

# 8

## State of Children's Rights in England 2018

Policing and  
Criminal Justice



## Briefing 8

# Policing and Criminal Justice

**Article 15** Children have a right to meet together and to join groups and organisations, as long as it does not stop others from enjoying their rights.

**Article 16** No child should be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence.

**Article 19** Children have a right to be protected from all forms of violence.

### Article 37

- No child should be subjected to cruel, inhuman or degrading treatment or punishment
- Children who commit offences should not be imprisoned for life
- The arrest, detention or imprisonment of a child shall be used only as a last resort and for the shortest appropriate period of time
- Every child deprived of liberty shall be treated with humanity and in a manner that takes into account his or her needs. Children should be kept separate from adult prisoners. They have the right to maintain contact with their family
- Every child deprived of his or her liberty shall have the right to prompt legal advice

### Article 40

- Children who are accused of, or recognised as, having broken the law shall be treated in a manner consistent with their sense of dignity and worth, and which takes into account the advantages of promoting the child's reintegration into society
- Children's privacy must be respected at all stages of the proceedings
- States Parties shall establish a minimum age of criminal responsibility
- A variety of alternatives to custody must be available to ensure that children are dealt with in a manner appropriate to their wellbeing

## Definitions and glossary

**Children:** All children and young people under 18 as set out by article 1 of the UN Convention on the Rights of the Child (CRC).

**Youth secure estate:** There are three settings where children can be locked up within the youth secure estate: secure children's homes (SCHs), secure training centres (STCs) and young offender institutions (YOIs).

**Youth Offender Institution (YOI):** YOIs can accommodate boys between 15-18 years old and are run under Prison Service standards. YOIs tend to be larger than STCs and SCHs with lower ratios of staff to children. YOIs currently hold 69% of all children in custody.

**Secure Training Centre (STC):** STCs hold boys and girls between 12-17 years old. They are mainly run by private providers. STCs currently hold 21% of all children in custody.

**Secure Children's Home (SCH):** SCHs in England are run by local authorities and are overseen by the Department for Education. They generally accommodate remanded or sentenced children between 12-14 years old, plus girls and "at risk" boys up to the age of 16. SCHs range from 8-36 beds and have high staff-to-child ratios allowing focus on the emotional, physical and mental health needs of the children they look after. SCHs currently hold 10% of children in custody.

**Segregation or Solitary confinement:** The confinement of a child in custody in their bedroom or another room or area as a means of control and without the child's permission or agreement, without a member of staff being present and with the door locked in order to prevent the child from leaving.

**Remand:** When a court decides to remand a child to custody, they will be kept in one of the institutions in the youth secure estate until their next court hearing or trial.

## About this briefing

The UK ratified the UN Convention on the Rights of the Child (CRC) in 1991. This means that all areas of government and the state including local government, schools, health services and criminal justice bodies must do all they can to fulfil children's rights.

This briefing is part of CRAE's State of children's rights in England 2018 and assesses the progress made in England towards implementing the UN Committee's recommendations on policing and youth justice. It highlights areas of progress and concern since CRAE's last *State of Children's Rights in England* report published in December 2017. It is based on written and oral evidence from CRAE's members and additional analysis of recent laws and policies, newly published research, official statistics and responses to Freedom of Information (FOI) requests.

### What is the CRC?

The CRC applies to all children aged 17 years and under, and sets out the basic things that children need to thrive: the right to an adequate standard of living, to be protected from all forms of violence, to an education, to play, be healthy, and be cared for. Children's rights should act as a safety net, meaning children always receive at least the minimum standard of treatment whatever the changing economic climate.

The CRC has four guiding principles (General Principles) which are rights in themselves, but also the framework through which all the rights in the CRC should be interpreted. They are: non-discrimination (article 2), the best interests of the child (article 3), survival and development (article 6) and respect for the views of the child (article 12). England's compliance with these General Principles is covered in Briefing 2.

