

Metropolitan Police deny due process to British youth

Robert Stevens
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Three weeks after the outbreak of widespread rioting in London, the Metropolitan Police continue to hunt down anyone suspected of involvement.

So far, the Metropolitan Police have arrested 2,006 people, including hundreds of juveniles. Of these, 1,135 people have been charged. The Met estimates that it will eventually arrest more than 3,000 people in London.

In carrying out this manhunt, the *Guardian* newspaper revealed this week that the Metropolitan Police have been operating what can only be described as an illegal “prisoner processing strategy”. A document was circulated to every investigation officer as part of Operation Withern, set up by the Met, in response to the disturbances.

Available here, the document proposed that no one arrested be allowed to be freed by giving them a caution, regardless of the offence. It also requests that everyone arrested be held in custody and recommends that bail should be denied when the case first goes to court.

“A strategic decision has been made by the MPS [the Met] that, in all cases, an application will be made for remand in custody both at the police station, and later in court”, it states.

The Met argues, “The volume of prisoners being processed makes it impractical to bail for the purpose of protracted investigation. Where evidence of an offence exists charging authority should be sought, that is likely to mean that the threshold test is applied.”

The test referred to allows prosecutors to lower the burden of proof needed to keep someone in custody only where there is reasonable suspicion and prospect of a conviction, and where there is a substantial risk to the public if they are released.

Against this, the Met have been charging suspects before collating all of the evidence required and before making basic necessary enquires. This is justified on the basis that the process of examining CCTV footage and

other enquires is not yet possible, “due to the ongoing public disorder in and around London”.

The document became public after it was obtained by the solicitors Hodge, Jones & Allen, who are seeking a judicial review of the decisions of the police to refuse bail to one of their clients. They are defending a 25-year-old mother of two whom the Metropolitan police decided not to bail after she was arrested with £2,500 worth of goods following the riots. There is no evidence that she was involved in any rioting or looting of shops.

Edward Kirton-Darling, a solicitor from Hodge, Jones & Allen, said he considered the policy outlined in the document to be unlawful. “The right to bail is a long-standing and essential part of our criminal justice system. It should be carefully considered and each case should be looked at on its own merits,” he said.

He added, “In relation to the riots, it seems that the Metropolitan police took a strategic decision to apply a blanket ban and deny everyone bail, no matter what their circumstances. I consider this policy is unlawful as a result.”

In its letter to the Metropolitan Police, Kirton-Darling pointed out that such a policy was in breach of Article 5 under the European Court of Human Rights, which guarantees an individual’s liberty and security.

In response to the report in the *Guardian*, the Metropolitan Police issued a bald statement claiming that at “no point does the guidance issued to officers suggest that all persons arrested should be held in custody nor that cautions or other disposals are inappropriate in relation to Operation Withern.”

Comments from the Met cited in the *Guardian* make clear that the issuing of such draconian guidance was bound up with “courts sitting extended hours” to process the hundreds of initial cases that were brought before them, following mass arrests during and following the riots. The Met said that “the recommendation that those

charged were remanded in custody was made to ensure cases were dealt with quickly and again to protect the public from potential further disorder.”

The Met statement attempted to deny that such a blanket policy was in existence by citing figures showing that by August 22 they had arrested a total of 1,881 people, of which 1,063 have been charged. According to the figures, 623 people have been bailed to return pending further inquiries. In what appears to be a clear indication that the “no caution” policy was in operation, the figures in fact reveal that just 17 people, out of 1,881, were cautioned.

Hundreds, if not thousands, of people now face jail sentences as a result of this unprecedented dragnet. All told, 1,406 suspects have now had an initial hearing at a magistrates’ court. For those cases where the defendant is on remand, 62 percent were remanded in custody. Last year, just 10 percent of people brought before magistrates’ courts were remanded in custody. As is the case nationally, many are being remanded by magistrates’ courts, as they are only able to sentence people for up to six months in prison, or impose a £5,000 fine. If sent to crown court, a 10-year prison sentence can be handed down for offences such as burglary or riot.

This week, the first of those charged in London appeared at Wood Green Crown Court. One man was sentenced to 20 months in jail for violent disorder and another sentenced to six weeks imprisonment for possessing an offensive weapon in Enfield during the riots.

The uncovering of the Met police guidance follows the disclosure last week that courts were imposing the harshest sentences on those charged with involvement in the riots, on the basis of a government directive. Novello Noades, chair of Camberwell Green Magistrates’ Court in London, said before open court, “Our directive [from Her Majesty’s Courts and Tribunals Service] for anyone involved in the rioting is a custodial sentence”.

She later said she did not mean to use the term “directive”.

Nationally, the most draconian sentences continue to be handed down for the pettiest of offences. On Thursday, 21-year-old Anderson Fernandes, who took an ice cream cone from a patisserie in Manchester after finding the door ajar during rioting on August 9, was jailed for 16 months. Another man, Jason Aitchison, 27, was sent down for four years, even though he had not stolen anything after a break-in at a jeweller—saying he did so “for a laugh”.

Unprecedented attacks on democratic rights are being

carried out. Children as young as 11 have been dragged before the courts and juveniles stripped of their right to anonymity. This week, a 12-year-old boy from Merseyside was arrested on “suspicion of violent disorder and criminal damage”. A 16-year-old, Johnny Melfah from Worcestershire, was stripped of his anonymity this week after a court order was lifted.

Since 1933 and the introduction of an act of Parliament enforcing anonymity for juvenile offenders, only Melfah and three other children have ever been named.

On August 9, Prime Minister David Cameron spoke before a specially convened session of a recalled parliament after initiating the national crackdown, via the government’s emergency Cobra committee. In answer to a question by a Conservative MP whether the national football stadium should be used to detain those arrested en masse, Cameron said this would not be required, but told Parliament approvingly, “One police chief told me yesterday that it is time to tear up some of the manual on public order and restart it.”

One day later, in authorising the use of water cannons in mainland Britain, Cameron said, “Whatever tactics the police feel they need to employ, they will have legal backing to do so”.

The reality of this “legal backing” is the juking of democratic norms and the denial of the basic tenets of the rule of law to thousands of people in Britain, including hundreds of juveniles.

The London arrests are part of more than 3,000 already carried out nationally. In Birmingham, in the West Midlands, police have detained 523 people and charged 158 people with offences. Police in Merseyside have arrested more than 200 people. As of Monday, Greater Manchester Police (GMP) had arrested 295 people and charged 194. Forty-one cases have been heard in Manchester courts, with 32 people receiving a custodial sentence. The 32 jailed have been sentenced to an average of nearly 16 months in a prison or young offenders institution.



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