

**Submission by the Howard League for Penal Reform to The Police Foundation
Call for Evidence for the Strategic Review of Policing in England and Wales**

Executive summary

- The vast majority of people who get into trouble with the police are vulnerable children and adults with underlying needs that should be met by other services
- Widespread failings by other agencies, particularly social services and health, are causing unnecessary contact between vulnerable people and the police on an enormous scale
- The reduction in the number of child arrests from 245,763 in 2010 to just over 70,000 in 2018 provides a striking example of excellent work by the police to prevent children from being unnecessarily criminalised and allowing scarce resources to be diverted to where they are most needed
- More work needs to be done to reduce unnecessary police contact with certain groups of children and to prevent their criminalisation, including: children from black, Asian and minority ethnic backgrounds; children who are or have been living in residential care; and child victims of exploitation
- Women are also being subjected to unnecessary or inappropriate police contact. Police are having to deal with all forms of unacceptable or disturbing behaviour. The criminal justice system is not designed to tackle the underlying causes of women's behaviour and often makes things worse, not better for women
- Data is key to tackling unnecessary and inappropriate demand. Police forces need to improve data management systems to facilitate recording, interrogation and monitoring of relevant data.

1 About the Howard League for Penal Reform

- 1.1 Founded in 1866, the Howard League is the oldest penal reform charity in the world. The Howard League has some 13,000 members, including prisoners and their families, lawyers, criminal justice professionals and academics. The charity has consultative status with the United Nations and the Council of Europe. It is an independent charity and accepts no grant funding from the UK government.
- 1.2 The Howard League works for less crime, safer communities and fewer people in prison. We achieve these objectives through conducting and commissioning research and policy work aimed at revealing underlying problems and discovering new solutions to issues of public concern, as well as through direct legal and participation work.
- 1.3 Our legal team works directly with children and young adults in prison aged 21 and under and provides legal advice and representation. The Howard League legal team runs a free, confidential legal telephone service that is free for young people to call without needing the permission of prison staff.
- 1.4 Over the last decade we have worked closely with police forces to understand what is driving demand and to address unnecessary and inappropriate use of the police. This work has included regular meetings and correspondence with police officers at all levels in forces across England and Wales; sitting on and contributing to panels and inquiries relating to police practice; presenting at police training events; and undertaking our own independent qualitative and quantitative research which is widely used to inform good practice. Our expertise in policing practice is also informed by relevant research and campaigning work with, amongst others, government, local authorities, youth justice staff in all parts of the system and children and adults who come into contact with the criminal justice system.
- 1.5 This response speaks to the questions raised in the Call for Evidence. We have drawn on our unique legal and policy work in preparing this submission.

2 Reducing unnecessary demand

- 2.1 The vast majority of people who get into trouble with the police are vulnerable children and adults whose needs would be better met by other services (see, for example, Bradley, 2009 and Prison Reform Trust, 2018). Widespread failings by other services, particularly social services and health, are leading to unnecessary contact with the police on an enormous scale.
- 2.2 Recent programmes of work at the Howard League have been focused on “stemming the flow” of children and women into the criminal justice system. Through our extensive research and policy work, much of it with the police, we have been able to show that children and women often can and should be kept out of the criminal justice system. Addressing the reasons for individuals

coming into contact with the police can prevent unnecessary criminalisation, with all the social consequences that flow from that, and allow scarce police resources to be re-directed to where they are most needed, such as tackling serious crime.

3 Reducing child arrests and unnecessary criminalisation

- 3.1 Since 2010, the Howard League has been campaigning to reduce the number of child arrests in England and Wales. We have worked closely with police forces across England and Wales to understand and tackle unnecessary arrests and criminalisation. In 2018, there were just over 70,000 child arrests in England and Wales, a 71 per cent reduction from the 245,763 child arrests in 2010 (Howard League, 2019a). We applaud the efforts of the police to keep children out of a system that will further damage them at long-term cost to individuals, families, public finances and public safety.
- 3.2 Police forces have been particularly successful in reducing the numbers of arrests of the youngest children capable of being held criminally responsible. In 2018, there were 383 arrests of primary school aged children, a 38 per cent reduction since 2017. Police efforts to keep very young children out of the system are in line with international standards which would see a much higher minimum age of criminal responsibility than is currently in place under English law (UNCRC, 2019).
- 3.3 Discussions we have had with police forces suggest that each arrest of a child costs the police a minimum of £500. There is therefore a clear pressing financial incentive for forces to continue the excellent work that has resulted in such significant progress since 2010.
- 3.4 In some areas, 2018 saw a plateauing of reductions in child arrests and in a worrying number of force areas (13) there was a small creep upwards. Political pledges to increase the numbers of new police officers on the street should not divert forces from continuing to target resources intelligently, or derail the tremendous success achieved in reducing child arrests over the last decade. More information about this work can be found on our website at www.howardleague.org.
- 3.5 The work we have done with forces to reduce child arrests, combined with knowledge from the Howard League legal team's direct work with children and young people, has highlighted to us that many children are still being pushed into the youth justice system unnecessarily and unfairly because of systemic failings across justice, social care and health systems. These include (i) children from black, Asian and minority ethnic backgrounds; (ii) children who are or have been living in residential care; and (iii) child victims of exploitation. Police forces should be aware of, and in a position to address, underlying causes in order to reduce demand on and appropriate use of resources.

