https://www.libertyhumanrights.org.uk/fundamental/holding-our-own-a-guide-to-non-policing-solutions-to-serious-youth-violence/>

¹⁶ Gracie Bradley (2023), Afterword, Holding Our Own: A Guide to Non-policing Solutions to Serious Youth Violence. Available at: <https://www.libertyhumanrights.org.uk/fundamental/holding-our-own-a-guide-to-non-policing-solutions-to-serious-youth-violence/>

force.¹⁷ Similarly in the UK’s Commission on Race and Ethnic Disparities, the Commission concluded that racism was – as aptly summarised by this UN Mandate along with others when they issued their categorical rejection and condemnation of the UK’s submission – “a product of the imagination of people of African descent or of discrete, individualized incidents.”¹⁸

20. Further, there are numerous examples of reforms aimed at addressing systemic racism, that in fact buttress police power, rather than roll it back and prevent harm. One example is the call to diversify the recruitment of police and prison officers. As the killing of Tyre Nichols by Black police officers in the United States,¹⁹ or the brutalisation of Dalian Atkinson by PC May Ellen Bettley-Smith,²⁰ or the heavy handed policing by female officers²¹ at the vigil for Sarah Everard,²² or the fact that the “brutality had been ordered by a female Met Police commissioner (Cressida Dick), acting beneath a woman home secretary (Priti Patel)”, make clear, violence is an issue of police abuse of power, and the expansive powers the police and criminal justice system have to punish, coerce and control the public.²³

WHAT TO DISMANTLE

21. Rather than focus on laws, policies, guidelines, and procedures compliant with the international legal framework governing the use of force and firearms by law enforcement officials (as per question a), or the initiatives and practices being taken to address systemic racism in law enforcement (as per question b), this

¹⁷ Thompson, M, (22 March 2023), *Met Police chief Sir Mark Rowley Again Rejects Use of Term ‘Institutional’ to Describe Force’s Problems after Damning Report*. Available at: <https://news.sky.com/story/met-police-chief-sir-mark-rowley-again-rejects-use-of-term-institutional-to-describe-forces-problems-after-damning-report-12840225>

¹⁸ United Nations, UN Experts Condemn UK Commission on Race and Ethnic Disparities Report (19 April 2021). Available at: <https://www.ohchr.org/en/press-releases/2021/04/un-experts-condemn-uk-commission-race-and-ethnic-disparities-report>

¹⁹ Barber, Reverend W, and Wilson-Hartgrove, J, (7 Feb 2023), *Yes, Black Officers Killed Tyre Nichols. What is the Correct Response to that?* Available at: <https://www.theguardian.com/commentisfree/2023/feb/07/tyre-nichols-death-memphis-black-police-officers>

²⁰ Dodd, V, (17 March 2023), *Police Officer Guilty of Using Excessive Force Against Dalian Atkinson Keeps Job*, The Guardian. Available at: <https://www.theguardian.com/uk-news/2023/mar/17/police-officer-faces-sack-excessive-force-dalian-atkinson>

²¹ Starling, J, (28 March 2023), *More Women in the Police Won’t Reduce Police Violence*, OpenDemocracy. Available at: <https://www.opendemocracy.net/en/police-metropolitan-violence-woman-sarah-everard-casey-review/>

²² Morton, B, (30 September 2021), *Sarah Everard: How Wayne Couzens Planned Her Murder*, BBC News, Available at: <https://www.bbc.co.uk/news/uk-58746108>

²³ Starling, J (2023).

part of the submission will focus on the initiatives and practices that must be *dismantled* in order to support racial justice and equality for Black communities in the UK.

POLICE AND CRIMINAL JUSTICE RESPONSES TO ‘SERIOUS YOUTH VIOLENCE’

22. One of the main drivers of the racial injustice and inequality experienced by Black people in the UK, and an issue which takes main focus in this submission, is the police and criminal justice system response to what gets called ‘serious youth violence’.²⁴ ‘Serious youth violence’ is a constructed problem laid at the feet of young Black and working-class men and boys by British politicians, the media, and the police and criminal justice system. In doing so, it generates a racist, classist and ignorant response, involving, predominantly the call for ever more police powers that disproportionately target Black communities.²⁵

23. At the same time, ‘serious youth violence’ is a real issue, in that Government neglect, runaway inequality, poverty, and a myriad of other factors have created a situation in which violence is occurring, and young people are experiencing serious harm – including death – as a result. This is a human rights issue. And yet the policies being introduced in response to this situation fail both to respect human rights, and to tackle the root causes of the issue, thereby exacerbating the very problems they claim to solve.