### Key to UPR recommendations:

UPR Supported UPR Noted

### Concerns of the United Nations

In June 2016 the UK Government was examined by the UN Committee on the Rights of the Child (the UN Committee) on its compliance with the CRC for the first time since 2008. The UN Committee made recommendations (Concluding Observations) for change.<sup>1</sup> In May 2017 the UK was examined on all its human rights treaties, including the CRC, by the 193 member states of the Human Rights Council as part of the Universal Periodic Review (UPR).<sup>2</sup> This is a process where states can reiterate previous recommendations made by UN Committees and can be used by civil society and parliamentarians as an additional advocacy tool. The Government can choose whether to "support" (accept) recommendations or "note" them (reject or not agree). We are very disappointed that the Government has only supported 28% of the recommendations relating to children's rights compared to 42% of all the recommendations it received. Below are the relevant UN Committee and UPR recommendations for this briefing:

- Raise the minimum age of criminal responsibility CRC UPR
- Ensure that children's rights to move freely in public spaces are not curtailed through the use of stop and search CRC
- Ensure that children with mental health conditions are not detained in police custody CRC
- Prohibit the use of Tasers on children CRC
- Ensure that detention is used as a last resort, for the shortest possible time, and not used discriminatorily against certain groups including Black and Minority Ethnic (BAME) children CRC
- Abolish life imprisonment sentences for children UPR
- Abolish the use of restraint against children to maintain good order and discipline in YOIs and ban the use of pain-inducing techniques on children in custodial settings CRC
- Prohibit segregation, including solitary confinement, for children in custody CRC

## Introduction

Urgent reform of the way children in conflict with the law are treated by police and the criminal justice system is still needed. Some positive steps have been taken in the form of government launched inquiries and aspirations of a public-health approach to tackling serious violence. However, little meaningful change has been made to deal with the myriad of issues which are not compatible with children's rights. Children coming into contact with the criminal justice system are some of the most vulnerable in our society. They have often suffered neglect and abuse, have care experience and high levels of mental health issues or learning disabilities. Yet despite the 'child-first' approach opined by police chiefs and authors of previous youth justice reviews, this is far from realised.

## What progress have we made?

There has been continued welcome progress in the reduction of child arrests. In 2017 there were 79,012 child arrests – one every seven minutes – compared with 87,525 in 2016.

**Arrests of children in England and Wales have reduced by more than two-thirds in the last seven years.**<sup>3</sup> The CRC stresses that wherever possible children should be dealt with outside the criminal justice system. However, despite this progress, research has identified that the criminalisation of particular groups of children urgently needs addressing (see below).<sup>4</sup>

Welcome initiatives to end the over-criminalisation of children in care have been introduced by some police forces and should be encouraged nationally. Overall, however, there is much work still to be done by police forces to ensure children are treated as children first rather than mini adult offenders.

**There are also fewer children entering the youth justice system (YJS) for the first time— 14,400 first time entrants to the YJS in 2017-18 compared to 16,500 in 2016-17. The number of first time entrants has fallen by 86% since 2008 and by 14% in the last year.** In 2017-18 26,700 children and young people were

cautioned or sentenced – this is an 82% drop over the last 10 years, with a 6% fall in the last year. The fall in the most recent year is the smallest year-on-year fall in the last decade.<sup>5</sup>

The Law Commission has published its draft sentencing code and accompanying report intended to consolidate all sentencing law into one piece of legislation.<sup>6,7</sup> The report recommends that the government use the term 'child' for all those aged under 18. This is welcome and would bring the definition of the child in line with the definition in the CRC.

## Where do we need to improve?

### Age of criminal responsibility

A House of Lord's Private Members' Bill, is going through parliament.<sup>8</sup> The UK government has declined to support the Bill despite the UN Committee recommendation that the UK should increase the minimum age of criminal responsibility from 10 years and implement a welfare-based approach.<sup>9</sup> In contrast, the Age of Criminal Responsibility (Scotland) Bill is currently going through the Scottish Parliament to raise the age of criminal responsibility to 12 years which is a step in the right direction.

### Policing

#### Overuse of stop and search

**Data for the period from October 2017-September 2018 revealed that children in London and particularly BAME children are disproportionately stopped and searched. The largest proportion stopped of all age groups (42,424) were 15-19 year olds.**

A report analysing Metropolitan Police Service (MPS) panel data on stop and search and its effect on crime at borough level from 2004–2014 found no clear evidence on whether stop and search reduces crime, including violent crime.<sup>10</sup>

In 2016 the UN Committee said that children's rights to privacy meant the government '*must ensure the use of stop and search is proportionate, considers the age and maturity of the child and is non-discriminatory*'. It is therefore concerning that

the Home Office has consulted on proposals to extend police stop and search powers around corrosive substances, drones and laser pointers.<sup>11</sup> Separately, the National Police Chief's Council (NPCC) lead on stop and search confirmed police have held talks with the government about removing the requirement that 'reasonable grounds' for suspicion are needed before a routine stop and search is carried out.<sup>12</sup> It is worrying that the focus of discourse is on increasing stop and search rather than building trust between children and the police.

