



Children's  
Rights Alliance  
for England

# State of Children's Rights in England **2016**

## Briefing 8 Policing & Criminal Justice



# Briefing 8

## Policing & 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. Young people 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 which 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 desirability 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:** This briefing refers to "children" which covers all children and young people under-18 as set out by article 1 of the UN Convention of 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 the ages of 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 young people. YOIs currently hold 69% of all children in custody.

**Secure Training Centre (STC):** STCs hold boys and girls aged between 12 and 17. They are mainly run by private providers. They 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 young people aged 12-14 and 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 hold 10% of children in custody.

**Segregation or Solitary confinement:** refers to the confining 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 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. 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 set out a number of concerns (summarised below) and recommendations (Concluding Observations) for change.<sup>1</sup>

This briefing is part of CRAE's *State of Children's Rights 2016* and assesses the progress made in England towards implementing the UN Committee's recommendations on civil liberties and criminal justice - which is an area of Special Protection Measures in the CRC. It highlights areas of progress, concern and improvement

### 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, 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 1: General Measures of Implementation and General Principles of the CRC.

since July 2015 when CRAE coordinated the England Civil Society report to the UN Committee as part of the last reporting process.<sup>2</sup> This was endorsed by 76 civil society organisations.

This briefing 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.

### Concerns of the UN Committee 2016

- Children's rights to be visible, to access space and move freely in public spaces being curtailed by the police through anti-social behaviour policies and the use of stop and search
- Use of Tasers on children
- Children with mental health conditions being detained in police custody due to shortage of places in mental health settings
- The minimum age of criminal responsibility remains 10 years old for England
- Detention is not always applied as a measure of last resort
- The number of children in custody remains high, with disproportionate representation of ethnic minority children, children in care, and disabled children
- Access to education and health services, including mental health services, is insufficient for children in custody
- The increased use of restraint on children in custody in England – particularly the use of physical restraint on children to maintain good order and discipline in YOIs and the use of pain-inducing techniques on children in custodial settings
- Segregation, including solitary confinement, is sometimes used for children in custody, including in YOIs

## Introduction

Children in conflict with the law are children first. The CRC recognises this and says that, wherever possible, children should be dealt with outside the criminal justice system.

In 2015, following a fall in numbers of children in the youth justice system, the Government commissioned a review to examine “what works” in preventing youth crime; how the youth justice system can successfully interact with other children’s services; and whether the youth custody estate is fit for purpose. The interim report of the Taylor review<sup>3</sup> contained encouraging findings but, with a change in Government leadership, youth justice is at a crossroads and it is unclear what direction will now be taken.

## What progress have we made?

The National Police Chiefs’ Council (NPCC) has provided impressive leadership in setting new priorities for the policing of children. In April 2015, it published a *National Strategy for the Policing of Children and Young People*<sup>4</sup>, which emphasised **‘it is crucial that in all encounters with the police those below the age of 18 should be treated as children first. All officers must have regard to their safety, welfare and well-being as required under... the CRC.’** The Strategy is being rolled out across England and progress is being monitored by the new NPCC lead on children and policing.

Statistics collated by the NPCC show that the use of police cells for children in mental health crisis detained under the Mental Health Act has fallen and police, increasingly, take children directly to health-based places of safety instead.

The Policing and Crime Bill contains a provision to prohibit children from being held in police custody under the Mental Health Act. This prohibition is welcome (and in line with the UN Committee’s 2016 recommendation to the UK<sup>5</sup>). However, it is critical Government focus on making more CAMHS beds available and increase the support offered to children before they reach crisis point. See Briefing 7 for more information.

