



Ministry
of Justice

Tackling Racial Disparity in the Criminal Justice System: 2020 Update

**Includes progress responding to the
Lammy Review into the treatment of,
and outcomes for, Black, Asian and
Minority Ethnic individuals in the
Criminal Justice System**

February 2020



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Foreword

I want people to have confidence in a justice system that is fair, open and accessible to all – one where no person faces discrimination.

The current over-representation of people from racial and ethnic minorities in the Criminal Justice System (CJS) is a serious concern and something I have seen first-hand over a 25-year career working in the system. Making strides to address this is a focus for me personally as the Lord Chancellor and Secretary of State, and for the Ministry of Justice as a whole, and the many agencies and partners with whom we work.

David Lammy MP's 2017 review shone an essential light on disparity in the treatment of, and outcomes for, Black Asian and Minority Ethnic (BAME) people. Two years on from Government's first response to the review, I am proud to set out in this report a comprehensive programme of work designed to address inequalities right across the board. I am pleased to say that our work is richer thanks to engagement by BAME-led organisations and individuals with lived experience.

This work spans young people as well as adults and ranges from charging decisions right through to rehabilitation. This is the right approach because the system itself is not a single entity – it is an eco-system of interconnecting and mutually dependent parts. If we are going to turn the dial on racial disparity then we need to take a whole system approach.

I am pleased that we are taking significant action today. For example, in Youth Justice we are providing tools to help frontline services better understand and address the needs of BAME children, working with the Magistrates Association to build awareness of disproportionality, and helped to secure £1m in funding to harness the power of sport to improve outcomes for BAME children at risk of entering the system. In prisons we are improving how we handle complaints, the use of force, and the system of incentives.

We are committed to learning and improving, which is why we are publishing ever more data split by ethnicity, as well as trying innovative ways to tackle racial disparity. Trials are underway with probation teams writing pre-sentence reports to eliminate bias, and with police forces around opportunities for early rehabilitation.

It is crucial, if everyone is to have confidence in our system, that the people working in it reflect the diversity of Britain today. We are taking positive steps on this – working towards our target of 14% BAME new starters in the prison and probation service; and getting 55 talented BAME Lawyers into the latest round of a programme to support under-represented individuals interested in joining our world-class Judiciary.

Making progress on racial disparity in the Criminal Justice System requires challenge to accepted norms right across the system and it will therefore take time. But by focussing in the right areas, maintaining momentum, and being ambitious for change, it is possible. Ultimately, racial disparities do not just hold back individuals in our society, they prevent us as a nation from realising our true collective potential. That is something this government is determined to challenge.

Rt Hon Robert Buckland MP

Lord Chancellor & Secretary of State for Justice

Introduction

1. This publication is intended to provide an overview of work undertaken and progress achieved by Ministry of Justice, our agencies and key partners, in tackling racial and ethnic disparity in the Criminal Justice System.
2. When Government responded in December 2017 to the Lammy Review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System, we committed to embedding a programme of work to address racial disparity within the CJS. There is now a wide-ranging programme of work in place – both responding to the 35 specific recommendations made by David Lammy MP and work taking the agenda above and beyond this. This publication follows a previous comprehensive update in 2018.
3. There remains an over-representation of ethnic minorities within the Criminal Justice System, and disparities in aspects of their treatment, which Government is determined to challenge and change. The Lammy Review offered a concerning picture of our Criminal Justice System, and provided deep and valuable insight into one area of life experienced by Black, Asian and Minority Ethnic people. The data picture is summarised in the Race and the Criminal Justice System statistics report which was published in November 2019. The systemic nature of disproportionality means that progress in tackling it is incremental and positive outcomes will take time to be reflected in official statistics. While progress in some areas will take time, it is nonetheless clear that the case to address disparities remains compelling.
4. Some principles inform our work, including:
 - a. a focus on ‘explain or reform’ – a structured approach to identify and address racial disparities, with a critical focus on solutions
 - b. working together with communities, individuals with lived experience and expert organisations, to identify the problems and work together on solutions
 - c. responsibility for tackling disparities being shared by all in the Criminal Justice System – striving for racial equality is not just an issue for those who are directly affected by it
 - d. a commitment to transparency and accountability in our work
5. A note on Terminology: We will use a range of terminology on race and ethnicity in this publication and at the same time recognise that no single term can encompass all lived experiences of all people, and many terms have fraught and complicated histories that elicit emotive responses. The term Black, Asian and Minority Ethnic