24. In the *Holding Our Own Guide: A Guide to Non-Policing Solutions to Serious Youth Violence* groups like No More Exclusions explore the deepening of policing, surveillance and criminalisation to tackle this problem, and its extension into school disciplinary practices such as schools exclusions, racist and ableist exam cultures and the ways in which the British education system fuels the school-to-prison pipeline.²⁶

²⁴ ‘Serious youth violence’ is a term that broadly refers to harm inflicted on young people by other young people, resulting in serious injury or death. However, we use the term with caution. As we go on to explore, the issue is constructed by the media and the Government to unveil new policing practices that disproportionately target Black communities.

²⁵ For academic literature on this and related issues, see: Hall, S (1978), *Policing the Crisis: Mugging, the State, and Law and Order*; Williams, E and Squires, P (2021), *Rethinking Knife Crime: Policing, violence and Moral Panic?*; and McBean, S and Day, S (2023), *Abolition Revolution*.

²⁶ No More Exclusions, *No More Exclusions in Holding Our Own Guide: A Guide to Non-Policing Solutions to Serious Youth Violence*. Available at: https://www.libertyhumanrights.org.uk/wp-content/uploads/2023/04/HoldingOurOwn_Digital-DoubleSpreads.pdf

25. For the purposes of this submission we focus on how the response to ‘serious youth violence’ sits at the heart of racist British policing and the criminal justice system – although this is just one lens to view a wider matrix of harms against Black communities. Specifically, as an imagined issue, it fuels the expansion of police powers that are so often used to inflict harm on communities of colour in the UK. And, in turn, racist policing alienates young people of colour. It funnels them into the criminal justice system and diverts resources from the real interventions that our communities need, putting young people in the way of real violence and harm.

POLICE USE OF FORCE

STOP AND SEARCH

26. Stop and search is a blunt tool that is a major contributor to racial disproportionality in the criminal justice system. As of the most recent data, Black people are 6.2 times more likely to be selected by police to be stopped and searched than white people, and when the ‘reasonable grounds’ requirement is removed, Black people are 13.3 times more likely to be selected to be stopped.²⁷

27. Racial disproportionality runs throughout the Met’s stop and searches of Black men, and a recent investigation by Liberty Investigates revealed that 28% of more than 90,000 stop and searches of women and girls, were of Black females.²⁸ According to data obtained via Freedom of Information Requests and analysed by Liberty Investigates, this only worsens for strip searches, particularly of female children and teens: 47% of all strip searches by the Metropolitan police of female children and teens were of Black people, something which young Black girls have called state-sanctioned sexual violence.²⁹ The recent case of Child Q, a young Black girl who was strip searched by police, exposing intimate parts in her

²⁷ Home Office (2 March 2023), Update to stop and search and arrests statistics using 2021 census estimates. Available at: <https://www.gov.uk/government/statistics/update-to-stop-and-search-and-arrests-statistics-using-2021-census-estimates/update-to-stop-and-search-and-arrests-statistics-using-2021-census-estimates#how-does-the-change-in-population-affect-published-stop-and-search-disparity-figures>

²⁸ Gidden, M and Thomas, T (06 April 2023), *Black Girls Nearly Three Times More Likely to be Subjected to Most Invasive Strip-search*, The Guardian and Liberty Investigates. Available at: <https://libertyinvestigates.org.uk/articles/black-girls-nearly-three-times-more-likely-to-be-subjected-to-most-invasive-strip-search/>

²⁹ See #EndStripSearch coalition. <https://www.endstripsearch.co.uk/>

school's medical room while on her period, without an appropriate adult present, underlines that, even with existing safeguards, police abuse of power still runs rampant.³⁰