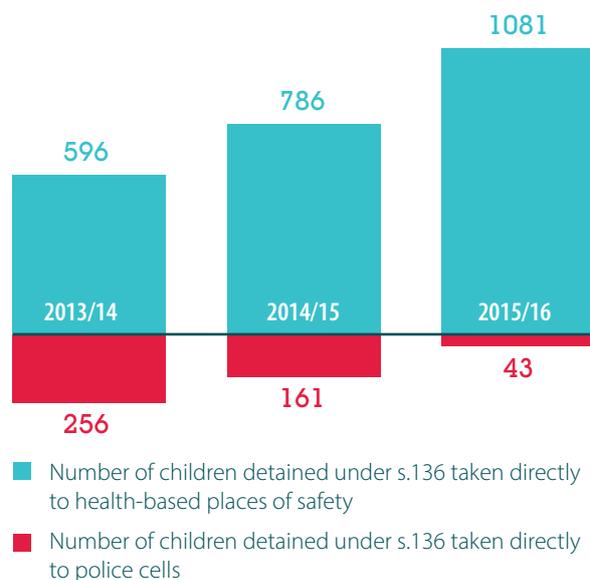
There has been a welcome fall in number of child arrests. In 2015 there were 101,926 child arrests in England and Wales: a reduction of 59% from 2010 to 2015.<sup>6</sup>

**In the year ending March 2015 there were 20,544 children entering the youth justice system for the first time (FTEs) - compared to 79,260 in 2008/09.** Not all children have benefitted equally from this reduction and there is a growing disproportionality among FTEs: from March 2010 to March 2015, the number of BAME children entering the youth justice system fell by 61% compared with a 70% fall for White children.<sup>7</sup>

The UN Committee said that children should not be inappropriately criminalised and, where possible, should be diverted from the youth justice system. Encouragingly, of the 20,544 FTEs in the year ending March 2015, 70% received a caution, with the remaining receiving convictions (predominantly resulting in community sentences).<sup>8</sup> However children must understand and freely agree to what is being proposed when they are “diverted”; be given the opportunity to seek legal advice; and, as stressed by the UN Committee in 2016,<sup>9</sup> have no criminal record as a result of the diversion.<sup>10</sup>

The cumulative impact of these positive developments is fewer children in custody.

Figure 1: Police use of s.136 Mental Health Act<sup>11</sup>



## Where do we need to improve?

### No movement on increasing the age of criminal responsibility

The UN Committee has recommended that the UK should increase the minimum age of criminal responsibility from 10 years and implement a welfare-based approach to children's offending behaviour. The Government has refused.<sup>12</sup>

## Policing

### Concerns over stop and search

Serious concerns about the implications of stop and search for children's rights to privacy remain. 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, considering the age and maturity of the child, and non-discriminatory. The UN Committee also recommended better collation and publication of data on stop and search to help monitor its use on children.<sup>13</sup>

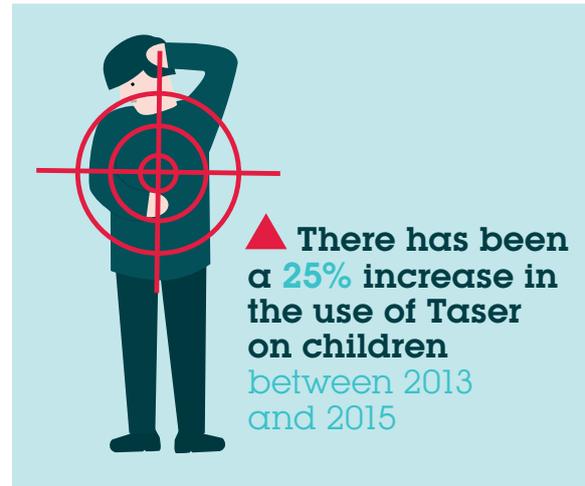
### Lack of transparency on intrusive searches

In 2015 Her Majesty's Inspectorate of Constabulary (HMIC) reported<sup>14</sup> that no official records were kept of how many children undergo more intrusive searches (including strip searches). Our FOI requests to police forces in England for data on the use of these searches revealed that many forces do not record stop and searches where more than outer clothing is removed – including strip searches and those with "intimate parts exposed".

Just over a third of all forces in England (14) were able to supply information about how often and on whom, these highly intrusive searches are carried out: **In 2015, 484 "more thorough" searches and strip searches were conducted on children in police custody.** The youngest children searched were 7 and 9 years old.