### Gangs Matrix breaches data rules

**The Gangs Matrix is a database of suspected gang members in London. Recent reports have found it to be a racially discriminatory system, which stigmatises predominately BAME children and young people and is 'unfit for purpose'.<sup>13</sup> Of those on the Matrix, 87% were from a BAME background and 78% are black.<sup>14</sup>**

An investigation by the Information Commissioner's Office (ICO) found that MPS use of the Gangs Matrix led to multiple and serious breaches of data protection laws. The ICO issued an Enforcement Notice, compelling the MPS to ensure it complies with data protection laws in future. The investigation concluded that serious breaches of data protection laws had the potential to cause damage and distress to the disproportionate number of young, black males on the Matrix as it did not distinguish between the victims of gang-related crime and the perpetrators, leading to confusion amongst those using it.<sup>15</sup>

### Insufficient funding for public health approach to serious violence

The government has published its Serious Violence Strategy in response to recent increases in knife and gun crime and homicide with a commitment to steering children and young people away from crime and tackling violent drug-dealing gangs. This is based on replicating Scotland's Violence Reduction Unit (VRU) in approaching violence like a disease that can be cured.<sup>16</sup> This holistic, whole-system approach is welcome as it recognises that children involved in crime are vulnerable and/or exploited, and that early intervention and preventative measures can bring wider benefits to society. It is therefore

disappointing that the level of funding set aside for this work is insufficient.

The government has also published a Serious and Organised Crime Strategy which recognises that children are often the victims of violent crime and its associated exploitation. This should be turned into action which diverts children away from the criminal justice system and focuses on safeguarding and welfare processes.

Research on knife crime has revealed that children who have been excluded from school may be at serious risk of involvement in knife crime and violence. Following FOI requests, Barnardo's found that one in three local authorities who responded have no vacant places in Pupil Referral Units (PRUs), potentially leaving children vulnerable to violence and criminal exploitation.<sup>17</sup> For more information on school exclusions see Briefing 6.

### Use of children as spies hugely concerning The recent exposure of child spies being used to gather intelligence including on county lines is troubling.

The legal basis for the use of child spies can be found in the Regulation of Investigatory Powers Act (RIPA) 2000, which allows authorised bodies, including the police, the secret services and local authorities to gather information from individuals who act as a "Covert Human Intelligence Sources" (CHIS). The code of conduct on the use of CHIS was amended in August 2018 and the government has confirmed children as young as 15 have been used (there is no minimum age). Concerns have been raised about the incompatibility of the use of children with both domestic and international law, in particular, the duty to safeguard and promote the welfare of children under Section 11 of the Children Act 2004. Just for Kids Law has issued proceedings against the Home Office to challenge the guidance.

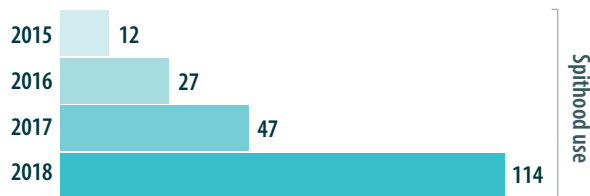
### Use of force on children still unacceptably high

#### Use of spit-hoods continues to rise

A spit-hood is a bag made of mesh-like material with a drawstring to tighten it, which is put over the head. Children have described how traumatic and distressing it is to be hooded.<sup>18</sup> **Yet CRAE's FOI requests to police forces nationally revealed that 21 of the 28 police forces that**

responded use spit-hoods. There were at least **47 uses on children in 2017 and 114 incidents in the first nine months of 2018**, although the true figure is likely to be much higher. Across the whole period requested for 2017 and 2018, BAME children accounted for 34% of spit-hood use nationally and 72% of MPS use.

**Graph 1: Spit-hood use on children 2015-2018**



Source: CRAE FOIs 2015-2018

### Tasers disproportionately used on BAME children

Worryingly, Taser use on children is increasing year on year. **CRAE FOI requests revealed that in 2017 Tasers were used on children at least 871 times. This figure was already 839 just nine months in to 2018.**<sup>19</sup>

Looking at MPS data alone the figures are even more shocking and show that for 2017-2018, the number of Taser incidences involving children aged 0-17 was 526. Of those 54% involved black children (black or black British), 4% mixed, 9% Asian, 1% Chinese, 2% other, 2% don't know and 28% were white.