Children from black, Asian and minority ethnic backgrounds

- 3.6 The discrimination against, and disproportionate representation of, children from black, Asian and minority ethnic groups is of grave concern. There are issues with the treatment and disproportionate representation of this group of children at all parts of the criminal justice system, as highlighted in the Lammy Review (2017). The police are the point of entry into the criminal justice system. Recent government data shows that children from non-white backgrounds are not benefitting from reductions in child arrests. In the last five years, the proportion of arrests for white children decreased from 76 per cent to 69 per cent. Over the same period the proportion of black children arrested increased from 12 per cent to 16 per cent (Ministry of Justice, 2019).

Children in residential care

- 3.7 Four years ago the Howard League launched a campaign to address concerns that the police all over the country had raised with us about the disproportionate and unnecessary criminalisation of children in residential care. The police told us that they were being called out too frequently by some children's homes and over matters "*which a parent would not have called the police about*".
- 3.8 In 2014, 15 per cent of children in residential care were formally convicted compared to four per cent of children in other types of care placements (mainly foster care) and one per cent of all children. During the course of the programme, levels of criminalisation have significantly reduced and in 2018 ten per cent of children in residential care were formally criminalised (Howard League, 2019c). It is the case, however, that the police still have high levels of contact with children's homes. Data we obtained from 26 police forces reported nearly 23,000 call-outs to children's homes during 2018; over half of these calls related to missing incidents (Howard League, 2019a).
- 3.9 There is what we describe as "a complex interplay of causative factors" that can lead to the criminalisation of children in residential care. Our research has found that systemic problems and failings on the part of social care, children's homes and the police are exacerbating children's vulnerabilities and making it more likely that they will be criminalised. We have found that good practices on the part of the police and other agencies can massively reduce police involvement resulting in correspondingly significant resource/ financial savings (see paragraph 6.2). Our briefings *Best practice in policing* (Howard League, 2017) and '*Know your numbers: Using data to monitor and address criminalisation*' (Howard League, 2019a) give more detail on this.
- 3.10 Children in care are also likely to have longer and harsher experiences of police custody than other children (Bevan, 2018) with significant implications for police resources. We addressed the reasons for this and set out practical ways in which this situation can be improved in our briefing *Representing looked-after children at the police station* (Howard League, 2019c).

- 3.11 More details about this work and links to all the briefings are on the programme website at <https://howardleague.org/our-campaigns/children-and-policing/programme-to-end-the-criminalisation-of-children-in-residential-care/>.

Victims of exploitation

- 3.12 The Howard League is conducting research into the interface between child criminal exploitation and residential children's homes, the results of which will be published in February 2020. It is clear that many – probably the majority of – child victims of criminal exploitation, are not being identified by the police and other agencies. All too frequently children are criminalised, for example, after being found in possession of drugs, rather than being recognised as victims of exploitation and supported and safeguarded. As mentioned above, 2018 saw a small upward creep in the numbers of child arrests in 13 police force areas. We have started to speak to forces about this and several have already indicated that increases may be linked to efforts to tackle county lines.
- 3.13 While there have been significant advances amongst the police and other agencies over the last couple of years there is still insufficient understanding and knowledge of the victim status of exploited children, of the National Referral Mechanism and of the defence under the Modern Slavery Act 2015. Clearly more needs to be done to understand the issues with a view to coming up with revised strategies that do not lead to children being unnecessarily criminalised.