### Use of Tasers on children increasing

The UN Committee said the use of Tasers on children in the UK should be prohibited<sup>15</sup> echoing a previous recommendation by the UN Committee against Torture.<sup>16</sup>



CRAE's research shows there has been a 25% increase in the use of Taser on children in the two years between 2013 and 2015.

In 2013 Tasers were used against children in England and Wales at least 431 times. Our FOI requests to 44 police forces in England and Wales revealed that in 2015, Taser was used against children at least 538 times. Of all uses, more than a quarter (147) were against children aged 15 or younger. The youngest child fired on with a Taser was 12 years old.

In 2015 Tasers were fired at children 43 times, accounting for 8% of all uses (the same proportion as 2013).

### Children still kept in police cells overnight

Police custody is not an appropriate place for children to be detained. Data on the number of children held in custody overnight and the numbers transferred to local authority accommodation is not systematically gathered and published. FOI requests revealed that **in 2014/15, 22,792 children in England, including an eight year old, were held overnight in police custody.**<sup>17</sup>

Contributing to these high numbers is the failure to transfer children from police custody to local authority accommodation after they have been charged – despite the legal requirements under section 38(6) of the Police and Criminal Evidence Act. A test case is currently being taken behalf of a vulnerable 14 year old boy who was kept in a police cell overnight on multiple occasions because his local authority failed to provide alternative accommodation.<sup>18</sup>

The Home Office has developed a concordat setting out key actions government, police and local authorities must take to tackle this problem. Once published, a review of implementation should be held after one year.

### Increase in spit hood use

A spit hood is a bag made of mesh-like material, with a drawstring to tighten it, which is put over the head. The Independent Police Complaints Commission (IPCC) has investigated the deaths of two adults following the use of spit hoods.<sup>19</sup> Some of the largest forces, including the Metropolitan Police (MPS) and Greater Manchester Police, do not currently use spit hoods. In November 2016 the MPS announced a pilot of spit hoods.<sup>20</sup>

Of 40 police forces in England, 17 currently use spit hoods. Of these, more than half (10) were able to provide us with data on their use on children. Responses to our FOI request revealed that:

- In 2015 spit hoods were used on at least 12 children in England with the youngest recorded age being 13 years old
- **In the first nine months of 2016 the use of spit hoods on children doubled: at least 24 children in England were hooded** (with the youngest recorded age being 15 years old)

CRAE's research revealed that none of the policies or risk assessments supplied by police forces using spit hoods include specific reference to potential dangers or risks of using them on children.

## Courts and legal proceedings

### Child defendants not given enough support

A system of specialist youth courts exists in England but clear breaches of the CRC have been found, for example, children being unable to understand what is happening in court and lack of appropriate training for those working on children's cases.<sup>21</sup>

In 2016, steps have been taken to ensure those involved in children's cases have appropriate training including development of toolkits<sup>22</sup> and training courses<sup>23</sup> on best practice and children's

## Case study

### Use of Spit hoods

Sophie\*, an 11 year old girl with a rare neurological disability similar to autism, was hooded, restrained and detained in police custody for a total of more than 60 hours.

Sophie's condition means she can become upset when over-stimulated and can sometimes spit out of frustration. Between February and March 2012 she was detained in police stations by Sussex Police on four separate occasions: once under the Mental Health Act and three times for minor offences committed after she became distressed.

Her mother said:

*'It was very traumatic for Sophie to be hooded by police officers. Due to her disability she finds it very upsetting to have someone even touch her head. Having strangers put a bag over her head when she was already extremely distressed was profoundly shocking for her.'*

Sophie was twice held in cells overnight but the police refused to let her mother see her. Even though she spent over 60 hours in custody on four separate occasions, Sussex police repeatedly failed to provide Sophie with an appropriate adult: despite the clear legal requirement that officers must ask for one to attend a police station to support a child as soon as possible after their detention.