28. There is no evidence that stop and search reduces crime.³¹ The majority of suspicionless stop and search does not result in further action.³² In fact, we know that when stop and search is reduced, serious violence reduces.³³ Despite multiple policing bodies³⁴ and former police chiefs and frontline officers,³⁵ former Prime Ministers,³⁶ and countless human rights³⁷ and social justice groups,³⁸ criticising stop and search, or indeed, Black communities speaking out about how it subjects countless people to unnecessary, intrusive, and traumatic police interventions,³⁹ the practice remains, and, as with the recent introduction of

³⁰ Davies, C (15 June 2022), *Child Q: Four Met Police Officers Facing Investigation Over Strip-Search*, The Guardian. Available at: <https://www.theguardian.com/uk-news/2022/jun/15/child-q-four-met-police-officers-facing-investigation-over-strip-search>

³¹ Bradford, B and Tiratelli, M (2018), *Does Stop and Search Reduce Crime?* Centre for Crime and Justice Studies. Available at: <https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/Does%20stop%20and%20search%20reduce%20crime.pdf>. See also Ali, A and Champion, N (2021), *More Harm than Good: A Super-complaint on the Harms Caused by 'suspicion-less' stop and searches and inadequate scrutiny of stop and search powers*. Available at: https://www.criminaljusticealliance.org/wp-content/uploads/CJA-super-complaint-into-section-60-and-scrutiny-of-stop-and-search_FINAL.pdf

³² *Ibid.*

³³ *Ibid.*

³⁴ HMICFRS (26 February 2021), *Disproportionate Use of Police powers – A Spotlight on stop and search and use of force*. Available at: <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/disproportionate-use-of-police-powers-a-spotlight-on-stop-and-search-and-the-use-of-force/>. See also College of Policing (30 July 2020), *Stop and Search: Transparent*. Available at: <https://www.college.police.uk/app/stop-and-search/transparent>

³⁵ ITV News (25 October 2021), *Policing Bill 'disproportionately impacts black men' and 'exacerbates violence,' ex-chiefs warn*. Available at: <https://www.itv.com/news/2021-10-25/policing-bill-could-undermine-trust-and-exacerbate-violence-ex-chiefs-warn>

³⁶ Home Office and The Rt Hon Theresa May MP (30 April 2014), *Oral Statement of Parliament: Stop and Search: comprehensive package of reform for police stop and search powers*. Available at: <https://www.gov.uk/government/speeches/stop-and-search-comprehensive-package-of-reform-for-police-stop-and-search-powers>

³⁷ Busby, M (7 November 2020), *Stop and Search Plans Risk 'Perpetually Criminalising' People, say UK Rights Groups*. The Guardian. Available at: <https://www.theguardian.com/law/2020/nov/07/stop-and-search-plans-risk-perpetually-criminalising-people-say-uk-rights-groups>

³⁸ White, N (7 August 2020), *Police Accused of Brutality Following Arrests at Youth Organisation 4Front Project*, HuffPost. Available at: https://www.huffingtonpost.co.uk/entry/4front-project-police-colindale_uk_5f2d8ccdc5b6b9cff7f17a2d

³⁹ King, J (21 April 2022), *Black Teen Fears Police after 'Being Stopped and Searched 60 Times in Two Years'*, The Metro. Available at: <https://metro.co.uk/2022/04/21/black-teen-fears-police-after-being-stopped-and-searched-60-times-16508090/>

SVROs and protest-specific stop and search powers, the powers given to the police are expanding drastically.⁴⁰

29. We urge the UN Mandate to call on the UK Government to end the use of suspicionless stop and search, cease the pilot of SVROs, repeal new anti-protest stop and search measures, and end the use of strip search.

OTHER

DRUGS POLICING

30. Similarly to the issue of ‘serious youth violence,’ another constructed issue that fuels racial disparity, and provides the architecture for racial and social control, is the policing of drugs, and the drugs policy that underpins it. The search for drugs, just like weapons, forms the justification for police to harass and intimidate Black communities through the tool of stop and search, explained above. Over 60% of stop and searches are for drugs,⁴¹ and in May 2020 alone during the first British lockdown of the Covid-19 pandemic, the Metropolitan Police Service conducted the highest number of monthly searches in London since January 2012.⁴² Of these searches, 68% were for drugs.⁴³ This is despite evidence to show that find rates are regularly low and that Black people use drugs at a lower, or similar rate than white people.⁴⁴ In contrast, of the 25 children strip searched in the borough of Hackney in 2020/21, only two were white; of those 25 searches, 80% were for drugs, but in 22 of them, no drugs were found.⁴⁵