(BAME) is widely used within the Criminal Justice System to describe people who represent diverse racial and ethnic backgrounds. We understand that this term leaves little room for individuality or distinction, and are aware of the limitations of this term, and thus try wherever possible to put information into proper context or talk more specifically where a particular group is affected. For the purposes of this publication, we intend the most inclusive meaning in terms of the range of people of different races and ethnicities signified by 'BAME', and recognise that there is huge diversity within this term, the 'ethnic minority' category, and in preferences on language. As a note on best practice, where we refer to 'Race' we refer to those perceivable physical characteristics (inherited by birth) under which people have been historically categorised (Black, White, Asian, etc.). When we refer to 'Ethnicity' we can – depending on context – be referring to people with shared languages, cultures, religions, norms, practices, and lived realities (Judaism, Irish and Gypsy Roma Travellers, Han Chinese, etc.). As mentioned, these terms are not airtight and given the intricacies of human society there is much overlap. We are therefore working to use terminology critically and with an awareness of its limitations in signifying the breadth of the population.

Cross Cutting Work

Data

6. We are committed to improving collection and publication of data, and using this to inform our work to identify and tackle disparities across the CJS.
7. In November 2019 MOJ published the bi-annual [Race and the Criminal Justice System statistics](#) publication – this is a comprehensive tour of the latest data at all stages of the CJS.
8. In addition, to accompany this update we are providing for the first time a data sheet summarising data trends over the last five years split by ethnic group for key measures relating to race disparity in the Criminal Justice System – including police outcomes, Court data, offender management and professional diversity. The measures selected for this were informed by engagement with stakeholders, as well as work with policy and analytical teams. This will also be used by MoJ’s Race and Ethnicity governance board to keep oversight of progress and trends.
9. New ethnicity data published in response to the Lammy review recommendations will continue to be reported within our official statistics updates on gov.uk and we will work closely with the Cabinet Office Race Disparity Unit to identify other justice areas where further ethnicity data may be published on gov.uk, including the [Ethnicity Facts and Figures website](#) which is a popular resource for both the public and professionals.
10. Since our last overview update on activity tackling racial disparity (published October 2018) we have published a variety of additional data broken down by race for the first time. This includes [reoffending data](#) on all those released from indeterminate sentences, showing: a) a one-year reoffending rate; b) An index offence by reoffence table – to give an indication of reoffence seriousness; c) and reoffending rates by ethnicity. This addressed Lammy Review recommendation 23 and will be updated in future MoJ Race and the Criminal Justice System publications. In addition, linked to Lammy Review recommendation 3, the MoJ has published ethnicity breakdowns for prisoners given early release on [home detention curfew](#) (HDC) to go alongside the ethnicity data we published for the first time in April 2018, for prisoners [released on temporary licence](#) (ROTL).
11. Key further ethnicity data updates include Her Majesty’s Prison & Probation Service’s [\(HMPPS\) offender and staff equalities reports](#) (released in November each year), [Youth Justice annual statistics](#) (released in January each year). June 2019 saw

updated annual [Judicial Appointments Commission \(JAC\) official statistics](#), and in May 2019, as part of the Criminal Justice Statistics publication, [updated sentencing and offence tools which break ethnicity data down by demographic characteristics](#).