Sky news have also reported responses to separate FOI requests made between 2016 and November 2018; Merseyside Police said it tasered a 13-year-old and West Yorkshire and Hampshire police forces each shot a 14-year-old with a taser. Children aged 15, 16 and 17 were also Tasered by police during this period. These incidents only include when a Taser has been fired or used in drive stun or angled drive stun mode.<sup>20</sup> This is where the taser is held against the child's body causing an incapacitating effect and/or pain. The medical consequences of Taser use are broad-ranging and these risks are clearly heightened on children's smaller frames.<sup>21</sup>

### Home Office publish use of force statistics in England and Wales for the first time

The statistics show that under 18s accounted for 9% of all use, with similar figures to CRAE's FOI data received on Taser and spit hood use. Of real concern is the numbers of use of force on

**51% of children who have had a Taser used on them are from a BAME background**



Source: CRAE FOIs based on responses from 29 police forces<sup>22</sup>

under 11s with at least 519 incidents where there was use of force on these very young children.<sup>23</sup> During each of these incidents multiple tactics may have been used but they will only be recorded as one incident. A key problem with these statistics is that they don't disaggregate by age and ethnicity and it is likely that there is under reporting of figures.<sup>24</sup>

### Youth justice

**On a troubling note, proposals in the Offensive Weapons Bill risk increasing the criminalisation of children and an increase in custodial sentences.** The Bill introduces what has been described as a new, ill-defined offence of possession of corrosive substances as well as substantially lowering the conviction threshold for threatening with a knife or offensive weapon. It also increases the use of mandatory custodial sentences for children. A government Amendment to the Bill which creates new Knife Crime Prevention Orders, that can be imposed on anyone aged 12 or over, is extremely concerning. This will do very little to address the underlying causes of knife crime, creating more harm and pushing more young people into the criminal justice system.

### Compulsory registration of barristers practicing in the Youth Court

Earlier this year, the Bar Standards Board rule change came into effect, requiring barristers working in the Youth Court to register and declare that they have the specialist skills, knowledge and attributes as set out in the Youth Proceedings competences and guidance.<sup>25</sup> Youth Court work was recognised to be a high-risk area of work following the Youth Proceedings Advocacy Review in 2015.<sup>26</sup>

It found that standards of advocacy in the Youth Court were variable and, as a result, the interests of some of the most vulnerable children within the criminal justice system were not being adequately represented. The Ministry of Justice (MOJ) has set up a sector-led working group on quality of advocacy in youth justice and is exploring how a voluntary youth justice specialist panel could be established.

Although there is recognition that practising in the youth court involves highly complex and skilled knowledge and expertise with potentially life changing implications for the child involved, remuneration and status for this work is still unacceptably low.

### Criminal records impacting on children's futures

The Supreme Court has handed down a landmark judgement relating to the disclosure of criminal records, ruling that the current 'filtering' system which currently prevents certain youth cautions (previously known as reprimands and warnings) from ever being filtered from criminal records checks, is a disproportionate interference with an individual's Article 8 rights. This judgment recognises that youth cautions are diversionary measures intended for the rehabilitation of children, and should not be used to stigmatise or criminalise them for the rest of their lives. It is now up to Parliament to act urgently to change the system following this ruling to make it fair for children. A report revealed that in the last five years alone, over 2.25 million youth criminal records disclosed on standard/enhanced checks by the Disclosure and Barring Service (DBS) were over 15 years old.<sup>27</sup> A Ten Minute Rule Bill on childhood criminal records has been heard in parliament raising concerns over the life-long implications of these records.<sup>28</sup> The government has not agreed to take the issue forward.