In June 2016 the IPCC found 11 officers and one police staff member had cases to answer for misconduct and criticised a *'widespread failure by Sussex police officers to document their use of force in relation to [Sophie]'* adding: *'using force on a person so young and vulnerable is a grave occurrence.'*

In response, Sussex police said it has updated its training on the use of spit hoods. The force has not changed its policy to ensure officers are prohibited from using spit hoods on children.

\* Not her real name

rights for lawyers practicing in the youth court. However, serious concerns remain about the level of support available to child defendants, in the form of intermediaries, to enable them to participate effectively.

### Improved treatment of child victims and witnesses

Following a court ruling in 2015,<sup>24</sup> the legal profession has developed new guidelines and training on the use of less intrusive techniques for cross-examination of child victims and witnesses.<sup>25</sup> The Government doubled the number of Witness Intermediaries at the end of 2015 to help child victims and witnesses give evidence and, from 2017, courts will roll out recorded pre-trial cross-examination in the Crown Courts so that vulnerable witnesses do not have to give their evidence at trial.<sup>26</sup> This is an improvement that the UN Committee urged the UK to make.<sup>27</sup>

### Inadequate reporting restrictions

Courts in England have powers to restrict the identification of children appearing in court proceedings but significant gaps remain: the new anti-social civil injunctions presume that children subject to an injunction will be publicly named unless the court orders otherwise<sup>28</sup> and; new powers to impose lifelong reporting restrictions in criminal proceedings to children who are witnesses and victims do not extend to child defendants.<sup>29</sup> This means a child defendant can be identified when they turn 18, contrary to the child's best interests.<sup>30</sup>

### Sentencing not meeting child rights standards

Contrary to the UN Committee's recommendation<sup>31</sup> between 10 and 25 children are given mandatory life sentences each year.<sup>32</sup> In November 2016 a review of race and disproportionality in the criminal justice system revealed that, of those convicted at magistrates' court, **for every White child sentenced to custody, 1.2 Black and approximately 1.4 mixed ethnic boys received custody.**<sup>33</sup>

## Children in custody

### Custody not used as a last resort

By August 2016, the population of the youth

secure estate had fallen to 881, a reduction of more than 70% since August 2008. Although welcome, detention is still not used as a last resort and England and Wales still have the highest child custody rate in Western Europe.<sup>34</sup>

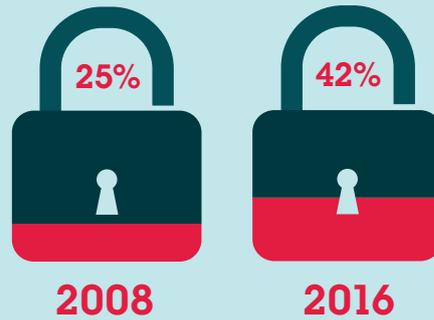
In 2016, the UN Committee recommended the UK: *'establish the statutory principle that detention should be used as a measure of last resort and for the shortest possible period of time and ensure that detention is not used discriminatorily against certain groups of children.'* However:

- Children continue to be sentenced to custody for breaching community orders, for minor offences and for failing to comply with civil orders where the behaviour itself is not a criminal offence
- Children are not being detained for the shortest possible period of time. The average length of time spent in the youth secure estate has increased from 82 days in 2011 to 100 days in 2015. In 2014/15, 23% of the average population of children in custody were on remand. Of these 63% were eventually given a non-custodial sentence (including 25% who were acquitted).<sup>35</sup> The average length of time that children on remand spend in custody has increased by a week: from an average of 45 days in 2012/13 to 52 days in 2014/15<sup>36</sup>
- Children with experience of care are overrepresented in custody. In May 2016, an independent review<sup>37</sup> found that **around half of the 1,000 children currently in custody in England and Wales have experience of the care system.** This is despite fewer than 1% of all children in England, and 2% of those in Wales, being in care
- There has been an increase in the overrepresentation of BAME children in the youth secure estate: in August 2008, black and minority ethnic children made up just over 25% (778) of the imprisoned population; by August 2016, they accounted for more than 42% (373)<sup>38</sup>