Trust in the system

12. Trust was a central theme of the Lammy Review, and a ‘trust deficit’¹ amongst BAME groups was linked to a number of negative outcomes in the CJS. For example, mistrust of not only the police, Judges and Magistrates, but also the advice of duty solicitors was seen to be driving higher rates of ‘not guilty’ pleas and ‘no comment’ interviews², which could lead to more severe sentencing if convicted.
13. The review made a number of suggestions for building trust. First, the CJS should be more open to external scrutiny and accountability, particularly by sharing more information about its decision-making and more data relating to outcomes³. Second, a justice system which is more representative of the communities it serves would help to break the culture of ‘us and them’⁴. And finally, more should be done to demystify the systems and procedures of the CJS and to ensure individuals understand their legal rights and the options available to them at each stage.⁵
14. Given the serious implications of mistrust for outcomes in the CJS – as well as its own legitimacy – we wanted to be confident that such initiatives are having the desired impact. By giving trust a more explicit focus, we wanted to test out the strategies recommended by the review and identify any additional interventions that may be worth pursuing.

Our approach

15. As various stakeholders have pointed out during the progression of this work, mistrust among BAME communities often stems from the evidence and/or experience of unequal treatment in the CJS. Trust should therefore be (re)built as outcomes improve, with the entire programme of work to tackle race disparity trained on this objective. However, given the systemic nature of the reforms and the need to unpick historical relationships with the CJS, it may take some time for improved outcomes to have the desired impact on trust.

¹ The Lammy Review, pp. 29, 36. Available at: <https://www.gov.uk/government/publications/lammy-review-final-report>

² Ibid. pp. 6, 29.

³ Ibid. p. 6

⁴ Ibid. pp. 6, 31.

⁵ Ibid. pp. 6, 36.

16. Since mistrust continues to have negative repercussions for people in the CJS in real time, we have explored the possibility of more immediate interventions. In part, this has come down to a focus on the trustworthiness of the justice system: the potential for people working in the CJS to adapt their professional behaviour to establish better relationships with the citizens they encounter and so earn their trust.
17. It was important to understand the drivers of mistrust from BAME communities themselves. To this end, Minister Edward Argar, then the minister with responsibility for race disparity, held a two-part roundtable with external stakeholders from BAME-led and -focused organisations, including those with lived experience of the CJS, to listen and in particular to learn of any examples of best practice in restoring confidence.
18. The Ministry of Justice then formed a trust working group with the Home Office and the Cabinet Office Race Disparity Unit (RDU). This group commissioned the Cabinet Office's Open Innovation Team, which promotes closer relationships between policy and academia across government, to survey the existing evidence on trust. Open Innovation Team also facilitated an interdisciplinary workshop between academics, policy-makers and operational practitioners across the CJS to consider practical ways to build trust and measure impacts.

Findings

19. At the core of most definitions of trust is the willingness to be vulnerable in a position of uncertainty and risk. Trusting someone therefore involves an assessment of their ability and intentions, and so the likelihood that they will behave in the hoped-for way. Any encounter with the CJS inherently involves risk, making trust particularly pertinent to this context⁶⁷.
20. Of course, for those who are arrested, charged or convicted of a crime, the CJS will carry not only the risk but the real experience of negative outcomes. In short, many people – however legitimate the process and resulting eventuality are – will not be happy about what happens to them in the CJS.
21. Academics engaged by the Open Innovation Team identified the following events in the CJS to be particularly important for the breaking and building of trust:
 - Early interactions with the CJS as a child or young adult, such as police presence in schools;
 - The decision to arrest and treatment during the arrest process (for example, communication around the reasoning, process or likelihood of time in custody);

⁶ (Rousseau, et al. 1998, 393-404)

⁷ (Burns and Conchie 2015)

- The provision of legal advice at the police station⁸, and the perceived independence of legal professionals from the police / other CJS authorities;
- Hearings and trials, particularly in relation to the accessibility of the Courtroom experience⁹ (in terms of language, in-person contact, consistency of representation); and
- Assessments of good behaviour and risk in prison / on probation, especially with regard to their impartiality¹⁰.