4 Reducing the arrests of women and preventing criminalisation

- 4.1 The Howard League is conducting a programme of work to reduce the arrests of women. Building on our work to reduce the arrests of children, we are working with police forces across England and Wales to share best practice in keeping women out of the criminal justice system and to reduce arrests. Our work complements the government strategy for female offenders, published in 2018, which recognised that coming into contact with the criminal justice system undermined women's abilities to address the issues that had caused their behaviour. The Female Offender strategy can be accessed at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/719819/female-offender-strategy.pdf.
- 4.2 We are supporting the All-Party Parliamentary Group on Women in the Penal System's inquiry into the arrests of women.
- 4.3 There were 97,000 arrests of women in the year ending March 2019. Across England and Wales police are arresting women at a rate of one arrest every five minutes. The Government estimated that policing costs for dealing with women were approximately £1bn in 2015/16.
- 4.4 The number of arrests of women has fallen but at a slower rate than for children. Arrests of women fell by 53 per cent in the period 2010/11 to

2017/18. In the past year ending March 2019 arrests of women fell by 1.8 per cent. In 20 police force areas, arrests had risen since 2017/18.

- 4.5 As with children, we have concerns about disproportionality in the arrests of women. Black women are more than twice as likely to be arrested as white women according to Home Office data <https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/number-of-arrests/latest>.
- 4.6 Some police forces are reducing the arrests of women and using problem solving approaches to keep women out of the penal system. The APPG on Women in the Penal System heard evidence that Thames Valley police were looking at the underlying causes of problematic behaviour in individual cases and had sought ways to resolve issues rather than resorting to arrest. Avon and Somerset Constabulary had reduced the arrests of women by four per cent between 2017/8 and 2018/9 and were working with the women's centre in Bridgwater to offer support to women who needed it without arresting or charging them. However too many women are being arrested when it is unnecessary or disproportionate.

5 The police are too frequently fulfilling the role of other agencies

- 5.1 Through our extensive research with the police and others, details of which we summarise in paragraph 1.4, we have seen that the police are frequently fulfilling the role of other agencies. We recognise that this is often done with the best of intentions and because other agencies are failing to fulfil their statutory duties. However, as we say above, unnecessary police contact runs the risk of exacerbating rather than addressing problems at a cost to the police, the individual concerned and society. We provide specific examples below drawing, as above, on our work with children and women.

Children

- 5.2 One officer who spoke to us at a police training event we presented at, told us that he had attended a children's home first thing in the morning to get a child out of bed and encourage them to go to school. We have heard at meetings with the police of children being kept in police cells overnight because social workers are unavailable and beds cannot be found. Officers have told us that they have taken children into custody or kept them there for longer than necessary in order to safeguard them and because they are unable to contact social services. We hear from children's homes workers and police officers of understaffed, undertrained and under-resourced children's homes calling the police because children will not go to bed or because they need someone to collect a child who is "missing" from a known location. We also hear of the difficulty in getting social services departments to respond to issues outside 9-5pm office hours. All too often the police are called in when no-one else is around.

- 5.3 Unnecessary contact with the police as a result of failings by the systems that are supposed to be caring for children is damaging to children. We consider how it can lead to formal criminalisation or contribute to a process of criminalisation in our briefing *Best practice in policing* (2017). It is also, of course, a huge driver of demand for the police who are being called upon to do the job that others, such as private children's homes and local authorities, are getting paid to do and that they are required to do by law.
- 5.4 We have found that it is frequently the police who initiate and co-ordinate local multi-agency work to reduce criminalisation. For example, local protocols designed to reduce the criminalisation children in care are very frequently driven by the police. The government's *National Protocol on reducing unnecessary criminalisation of looked after children and care-leavers* (Department for Education, 2018) is clear that responsibility for addressing this problem lies with all relevant agencies, not just the police. More responsibility needs to be taken particularly, in our experience, by local authorities and health services, to driving multi-agency work to keeping children in care out of the criminal justice system.

Women

- 5.5 The Ministry of Justice strategy for female offenders (2018) recognises that women in contact with the criminal justice system are amongst the most vulnerable in society and have experienced chaotic lifestyles involving substance misuse, mental health problems, homelessness and abuse.
- 5.6 The police frequently come into contact with women who have unmet needs. The failure of statutory services to provide adequate support to women is impacting on the criminal justice system and on the police, whose service is available 24 hours a day.
- 5.7 The scaling back of public services and resources to support vulnerable women, such as drug and alcohol services, mental health provision, services for women who are victims of domestic abuse and housing is likely to drive up demands on the police. Police are women's first point of contact with the criminal justice system and they are frequently called upon to deal with challenging behaviour by women, often caused by underlying issues which have not been resolved or addressed.
- 5.8 Police are being asked to divert women from the criminal justice system where appropriate. However, women can only be diverted if there are appropriate and funded gender-specific services to divert them to.
- 5.9 Questions should be asked as to whether the police are best placed to act as a conduit to support services for vulnerable women. Whilst the intentions behind diversion are worthy, it would be better if women and girls were offered support when they need it and did not have come to the attention of the police first before their needs are recognised and addressed.