### Disproportionate representation of BAME children throughout the youth justice system

**It is overwhelmingly clear that the disproportionate number of BAME children arrested, prosecuted and put into custody is a problem which is getting worse. BAME children account for 45% of the custodial population<sup>29</sup> despite only making up approximately 18% of the 10-17 year old general population.<sup>30</sup>** They also account for

29% of children arrested. The proportion of black children and young people given a caution or sentence has increased to 12% in the latest year, and is now three times that of the general 10-17 population.<sup>31</sup>

### Over-criminalisation of children in care

It's shocking to see that research has found that children living in residential care were at least 13 times more likely to be criminalised than all other children. Children aged 16 and 17 living in children's homes were at least 15 times more likely to be criminalised than other children of the same age.<sup>32</sup> Broad systemic issues have been found to contribute to criminalisation.<sup>33</sup> More positively, the government has recently published a national protocol on reducing the unnecessary criminalisation of children in residential care.<sup>34</sup>

A report on multi-agency responses to older children who are living with neglect provides evidence that there is a clear need for greater awareness of the neglect of older children, paired with a focus on trauma-based approaches to tackling resulting troubling behaviour rather than a criminal justice response.<sup>35</sup>

### Children in custody

#### High numbers of children in custody remain

By August 2018, the population of the secure estate for under-18s was 875. A slight decrease of 18 from the previous year. Although welcome, England and Wales still have the highest child custody rate in Western Europe<sup>36</sup> and **BAME children account for just under half of the child prison population<sup>37</sup> (but less than one fifth of the general population).**<sup>38</sup> The UN Committee has urged the UK to *'ensure that detention is not used discriminatorily against certain groups of children'*.

#### The youth secure estate remains unsafe for children

Prisons continue to be unsafe places for children. Her Majesty's Inspector of Prisons' (HMIP) annual report for 2017-18 revealed that rates of violence against staff and children were higher than in previous years. Children's own perceptions of their safety continued to be poor. The survey found that 43% of children said they had felt unsafe in their current Young Offender Institution (YOI) and 19% said they felt unsafe at the time of the inspection.<sup>39</sup>

### Case study

#### Howard League for Penal Reform Children in custody denied access to basic hygiene

The Howard League for Penal Reform received a phone call from Jack\*, a 17-year-old child in prison, who said he was only allowed to have two showers and two telephone calls a week.

Even though Jack was prescribed medicated cream that meant he had to wash regularly, he was not permitted to shower more frequently.

He also told the Howard League that he kept getting ill but that his last two hospital appointments had been cancelled and he was waiting for a new date.

The Howard League received other calls from children and their parents about the same jail. It became clear that a new policy had been implemented at the prison that applied to children on the lowest level of the privilege system.

We wrote to the prison explaining why the new policy was unlawful. The Howard League was initially advised by a senior member of staff at the prison that the policy had been developed in error and was based on the adult system. However, the prison later formally responded in writing to the Howard League confirming the policy and adding that children on the lowest level of the privilege scheme "should" get a minimum of two thirty-minute periods of association a week. The Howard League is considering a further legal challenge.

\*Not real name

**Disabled children were more likely to feel unsafe – 37% compared with 14% of non-disabled children. Disabled boys were also more likely to say they had experienced victimisation from staff and other children – 38% compared with 24% of those without a disability.**<sup>40</sup>

Living conditions in prisons for children are extremely poor. Even accessing basic amenities remains a problem in many prisons. HMIP found that at Feltham prison shower rooms were squalid. Only 60% of boys surveyed said



Source: HM Chief Inspector of Prisons for England and Wales (2018) *Annual Report 2017 - 18*

they could have a shower every day against the comparator of 88% and 86% at the last HMIP inspection. This even included before court hearings or after exercising.<sup>41</sup>

#### Increased use of force

Positively, the MOJ has announced it is launching a review of the use of pain-inducing restraint across all child prisons and escorting procedures due to report in summer 2019.<sup>42</sup> Children's rights charity Article 39 has also lodged a judicial review with the High Court against the government's decision to allow the use of pain-inducing restraint by escort workers from contractor GEOAmey.

**Restrictive Physical Interventions (RPIs) are not being used as a last resort. Figures show that for the year ending March 2018 there were around 5,400 RPIs (up by 20% compared with the previous year) which is the largest year-on-year increase seen over the last five years.**<sup>43</sup> This is despite numerous international bodies criticising the UK for its use of deliberate pain during the restraint of children including the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the UN Torture Committee, the UN Committee and parliament's Joint Committee on Human Rights (JCHR).<sup>44</sup>

There were 78 RPIs that resulted in an injury requiring medical treatment on site, and 2 of which were serious injuries requiring hospital treatment.<sup>45</sup>

Medical warning signs were recorded in 210 separate incidents across eight child prisons. The official definition for these warnings signs is: 'Lost