Trustworthiness in the CJS: 4 guiding principles

Doing what you say, saying what you do. Trust involves expecting someone to behave with good intentions and with consistency. As a result, it is particularly damaging to be given concrete assurances of that behaviour – that your solicitor will be representing you throughout, for example, or that you will receive resettlement support upon release from prison – only for this promise to be broken. Obvious though it may seem, a desire for CJS professionals to deliver on commitments came through very strongly in engagement with those with lived experience of the CJS.

Not only must the CJS ‘do what it says’, but it should also ‘say what it does’. This means explaining in simple terms what is happening, why, and what to expect next. A better understanding of process not only equips citizens to represent their own interests, but also makes it easier to understand the intentions of the staff involved. Using humanising language and checking understanding at various stages of the process go a long way in establishing honest relationships.

More human interactions. Vulnerability is central to trust, and it is easier to be vulnerable when interacting with staff who are present in person and prepared to be open themselves. Efforts by staff to humanise themselves make it easier for people to connect with them.

Academics and other stakeholders gave the following examples of more ‘human’ behaviours:

- Admitting fault and saying ‘sorry’ where it is applicable – for example, when nothing has been found after a ‘Stop & Search’;
- Like doctors in the NHS, introducing yourself before commencing a formal interaction with a citizen;

⁸ (Kemp, Vicky; pp. 1-6, 12-15) 2018. <http://eprints.nottingham.ac.uk/51145/>)

⁹ (Jacobsen, Jessica; Hunter, Gillian; 2015)

¹⁰ (Liebling, Alison; pp. 25-41, 2008)

Decision-making: more speed, less haste. Developments in psychology indicate that slowing down decision-making reduces the likelihood of people making instinctive, biased judgements, which can result in unequal outcomes that breed mistrust.

Considering needs not just risks. People in the CJS are often assessed for risk, and for good reason given the duty to protect communities from harm. However, our engagement indicated that an exclusive focus on risk makes people feel misunderstood and untrusted.

Trusted figures in the CJS were described as those who had taken the time to get to know an individual, their background and specific needs and vulnerabilities. For example, having a consistent caseworker or legal representative throughout enabled more in-depth understanding of an individual's circumstances. People and organisations able to demonstrate real insight into different communities were also endorsed as being more trustworthy for the same reason.

Next steps

22. The working group, comprised of the Ministry of Justice, Home Office and Race Disparity Unit, plans to continue in its efforts to understand and try to remedy the 'trust deficit' identified amongst BAME communities in the Lammy Review.
23. In particular, we expect to develop the research already undertaken to consider how these principles can be embedded into operational practice. Closer attention will also be paid to the issue of measurement and whether improvements to trust can be captured in both a pragmatic and methodologically sound way. Organisations involved in service delivery in the police and CJS are encouraged to get in touch (email Race_and_Ethnicity@justice.gov.uk) if they are interested in taking part in further research on trust and trustworthiness.
24. The RDU be carrying out a pilot which aims to provide qualitative insight into root causes and drivers of mistrust, establish from community representatives and police officers what works/doesn't/what further support may be needed and examples of good practice. This insight will be used to inform training and development for current police officers and the recruitment of the 20,000 over the next 3 years, and the RDU will have contact with the Home Office during this project.
25. HMPPS has carried out a review of evidence and strategies for mitigating the influence of bias on decision making which we see as an emerging example of best practice in improving trustworthiness. More detail is set out in the prisons and rehabilitation section. There are plans to continue to engage with teams and

establishments across HMPPS to integrate strategies to mitigate against the impact of bias into key decision-making processes. The results of the trial of a decision-making tool aiming to support equality of outcomes in on-the-day pre-sentence reporting, are due mid-2020, as are the findings from a pilot of revisions to the staff performance management process.

26. We have developed a best practice operational guidance document which outlines how to build trustworthy relationships between operational staff in the CJS and the public, in particular BAME communities. This is being cascaded across HMPPS as is being socialised in the police.
27. Additional dedicated work is planned to improve trustworthiness in the Youth Justice System, described in more detail in the next chapter.