The National Association for Youth Justice has highlighted that *'while the number of children in custody has declined those 'left behind' are typically more vulnerable, more disadvantaged'*<sup>39</sup> and Her

Between 2008 – 2016, the number of children in the secure estate fell by more than 70% (from 3,019 to 881)

**At the same time the proportion of black and minority ethnic children increased from 25% to 42%**



Majesty's Inspectorate of Prisons (HMIP) annual survey of children in custody for 2015/16 shows that of all children in Secure Training Centres (STCs) and Young Offender Institutions (YOIs):

- 20.5% said they had a disability
- 25% said they had emotional or mental health problems
- 33% said they had a problem with drugs when they first arrived
- 10% had children themselves<sup>40</sup>

### Poor conditions in custody

#### Contact with family and carers

To facilitate visits, children should be in institutions as close as possible to their family (unless this is not in their best interests). The interim report of the Taylor review noted the fall in the number of children being held in custody has meant that children are now being held further from their homes, undermining resettlement efforts.<sup>41</sup> HMIP's most recent survey of children's experiences in custody found that while the majority of children (89%) in STCs reported that it was easy to keep in touch with family or carers, only half the children (51%) said they received a visit from their friends or carers at least once a week. **In YOIs only one in three boys (33%) had one or more visits from family or friends each week.**<sup>42</sup>

#### Education

Like all other children, children in custody have a right to education. The interim report of the Taylor review highlighted the importance of this and noted that while new education contracts should be ensuring 30 hours of education a week, children, on average, were only gaining access to 17 hours a week.<sup>43</sup>

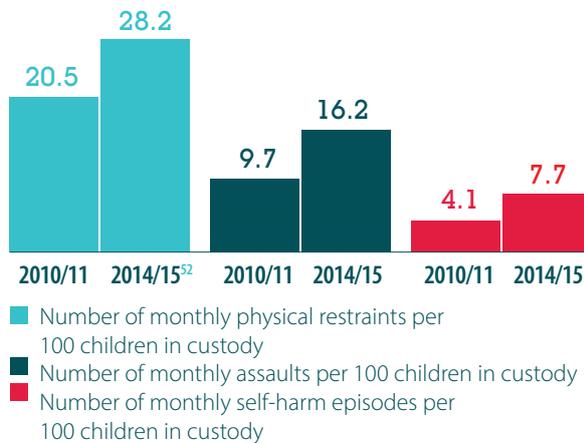
In 2015/16, just over two-thirds (68%) of children in STCs told inspectors they had been able to learn skills for jobs they might want in the future and a similar number (66%) felt that the education they had received would help them on their release. However, despite the falling numbers of children in custody, **the proportion of boys in YOIs reporting that they were engaged in some form of education (76%) or vocational and skills training (11%) was lower in 2015/16** than in any previous reporting year since 2010/11.

#### Safety

The UN Committee recommended that the UK introduce automatic, independent and public reviews of any unexpected death or serious injury involving children in custody. Though there have not been deaths of children in custody since January 2012 (when 15 year old Alex Kelly and 17 year old Jake Hardy took their own lives), during 2015/16, official inspections of YOIs found significant failings in the areas of safety and activity; only one YOI was judged to be sufficiently safe. Inspectors found that for too many children in custody, violence, bullying and intimidation were a regular feature of life.<sup>44</sup>

Safety for children held in STCs has deteriorated. In 2016 a BBC Panorama programme<sup>45</sup> showed appalling mistreatment of children in G4S-run Medway STC. The Independent Improvement Board which followed found a lack of clarity around the purpose of STCs, and a culture within Medway that emphasised control and contract compliance rather than rehabilitation. The Board expressed concern over how the Youth Justice Board was managing its contracts with private providers and monitoring safeguarding.<sup>46</sup>

**Figure 2: Official statistics show the use of restraint, levels of assault and self-harming have risen over the last five years**