31. As explored by Release, “the ‘war on drugs’ provides the ideal justification for the police to crack down on young people who are behaving ‘anti-socially’ or to

⁴⁰ Liberty (19 April 2023), *Human Rights Groups Raise Alarm Over New Police Powers*. Available at: <https://www.libertyhumanrights.org.uk/issue/human-rights-groups-raise-alarm-over-new-police-powers/>

⁴¹Shiner, M, Carre, Z, Delsol, R and Eastwood, N (14 October 2018) *The colour of injustice: ‘race’, drugs and law enforcement in England and Wales*, Release. Available at:

<https://www.release.org.uk/sites/default/files/pdf/publications/The%20Colour%20of%20Injustice.pdf>

⁴² Metropolitan Police (2020) *Stop and search stats for May 2020*, Metropolitan Police, no date. Available at: <https://www.met.police.uk/sd/stats-and-data/met/stop-andsearch-dashboard/>

⁴³ *Ibid.*

⁴⁴ Release, *Drug Policing Discriminates Against Black and Minority Ethnic Groups Despite Their Lower Rates of Drug Use*. Available at: <https://www.release.org.uk/press-release-racial-disparities-drug-policing>

⁴⁵McCallum, R and Gamble, J (14 March 2022), *Local Child Safeguarding Practice Review: Child Q. City & Hackney Safeguarding Children Partnership*. Available at: <https://chscp.org.uk/wp-content/uploads/2022/03/Child-QPUBLISHED-14-March-22.pdf>

patrol certain areas where they believe illegal drug-related activities may be happening.” But as they argue, this is an example of ‘organised abandonment’: “by criminalising drugs, the state has abandoned their responsibility to provide a safe environment not only for those that use drugs, but also to those that don’t use them but have had their lives affected in direct and indirect ways by the criminalisation of the drugs trade. Instead, they are able to exercise their surveillance and intimidation with state-sanctioned power over poor, young and ethnic minority communities.”

32. We urge the UN Mandate to call on the UK Government to end drugs policing, and decriminalise all drugs.

POLICE IN SCHOOLS

33. Finally, we cannot only talk about the powers police have but must also talk about where those powers are used and who they are deployed against, especially when thinking about children and young people. As the Northern Police Monitoring Project explore, “evidence shows that police are more likely to be placed in schools with high numbers of students eligible for free school meals (a rough proxy for socio-economic disadvantage), as well as in schools with high numbers of young people of colour. The result is that, from the outset, the negative effects of police in schools are experienced unevenly along race and class lines.”⁴⁶

34. We urge the UN Mandate to call on the UK Government to remove police from schools.

C. PROMISING INITIATIVES AND POSITIVE OR GOOD PRACTICES ON PREVENTION AND ACCOUNTABILITY MEASURES FOR HUMAN RIGHTS VIOLATIONS BY LAW ENFORCEMENT. THESE MAY INCLUDE OVERSIGHT, MONITORING, AND REPORTING OF

⁴⁶ Northern Police Monitoring Project (2023), *Ending Police in Schools* in *Holding Our Own: A Guide to Non-Policing Solutions to Serious Youth Violence*. Available at: https://www.libertyhumanrights.org.uk/wp-content/uploads/2023/04/HoldingOurOwn_Digital-DoubleSpreads.pdf

VIOLATIONS, GATHERING AND PUBLISHING COMPREHENSIVE DISAGGREGATED DATA, HUMAN RIGHTS TRAINING, RECRUITMENT, AND RETENTION PROCESSES, AND AWARENESS-RAISING