Muslims in the CJS

28. The Lammy Review recognised that the numbers of Muslims in prison has risen dramatically in recent years. Stakeholders have highlighted the potential for a 'double disadvantage' where Muslim individuals can see poorer outcomes over and above differences related to race.
29. In June 2019 Minister Edward Argar spoke at Barrow Cadbury Trust conference on Muslims in the CJS. He subsequently hosted a roundtable with stakeholders from BAME led – voluntary sector organisations and academia on this issue.
30. We recognise that faith must be regarded as a legitimate and innate part of someone's identity. We recognise that there are many benefits that people can derive from practising their faith in custody – offering a source of tranquillity, or a reconnection to wider values. However, concerns were raised about how well-informed staff in the CJS were, and of fairness of treatment.
31. Many of the structures established in prison following the Lammy review will help to address this, such as forums to review Incentives and Earned Privileges Outcomes, and the process to deal with discriminatory incidents. Specific provisions are made to enable Muslim prisoners to observe their faith: for example, every day there will be a Halal meal choice available for anyone who wishes to select it; attending Friday Prayers is a right for all registered Muslim prisoners, unless barred for security reasons; and special provision must be made for those held in small units to ensure prayers are performed there. Beyond this, some prisons have introduced Ramadhan open days and halal awareness training days, so staff and other prisoners can build a greater understanding of aspects of Muslim life.

32. Nonetheless, we recognise there is further to go to develop cultural awareness among all staff and are taking this theme into wider work. This includes in relation to Youth Justice (discussed in the next chapter).

BAME Women in the CJS

33. There is evidence that BAME and foreign national women can have distinctly different experiences or outcomes at some stages of the Criminal Justice System in comparison to other offenders, and that these may differ between faiths and cultures. The Government has committed to consider the particular needs of Black, Asian and Minority Ethnic (BAME) women in the CJS in both our response to the Lammy Review and in the Female Offenders Strategy. Work is being taken forward jointly by these policy areas, under the governance of the Race and Ethnicity Board and the Female Offender Programme Board respectively.
34. The Female Offender Strategy launched a comprehensive programme of work to improve outcomes for women at all points of the Criminal Justice System, and we are committed to looking at how the distinct needs of BAME women can be addressed, as we take this work forward. Our Strategy also commissioned Lord Farmer to carry out a follow-up review into family ties for female offenders – across both the community and custody, which was published in June 2019. We are committed to working across government to take forward the 33 recommendations from Lord Farmer’s review for women, and will similarly consider how the specific needs for BAME and foreign national women respectively are considered across every element of this work. Early examples of action include:
 - a. Requiring bidders for community provision grant funding to demonstrate how they will take the needs of BAME women into account when delivering their services.
 - b. Taking stock of all BAME related activity within the various workstreams in the Female Offender Programme.
 - c. Working to increase workforce diversity so staff are more representative of the women they serve.
 - d. Work to develop cultural awareness training can be developed, that will look at the impacts of culture, faith and sustaining family relationships.
 - e. HMPPS are working to embed equality and inclusion in the design, content and delivery of all professional development. The aim is to ensure that national training packages raise staff awareness about the role of bias in decision making and equip them with effective strategies to combat these.
 - f. Developing a revised equalities and inclusion e-learning training package, including additional information to build on trainers’ knowledge of all protected characteristics.

35. We will continue to seek opportunities to improve the experiences of BAME and foreign national women with the Criminal Justice System and to address the needs of these cohorts. As a first step, we will commission user centred research to understand better the unique and intersectional challenges these women face, and will use the findings from this research to inform future policy and operational decisions.
36. We will also work closely with the voluntary sector and other organisations who work with BAME and female foreign national offenders to improve their capacity to share best practice and form networks through facilitated events and more structured communication of policy developments.