Children's own experiences of custody reflect this unsafe environment. An HMIP survey found:

- 23% of children in STCs reported feeling unsafe at some point since their arrival and 31% reported being victimised by being shouted at through windows
- **Nearly half (46%) of boys in YOIs said they had felt unsafe at their establishment at some point** - the highest figure HMIP has ever recorded<sup>47</sup>

### The use of force

The UN Committee has been clear: *'Restraint or force can be used only when the child poses an imminent threat of injury to him or herself or others, and only when all other means of control have been exhausted'*<sup>48</sup>

Following the deaths of two children in custody in 2004 after the use of restraint, a new system - Minimising and Managing Physical Restraint (MMPR) - was introduced, which focusses on de-escalation. In 2015, HMIP reviewed the implementation of the MMPR and, whilst improvements were noted, HMIP found work was needed to reduce the risk to children while being restrained.<sup>49</sup> The new system still includes techniques which involve the deliberate infliction of pain on children, and one technique - the head hold technique - which was considered dangerous by the independent panel which reviewed the system.<sup>50</sup> Staff are permitted to use force on children in custody in a broad range of

circumstances and, in YOIs, in order to maintain "good order and discipline".<sup>51</sup>

The HMIP 2015/16 survey found:

- Approximately a third of children (32%) in STCs reported being restrained since their arrival. More than two-fifths (45%) of boys reported being restrained while in YOIs
- Boys who had been restrained in YOIs were more likely to have been from a Black or minority ethnic background (57% compared with 37%); been in local authority care (43% compared with 32%); or been excluded from school (93% compared with 82%)<sup>53</sup>

### Solitary confinement and isolation

The UN Committee called for a prohibition on the use of solitary confinement, echoing calls by the UN Special Rapporteur on Torture<sup>54</sup>.

In 2015, the Children's Commissioner for England found the use of isolation is common for children in custody and one in three detained children will experience it at some point. Those who might be considered particularly vulnerable are more likely to be isolated:

- Children with a recorded disability are two-thirds more likely to experience isolation as are children in care
- Children assessed as a "suicide risk" are almost 50% more likely to be separated from their peers
- **Black and mixed race children are subject to isolation at three times the rate of their White peers**<sup>55</sup>

HMIP's survey found that in 2015/16:

- Almost half of children in STCs (48%) said they had been made to stay in their room away from the other children because of something they had done
- A quarter of boys in YOIs said they had spent a night in the segregation unit. Boys who had been to segregation were more likely to be from a BAME background and have been excluded from school<sup>56</sup>

## Recommendations

1. Police forces should be required 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.
2. The law should be changed so there is no "naming and shaming" of children in conflict with the law. The law should be changed: to include a presumption that the privacy of children involved in criminal proceedings will be protected; and to extend the power of the courts to protect the identity of child defendants after they reach the age of 18.
3. The use of Taser on children should be eliminated. As an immediate and interim 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 use of all harmful devices on children by police, including spit hoods, should be prohibited.
5. The Home Office should require police forces to collect and publish data around the use of more intrusive searches. Children should not be subject to strip searching unless absolutely necessary, and then only in the presence of an appropriate adult.
6. The number of health-based and alternative places of safety should be increased to ensure sufficient places are available and no child is detained in a police cell under mental health legislation.
7. Overnight police detention should only be used as a last resort; and there should be sufficient local authority accommodation to ensure that no child spends the night in police cells.
8. The Home Office should publish the concordat to improve the implementation of section 38(6) of PACE as soon as possible and review the impact on the numbers of children held in police custody after one year. All police forces and local authorities should be required to provide data to the Home Office specifying the number of children who are detained post-charge that are not transferred to the care of the local authority.
9. Section 104 of the Coroners and Justice Act 2009 should come into force as soon as practicable so that child defendants have the right to an intermediary in court where it is necessary for a fair trial.
10. A statutory safeguard should be introduced to ensure that children are only detained as a last resort and for the shortest time possible. The threshold for the use of custodial sentences should be increased; imprisonment for breach of community orders and civil orders prohibited.
11. The Ministry of Justice should take urgent action to address the increasing overrepresentation of BAME children in custody.
12. The use of prison-like institutions (YOIs, STCs) should be ended for children and replaced with care-based homes. Where children do need to be detained, they should be placed in appropriate, care-based homes.
13. Solitary confinement, or any conditions that amount to solitary confinement, should be abolished.
14. Restraint against children should only be used when the child poses an imminent threat of injury to himself or others, and it should never be used to deliberately inflict pain. All methods of physical restraint for disciplinary and immigration purposes should be abolished.
15. All institutional settings, whether run by the State or private organisations, should be open and transparent about their approaches to discipline and behaviour management.
16. There should be an independent and public inquiry into the unexpected death of any child who is looked after or held in custody.