35. There exist numerous prevention and accountability measures for human rights violations by law enforcement in the UK, including those that provide oversight, monitoring and reporting of violations, the gathering and publishing of disaggregated data, or provide trainings. The College of Policing is the professional body which sets standards and the National Police Chiefs' Council is a collaboration body that exists to "enable independent chief constables and their forces to work together to improve policing." All police in the UK are subject to an independent oversight body, and His Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) is responsible for independently assessing and reporting on the efficiency and effectiveness of police forces in England and Wales.⁴⁷
36. The system for complaining about police conduct is complex and governed by multiple pieces of legislation; in most cases, individual police forces deal with the complaints made against it, and for particularly serious or sensitive matters, the Independent Office for Police Conduct (IOPC) (which oversees the police complaints system in England and Wales), investigates.
37. Nonetheless, these issues have not been devoid of scandal: Home Office data revealed that only 1% of complaints about police lead to proceedings,⁴⁸ and there have been difficulties ensuring that the police and the criminal justice system remain accountable even to minimum laws, policies and mechanisms that prevent human rights violations, or provide accountability, monitoring and oversight.
38. Organisations like Liberty regularly undertake strategic litigation work. Recent cases include the Crown Prosecution Service agreeing to a pilot scheme to monitor data on the age, race, sex and disability of those prosecuted under the

⁴⁷ For more, see House of Lords Library Briefing, *Policing in the UK: Governance, Oversight and Complaints*. Available at: <https://lordslibrary.parliament.uk/research-briefings/ln-2020-0013/>

⁴⁸ Syal, R and Thomas, T (1 Jun 2022), *Only 1% of Complaints about Police Lead to Proceedings, Home Office Reveals*. Available at: <https://www.theguardian.com/uk-news/2022/jun/01/only-1-of-complaints-about-police-lead-to-proceedings-home-office-reveals>

joint enterprise doctrine⁴⁹ after research by grassroots group JENGBA suggested that people of colour, particularly Black boys and young men, are disproportionately targeted.⁵⁰ Similarly, the Metropolitan Police Service has agreed to overhaul its controversial Gang's Violence matrix, after a landmark legal case brought by Liberty on behalf of Awate Suleiman and UNJUST UK forced them to concede the operation of the Matrix was unlawful: breaching the right to a private and family life and discriminating against Black people.⁵¹ However, the fact that it takes litigation to uphold minimum standards, is not a suitable, nor sustainable option. Not only does litigation nearly always have to take place after the fact of a violation, it is costly and (re-)traumatising, made only more challenging by the cuts to legal aids by the UK Government in recent years.⁵² We should be looking to avoid the need for these situations in the first place, and in this forms the basis of our wider calls to **end the practice of joint enterprise and cease use of the gang's matrix.**

39. Fundamentally, it is often thanks to the tireless work of grassroots groups and campaigners, that police and criminal justice accountability is truly upheld, and families and communities at the sharpest edge of police violence may find substantive justice. Since 1990, INQUEST has been at the forefront of collating data on deaths involving the police in England and Wales. Their casework and monitoring shows a wider pattern of Black men dying disproportionately in contact with police, particularly those with mental ill health. As INQUEST outline, “police involved in their deaths will often tell inquests how fearful they were in the face of ‘big,’ ‘mad,’ ‘dangerous’ Black men.” This, too, speaks to the ways in which policing and prisons continue to be embedded within non-policing services and practices, including healthcare. While the Mandate is specifically looking at racial injustice and law enforcement, we also bring to light the necessity of understanding the practices of monitoring and surveillance that have been introduced to institutions beyond the police and criminal justice system – such as

⁴⁹ Joint enterprise is a controversial doctrine which has led to people being convicted of murder or manslaughter, even if they did not play a decisive role. Whole groups have been convicted of crimes committed by one person, often on the back of allegations that they are in a gang.

⁵⁰ Liberty (15 Feb 2023), *Legal Win for Campaigners In ‘Racist’ Joint Enterprise Dispute*. Available at: <https://www.libertyhumanrights.org.uk/issue/legal-win-for-campaigners-in-racist-joint-enterprise-dispute/>

⁵¹ Liberty (11 Nov 2022), *Met to Overhaul ‘Racist’ Gangs Matrix After Landmark Legal Challenge*. Available at: <https://www.libertyhumanrights.org.uk/issue/met-to-overhaul-racist-gangs-matrix-after-landmark-legal-challenge/>

⁵² Lawyer Monthly, *How a Near-Decade of Legal Aid Cuts has Affected Britain’s Most Vulnerable*. Available at: <https://www.lawyer-monthly.com/2021/08/laspo-how-a-near-decade-of-legal-aid-cuts-has-affected-britains-most-vulnerable/>

through PREVENT⁵³ and the Serious Violence Duty⁵⁴ – and how coercive practices may be upheld by “doctors, social workers and other agents of the state.”⁵⁵

