



### **Does the UK Justice System protect the public?**

Justice is the predominant principle around which every country in the world has centred its legal system. Courts of law were created with the sole purpose of protecting the public. Fairness has been at the roots of common law since its inception in the eleventh century in the UK. So why does the question 'Does the UK Justice System protect the public?' even need to be asked? Why, if the system supposedly exists to enforce a democratic society, does it pose such a complex and convoluted query? After the doctrine of the separation of powers in the eighteenth century, the legal system has endured as an independent judicial branch, tasked with interpreting the law and administering justice. Today, the intricacies of the judiciary prevent some people from procuring the justice they deserve. Though this is an extremely broad topic, I will be focusing on the damaging effect of stop and search policies, examining how effective incarceration is in terms of preventing reoffending and how as a society, we can correct and regulate major flaws of the legal system to ensure everyone receives a fair trial.

The stop and search policy has been used since the introduction of the Police and Criminal Evidence Act of 1984. It allows for bias against targeted communities and this culminates in a lack of trust in the policing system. There are a disproportionate number of BAME people stopped by the police and one of the reasons for this is likely to be institutional racism. According to the official government statistics, there were only 6 stop and searches per 1000 white people and 64 stop and searches per 1000 black people. In a study by Ben Bradford and Matteo Tiratelli published

in 2019, <sup>[1]</sup> evidence shows stop and search has very little effect on tackling crime and it would take a vast increase in the number of stop and searches in all areas to reduce crime by even a minimal amount. As this method is so prone to prejudice and has not proved preventative, I would suggest other policing tactics to combat crime instead.

There are also large geographical disparities when it comes to the frequency of stop and search use in the UK; meaning some areas have a low crime rate and are functioning without frequent stop and search use, therefore telling us that other tactics, when used effectively, are proving just as useful at keeping crime rates down. The most frequent use of stop and search is for possession of drugs <sup>[2]</sup>. Arguably, this is a very poor use of policing tactics as arresting the possessor and not the supplier does not deal with the root of the problem. Moreover, stop and search is not an evidence-based tactic, no intelligence is required beforehand and the police use this tool spontaneously, which furthers the imbalance in the criminal justice system. Furthermore, stop and searches under the Criminal Justice and Public Order Act of 1994 (Section 60) are rising again, with black people being 18.1 times more likely to be searched than a white person and the rate of finding a weapon under these searches being only 3.7% in 2019 and 2020. <sup>[3]</sup>

It seems both impractical and irrational that prison systems are widely used around the globe and yet reoffending rates are high. In the UK, 47% of convicted adults reoffend within one year <sup>[4]</sup> and this increases in young offenders with a reoffending rate of 75%. Compared to many countries in Europe, England and Wales have a significantly high incarceration rate at 153 per 100,000 individuals as opposed to France, which has a lower rate of just 96 per 100,000. I believe incarceration is especially ineffective as it institutionalizes criminals which then makes life outside prison extremely difficult. Even basic tasks such as finding employment can be hindered by time in the prison system. Notably, for offenders who have committed crimes such as homelessness (which has been illegal since the Vagrancy Act of 1824), incarceration is not an effective way of making our society safer because the individual needs assistance and support rather than punishment.

For people who are suffering from drug addiction, imprisonment is ineffectual as rehabilitation is needed to stop the cycle of addiction. Extensive amounts of money have been poured into the prison system over recent years and it is estimated that today, reoffenders alone cost taxpayers £11 billion per year. It is evident that we need a better system to lower the reoffending rate and give help to those who need it. For example, if we shifted funding to invest in more local education centres, rehabilitation and professionals for those suffering from mental health problems, we would be directly helping individuals before they become trapped in the prison system.

Additionally, for offenders whose crimes are non-violent, community service hours and classes at local education centres could be given in addition to professional help.

The right to a fair trial is considered to be a basic human right, as outlined in Article 6 of the Human Rights Act. One extremely important aspect of this Act is guaranteeing trials are affordable. Law courts should make justice freely and readily accessible for everyone. Unfortunately, in today's society, this is not the case. Recent reductions and cuts to legal aid funding have meant access to courts has been impeded for those with low incomes. As of 1979, approximately 79% of the UK public were eligible for legal aid, contrasting to the 2010 statistic that only 29% were covered <sup>[5]</sup>. The rhetoric that our legal system is one of the most expensive in the world and cutting funding is beneficial for the taxpayer has been extremely damaging. The criteria of means testing for access to legal aid has increased dramatically, denying people their fundamental right to appear in court. Furthermore, some people earn just enough to be refused legal aid but are still expected to give up large proportions of their savings or income in addition to selling assets in order to pay for legal representation. This has resulted in a drastic drop in the number of cases filed at court because people simply cannot afford to pay for justice. In the Magistrates' court, anybody with an annual gross income over £22,325 does not receive any legal aid <sup>[6]</sup>. A person and their partner would have to be working under minimum wage to qualify for help.

Juries are also an essential element of a fair trial in certain courts. However, with the broad scope of social media and internet use today, it is not guaranteed that the jury will not see material that influences their decision. Since the 2015 Criminal Justice and Courts Act (Section 77) <sup>[7]</sup>, it has been a criminal offence to research the case the juror is trying. Although there have been previous convictions for this offence, the law needs to be updated and clarified on internet use during a trial. Particularly in high profile cases, it is easy to unintentionally let the media influence decisions when news about the trial is widely reported on multiple social media outlets. These comments are often biased and can influence a juror's decision. Despite the laws surrounding publication of details of the case, it is not possible in today's reality to isolate the jurors from receiving only information presented by the court. Short of banning all use of social media and internet access during the period of a trial, it is possible a juror's decision will be shaped by media outlets. In a research undertaken by University College London about juries and internet accessibility, approximately 1 in 4 jurors responded that were unsure about rules of internet use in the courtroom <sup>[8]</sup>. To combat this area of jury misconduct, I suggest restricting the use of social media platforms to eliminate bias

from the jury panel and increase the maximum fine for this criminal offence in the hope that it will deter others.

In conclusion, I do not believe the UK justice system fully protects the public. Our justice system is far from perfect and it is imperative we iron out the defects to ensure it is a fair system for all. Additionally, we need to reform the prison system and instead of channelling funding into building more prisons, direct capital towards preventing people from committing crimes in the first place. Our police have to start using different tactics to stop and search, which has been proved damaging and counterproductive numerous times. If we can achieve these changes, I believe we can make the society we live in a significantly safer place for everyone. In the words of Martin Luther King: 'Injustice anywhere is a threat to justice everywhere'.

[1] Tiratelli M. and Bradford B., 2019, Does Stop and Search reduce Crime?, Centre for Crime and Justice Studies.

[2], [3] Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services, 2021, Disproportionate use of police powers: A spotlight on stop and search and the use of force.

[4] Lyon, J., 2010, More prisons are not the answer, London, The Guardian newspaper.

[5], [6] The Secret Barrister, 2020, Fake Law: The Truth About Justice in an Age of Lies, 1st ed., Croydon, Picador.

[7] Crown Prosecution Service, 2017, Juror Misconduct [online], London, Available from: <https://www.cps.gov.uk/legal-guidance/juror-misconduct-offences>, [Accessed 15 August, 2021]

[8] Thomas, C., 2013, 'Almost a quarter of jurors confused about rules on internet use during a trial' [Online], University College London, Available from: <https://www.ucl.ac.uk/news/2013/may/almost-quarter-jurors-confused-about-rules-internet-use-during-trial>, [Accessed 13th August 2021]