## 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. Children's Rights Alliance for England (2015) *Civil Society Alternative Report 2015 to the UN Committee - England*
3. Ministry of Justice (February 2016) *Review of the Youth Justice System: An interim report of emerging findings*.
4. National Police Chiefs Council (2015) *National Strategy for the Policing of Children and Young People*
5. Op cit 1
6. Howard League for Penal Reform (2016) *Child arrests in England and Wales: research briefing*
7. Youth Justice Board/Ministry of Justice (2016) *Youth justice statistics for England and Wales 2014/15*
8. Op cit 8
9. Op cit 1
10. LASPO also introduced conditional cautions, allowing the attachment of conditions which, if breached, may result in prosecution for the original offence (LASPO, s. 138 and Crime and Disorder Act 1998, s. 66A as amended). The conditional caution will form part of the child's criminal record and may have to be disclosed, for example, to future employers - undermining a child's chance of rehabilitation.
11. NPCC collated data available via: [www.npcc.police.uk/documents/S136%20Data%202015%2016.pdf](http://www.npcc.police.uk/documents/S136%20Data%202015%2016.pdf) [last accessed: 17/11/2016]
12. 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*
13. Op cit 1
14. Her Majesty's Inspectorate of Constabulary (2015) *Stop and search powers 2: are the police using them effectively and fairly?*
15. Op cit 1
16. UN Committee Against Torture (2013) *Concluding observations on the fifth periodic report of the United Kingdom*
17. BBC News (30 January 2016) 'Child, eight, held overnight in custody'
18. Just for Kids Law (25 July 2016) 'Legal action as part of a campaign by Just for Kids Law prompts Islington Council into urgent review of children held in police cells overnight in the borough' Press Release
19. The Independent Police Complaints Commission investigated the death of Jonathan Pluck (in Cambridgeshire in 2009) and is still investigating the death of Terry Smith (in Surrey in November 2013).
20. BBC News (17 November 2016) 'Met to launch smaller spit hood pilot scheme'
21. Lord Carlile of Berriew, Chair, and others (2014) *Independent Parliamentarians' Inquiry into the Operation and Effectiveness of the Youth Court*. National Children's Bureau
22. Solicitors Regulation Authority (2016) *Youth court advocacy toolkit*
23. Youth Justice Legal Centre (1 November 2016) Press Release
24. R v Sandor Jonas [2015] EWCA Crim 562
25. Bowcott, O. (14 November 2016) 'New guidelines issued on questioning of vulnerable witnesses in court' *The Guardian*
26. House of Commons written answer (10 November 2016) C51605
27. Op cit 1
28. By dis-applying the Children and Young Persons Act 1933, s. 49. See Anti-Social Behaviour, Policing and Crime Act 2014, s. 17
29. Criminal Justice and Courts Act 2015, s. 78
30. See *R (on the application of JC) v Central Criminal Court* [2014] EWHC 1041 (Admin)
31. UN Committee on the Rights of the Child (2007) *General comment on children's rights in juvenile justice*
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## About CRAE

The Children's Rights Alliance for England (CRAE) works with 150 organisations and individual members to promote children's rights, making us one of the biggest children's rights coalitions in the world.

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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