40. Further, though a system for responding to deaths in police custody exists to establish the truth of what happened to inform recommendations for change to prevent future deaths, “all too often, the system fails.” INQUEST state:

*little to no attention is paid to racism or discrimination at an individual or systemic level in the post-death investigation processes [...] post-death investigation processes often blame individuals for their own death and characterise the deceased through racialised tropes, with significant attention placed on the individual’s real or imagined relationship to criminality, gangs, drugs and weapons [...] [and] little attention is given in these processes to the social circumstances of the persons’ life and death, and the enduring failures of public services to successfully support them.*⁵⁶

41. We urge the UN Mandate to call on the UK Government to strengthen the inquest system with a view to ensuring that no one dies at the hands of the State.

D. GOOD PRACTICES, CHALLENGES AND LESSONS LEARNED ON ALTERNATIVE METHODS OF POLICING, STRENGTHENING INSTITUTIONAL OVERSIGHT, AND CLOSING TRUST DEFICITS

42. As has been acknowledged throughout this submission, we disagree with the premise of the question to the extent that alternative methods of policing presupposes the necessity of policing and the criminal justice system to respond

⁵³ The People’s Review of PREVENT, available at: <https://peoplesreviewofprevent.org/>

⁵⁴ Liberty (13 Sept 2021), *Frontline Workers Warn Policing Bill Puts Young People At Risk*. Available at: <https://www.libertyhumanrights.org.uk/issue/frontline-workers-warn-policing-bill-puts-young-people-at-risk/>

⁵⁵ National Survivors User Network, ‘Being With’ Not ‘Doing To’, in *Holding Our Own: A Guide to Non-Policing Solutions to Serious Youth Violence*, p.79. Available at: https://www.libertyhumanrights.org.uk/wp-content/uploads/2023/04/HoldingOurOwn_Digital-DoubleSpreads.pdf

⁵⁶ INQUEST, *The Sharpest Edge of Police Violence*, in *Holding Our Own: A Guide to Non-Policing Solutions to Serious Youth Violence*, p.71. Available at: https://www.libertyhumanrights.org.uk/wp-content/uploads/2023/04/HoldingOurOwn_Digital-DoubleSpreads.pdf

to social issues. **We instead demand that we move away from policing as a response to social issues.**

43. In addition to rolling back police powers and dismantling the systems and structures that enable police abuse, we also advocate for alternative solutions to social issues, as per the demands from the collective of organisations in the *Holding Our Own Guide*. **We urge the UN Mandate to call on the UK Government to:**

- i. **Build an emancipatory education system based on care and support, not discipline and punishment.**
- ii. **Decriminalise all drugs and reinvest resources in trauma services, mental health counselling and harm reduction services.**
- iii. **Build new structures of care and support for people experiencing mental health crises.**
- iv. **Invest in safe, healing-centred and racially literate spaces for young people.**
- v. **Develop community-based solutions to harm that allow young people's friendships, communities and cultures to flourish.**
- vi. **Invest in and mobilise the expertise and knowledge of our communities to create holistic public services.**

CONCLUSION

44. To achieve racial justice and equality for Black people in the UK, it is important to advance a constellation of different strategies. This includes rolling back police powers and ending the use of police and the criminal justice system to respond to social issues. It also involves a broader look at other Government policies and practices that surveil, control, coerce and punish Black people, one that is also alive to the numerous intersections between race, gender, class and other social

constructs that preclude marginalised communities to ‘premature death’⁵⁷ and poorer life circumstances.⁵⁸ That is one reason why the turn to alternatives above involves an array of life-affirming demands – spanning beyond police and the criminal justice system to produce real solutions to the challenges our communities face.

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⁵⁷ Ruth Wilson Gilmore defines racism as “the state-sanctioned or extralegal production and exploitation of group-differentiated vulnerability to premature death.” Gilmore, R (2007), p.17, *Golden Gulag: Prisons, Surplus, crisis, and Opposition in Globalizing California*.

⁵⁸ See also the submission by the International Network of Civil Liberties Organisations.