*or reduced consciousness, abruptly/unexpectedly stopped struggling or suddenly calmed down, blueness of lips/fingernails/ear lobes (cyanosis), tiny pin point red dots seen on the skin (upper chest, neck, face, eye lids), difficulty breathing, complaints of feeling sick, vomiting and complaints of difficulty breathing.*<sup>46</sup>

A serious case review into the identification of abuse of children by staff at Medway STC found there to be a lack of escalation and effective monitoring of the safety of children, criticising the contract between the YJB and Barnardos, acting as independent advocates for children, being a barrier to independent scrutiny. The review also criticised the use of pain-inducing restraint techniques with the majority of children there having experienced restraints. The review stated that HMIP have, more than once, made recommendations to the MoJ that the use of pain inflicting techniques on children in STC and YOIs should be stopped. It recommended the MoJ consider the approach taken by the SCH sector.<sup>47</sup>

### High levels of self-harm and assaults found in child prisons

There are unacceptable levels of self-harm among children in the secure estate with a sharp increase in the last year increasing by 40% to nearly 1,800 incidents. The rate of self-harm was significantly higher for females than males. 26% of females in custody self-harmed and on average each female self-harms 4.9 times.<sup>48</sup>

In the year ending March 2018, just under a third of self harm incidents resulted in injuries which required medical treatment. Alarmingly this is the highest proportion there has been in the last five years. There were 535 incidents of self harm that resulted in an injury requiring medical treatment with Secure Training Centres seeing the largest increase during this time from 29 to 160 injuries requiring medical treatment.<sup>49</sup>

Figures obtained by FOI requests by the Welsh Governance Centre at Cardiff University found that there were 829 incidents of proven assault on children in Young Offender Institutions in England and Wales in units primarily for 15-17 year olds.<sup>50</sup> Shockingly, Werrington in Stoke-on-Trent had a rate of assault on children and young people of 213.3 per 100 children.<sup>51</sup>

These figures raise urgent questions over safety levels and highlight why prisons are not suitable places for children.

### Secure School pilot announcement

It is disheartening that Medway Secure Training Centre (STC), with its history of extremely poor treatment of children, has been announced as the location of the first Secure School.<sup>52</sup> It raises real doubts that the government has any intention of taking a child-centred approach regarding youth custody reform. It is too big, too far from London – where the majority of children will come from – and looks and feels like a traditional custodial estate. Charlie Taylor's original proposals for Secure Schools suggest that simply importing education into child prisons will not work.<sup>53</sup>

### Mounting concern over solitary confinement

**A report by the Children's Commissioner for England found that the use of segregation of children in custody has increased in the past four years, even as the overall number of children detained has fallen. Detention periods have doubled, from eight to 16 days, with seven out of 10 episodes of segregation in YOIs lasting over a week.** The number of episodes of segregation in STCs has also risen and is now (on a pro rata basis) approximately 33 times higher, though it is likely this is influenced by changes in how data is recorded.<sup>54</sup>

It is alarming that some children are spending up to 23.5 hours in a cell each day, for days and sometimes weeks on end. The British Medical Association, the Royal College of Psychiatrists and the Royal College of Paediatrics and Child Health have issued a joint position statement calling for the solitary confinement of children and young people to be abolished and prohibited, stating it can have a 'profound' impact on their health.<sup>55</sup>

In evidence to the JCHR the Children's Commissioner for England reported '*intolerable conditions*' regarding children kept in confinement in prisons including hard beds, open toilets and either too-cold or stifling hot conditions.<sup>56</sup>

The UK is out of step with a growing international consensus that children should never be placed in solitary confinement.