- 5.10 There will be women who come into contact with the police who do not require support. For example, women who are drunk and argumentative. Police officers do have discretion regarding the use of arrests and should not be unduly pressured into arresting people when it is not necessary or appropriate. It should not be the job of the police to deal with all forms of unacceptable behaviour. It does not serve the public interest and can make matters worse for women. It also impacts on police resources.

6 The need to improve data systems

- 6.1 Better recording, interrogating and monitoring of data is key to reducing unnecessary and inappropriate demand on the police.
- 6.2 Through our work with police forces, we have identified a number of cases where good use of data has enabled forces to address unnecessary criminalisation and reduce demand. For example, West Mercia Police reviewed all the calls they received from children's homes in Shropshire from April 2014 to December 2015 to assess what percentage of calls were inappropriate. The force worked closely with children's homes and by December 2015 total call outs were down significantly. The percentage of appropriate calls throughout the area rose from a low of 18 per cent to 56 per cent at the end of the test period. The biggest improvements were seen in the three children's homes companies that had been causing most concern; one company rose from a low point where none of the calls were deemed appropriate to 100 per cent of calls being found to be an appropriate response in less than a year. Dorset Police reduced total call-outs from homes by 49 per cent within a period of months through a combination of police and police-led multi-agency initiatives.
- 6.3 There are significant costs savings to be made by addressing unnecessary and inappropriate demand. One force we spoke to estimated that each call-out from a children's home cost it about £2,500. They had calculated that for the two homes that were calling them out most frequently it would be cheaper to put an officer on the front reception of those homes 24 hours a day everyday rather than deal with call outs on an individual basis.
- 6.4 This kind of analysis of financial savings is not straightforward or without contention but what is clear is that valuable financial and efficiency savings can be made evidencing issues and working with other agencies to sort out solvable problems. The starting point to doing this is having the data available that identifies and evidences the problem.
- 6.5 Work we have done with forces has highlighted issues with police data recording systems, for example, we have come across forces that are unable to provide data on child arrests and many that are unable to quantify the contact they are having with children's homes. When we obtained the child arrests data 2018, there was no ethnicity data in relation to nearly 4,000 arrests. We believe that improving police data systems could have a huge impact on demand and resources.

7 Conclusion

- 7.1 The Howard League would like to see the police addressing unnecessary and inappropriate use of their services. This will protect vulnerable groups and society from the long-term damage that can be caused by contact with the criminal justice system as well as reducing demand on police resources.
- 7.2 We are concerned that the police are being called upon to fill the gaps being left by agencies and organisations that are failing to fulfil their statutory responsibilities. We believe that the police need to be able to evidence when this is happening using data available within forces and that they should provide a robust response to address issues.
- 7.3 This submission provides a snapshot of the wealth of knowledge and experience the Howard League has about stemming the flow of children and women into the criminal justice system. We would welcome the opportunity to provide additional information and to assist The Police Foundation further with its Review.

**Howard League for Penal Reform
17 December 2019**

References

Bradley, Lord (2009) *The Bradley Report. Lord Bradley's review of people with mental health problems or learning disabilities in the criminal justice system*. London: Prison Reform Trust

Department of Education (2018) *National Protocol on reducing unnecessary criminalisation of looked after children and care-leavers*. London: HM Government

Howard League for Penal Reform (2019a) *Child arrests in England and Wales 2018. Research briefing*. London: Howard League for Penal Reform.

Howard League for Penal Reform (2019b) *Representing looked-after children at the police station: a step-by-step guide for lawyers*. London: Howard League for Penal Reform.

Howard League for Penal Reform (2019c) *'Know your numbers': Using data to monitor and address criminalisation*. London: Howard League for Penal Reform.

Howard League for Penal Reform (2017) *Ending the criminalisation of children in residential care. Briefing two: best practice in policing*. London: Howard League for Penal Reform.

Lammy, D. (2017) *The Lammy Review. An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System*. London: HM Government

Ministry of Justice (2019) *Statistics on Race and the Criminal Justice System 2018. A Ministry of Justice publication under Section 95 of the Criminal Justice Act 1991*. London: HM Government

Ministry of Justice (2018) *Female offender strategy*. London: Ministry of Justice https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/719819/female-offender-strategy.pdf

Prison Reform Trust (2018) *Bromley Briefings Prison Factfile. Autumn 2018*. London: Prison Reform Trust

United Nations Committee on the Rights of the Child (2019) *General comment No. 24 (2019) on children's rights in the child justice system*. Geneva: United Nations Committee on the Rights of the Child