## Recommendations

1. The government should significantly raise the age of criminal responsibility.
2. The government should require police forces to collect the age of those they stop and search, and the Home Office annual review should assess the proportionality of age alongside other protected characteristics.
3. The government should eliminate the use of Taser on children. As an immediate step the regulations, training, guidance and transparency around the use of Taser on children should be improved including the regular publication of fully disaggregated national data on uses.
4. The government should prohibit use of all harmful devices on children by police, including spit hoods.
5. The government should prohibit the use of children as "Covert Human Intelligence Sources". At the very least guidance should make explicit reference to the Section 11 safeguarding duty in Children Act 2004 and describe all children as vulnerable.
6. The government should implement the recommendations of the Lammy Review to reduce the disproportionately high levels of BAME children in the criminal justice system and commission Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services to carry out a thematic review of the police treatment of BAME children.
7. The Mayor of London and MPS should dismantle the Gangs Matrix unless it can be shown to have been reformed so to be compliant with human rights standards. In the meantime, it should ensure that it implements the ICO's Enforcement Notice to make certain that it complies with data protection laws. The Home Office should revise Code A of the Police and Criminal Evidence Act 1984 to regulate the collection, retention and use of data on all police gang databases.
8. The government should make the criminal records system for children distinct from that for adults with all under-18 cautions automatically filterable. There should be no limit on the number of under-18 convictions that can be filtered out, providing they did not result in a prison sentence.
9. The government should introduce a statutory safeguard to ensure that children are only detained as a last resort and for the shortest possible time. The threshold for the use of custodial sentences should be increased and imprisonment for breach of community orders and civil orders should be prohibited.
10. The government should end the use of prison-like institutions (YOIs, STCs) for children. Where children do need to be detained they should be placed in appropriate care-based homes.
11. Restraint against children should only be used when the child poses an imminent threat of injury to themselves or others and it should never be used to deliberately inflict pain. The government should abolish all methods of physical restraint for disciplinary and immigration purposes.
12. The government should abolish solitary confinement or any conditions that amount to solitary confinement for children.
13. All institutional settings (whether run by the State or private organisations) should be open and transparent about their approaches to discipline and behaviour management.

## Endnotes

- 1 UN Committee on the Rights of the Child (2016) *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland*
- 2 United Nations Universal Periodic Review (2017) *United Kingdom, British Overseas Territories and Crown Dependencies Annex to the response to the recommendations received on 4 May 2017*
- 3 Howard League for Penal reform (2017) *Child arrests in England and Wales: Research briefing*
- 4 Howard League for Penal reform (2018) *Child arrests in England and Wales: Research briefing*
- 5 Youth Justice Board/Ministry of Justice (2019) *Youth Justice Statistics: England and Wales 2017-2018*
- 6 The Law Commission (2018) *The Sentencing Code Volume 2: Draft Legislation*, No 382
- 7 Ibid
- 8 HL Deb: *Age of criminal responsibility Bill* (8 September 2017)
- 9 The government has stated 'children aged 10 are able to differentiate between bad behaviour and serious wrongdoing and it is right that they should be held accountable for their actions' HM Government (2014) *The fifth periodic report to the UN Committee on the Rights of the Child*
- 10 Bradford, B., Tiratelli, M., and Quinton, P. (2018) *Does Stop and Search mean less crime? Analysis of Metropolitan Service panel data, 2004-2014* College of Policing
- 11 Home Office consultation (2018) *Proposals to extend police 'stop and search' powers to address the criminal misuse of unmanned aircraft (drones), laser pointers and corrosive substances*
- 12 Dodd, V. (11 November 2018) 'Police in talks to scrap reasonable grounds condition for stop and search'
- 13 Williams, P. (August 2018) *Being Matrixed* Stopwatch and Amnesty International (2018) *Trapped in the Matrix: Secrecy, Stigma and Bias in the Met's gangs database*
- 14 Amnesty International (2018) *Trapped in the Matrix: Secrecy, Stigma and Bias in the Met's gangs database*
- 15 Information Commissioners Office (2018) *ICO finds Metropolitan Police Service's Gangs Matrix breached data protection laws*
- 16 Violent Reduction Unit <http://actiononviolence.org/>
- 17 Barnardos/All-Party Parliamentary Group on Knife Crime (2018) *Children excluded from school 'are at risk of knife crime'*
- 18 See the case study of Sophie, a disabled 11 year old girl, in CRAE (2016) *State of children's rights in England: Policing and criminal justice*
- 19 The 2018 Taser figure is based on 29 police force responses between 20 September 2018-28 November 2018 to FOI requests sent out by CRAE
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## About CRAE

The Children's Rights Alliance for England (CRAE), part of Just for Kids Law, works with over 100 members to promote children's rights and monitor government implementation of the UN Convention on the Rights of the Child.

We believe that human rights are a powerful tool in making life better for children. We fight for children's rights by listening to what they say, carrying out research to understand what children are going through and using the law to challenge those who violate children's rights. We campaign for the people in power to change things for children. And we empower children and those who care about children to push for the changes that they want to see.

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