Gypsy, Roma and Traveller

37. It was a distinctive feature of the Lammy Review that it considered ethnic minority groups that have not received extensive attention in the past. In particular, the review highlighted the stark disparities experienced by Gypsies, Roma and Travellers (GRT) in the CJS¹¹.
38. For example, despite only 0.1% of the population identifying as Gypsy/Irish¹² Traveller in the 2011 Census, this group is estimated to account for c. 5% of the prison population (and even more in youth custody¹³). The review nonetheless emphasised the poor quality of data relating to GRT outcomes in the CJS¹⁴, with low rates of self-declaration and some monitoring systems not yet enabling GRT ethnicity to be captured. It is possible that these figures underestimate the scale of the problem.
39. Furthermore, surveys undertaken by Her Majesty's Inspectorate of Prisons (HMIP) highlighted differences in Gypsy and Irish Traveller individuals' experience of prison. Mental health was a particular concern: Gypsy and Irish Traveller prisoners were more likely to report feeling depressed or suicidal on arrival, but less likely to report receiving information about the support available¹⁵.

¹¹ The Lammy Review, p 3. Available at: <https://www.gov.uk/government/publications/lammy-review-final-report>

¹² Note that 'Roma' ethnicity is not yet collected by official monitoring, while there is a 'Gypsy/Irish Traveller' tick-box. A 'Roma' tick-box is to be added to the Census 2021 ethnicity classifications, however, which may in turn influence the Government Statistical Service (GSS) categories used in many government monitoring tools.

¹³ Ibid. p.3, which cites unofficial estimates that GRT children represent up to 12% of children in Secure Training Centres. https://www.justiceinspectors.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2019/01/6.5164_HMI_Children-in-Custody-2017-18_A4_v10_web.pdf

¹⁴ Ibid. p. 11

¹⁵ Ibid. p. 52

40. These findings give cause for concern, and as a result we have redoubled our efforts across the CJS to better understand and identify solutions to these disparities.

Co-production: working with GRT communities

41. Conscious that Gypsy, Roma and Traveller communities are not yet well understood by government, we partnered with [the Traveller Movement](#) to establish the GRT in the CJS Stakeholder Forum, which is jointly chaired by the Head of Race Disparity policy at the Ministry of Justice and a senior member of the Traveller Movement.
42. The Forum meets quarterly and is comprised of GRT-focussed organisations, individuals from GRT backgrounds, policy-makers, solicitors and other legal professionals, and CJS practitioners in fields from prison equalities to the legal profession.
43. We recognised the importance, of including those with hands-on experience and in practitioner roles in the CJS in order to inform immediate adjustments to operational practice. Similarly, we have taken a robust approach to accountability¹⁶, instituting an Action Log for all members of the Forum to monitor progress against commitments.
44. The first joint Forum met in November 2018 and now sponsors a programme of work across youth justice, Courts, prisons and probation. Details of specific developments can be found below and the Forum has been invaluable in fostering a richer and nuanced understanding of GRT communities amongst practitioners and policy-makers alike.
45. Improving the quality and quantity of data on GRT outcomes in the CJS is a central priority. It is essential that we move towards a position where we can analyse – as we can for many other ethnicities – whether charging rates, sentencing decisions or reoffending rates are proportionate for GRT groups¹⁷.
46. The first order of business has therefore been to increase the number of monitoring systems which collect ethnicity according to the Self-Defined 18+1 standard, which includes a ‘Gypsy or Irish Traveller’ tick-box. Her Majesty’s Courts & Tribunals Service (HMCTS) adopted this standard in June 2018 and now the Youth Justice Board – which collects data on behalf of Youth Offending Teams – has followed suit.
47. The current 18+1 standard does not include Roma, meaning that a “blind spot¹⁸” remains in the GRT data. This is compounded by the fact that Roma arguably experience an added layer of racialisation due to their genealogy, and the standard

¹⁶ Our commitment to accountability is a direct result of the Women and Equalities select Committee findings which highlighted a chronic lack of ‘keeping to promises’ in regard to GRT Commitments on the side of the Government.

¹⁷ Lammy Review, p.7, 11, 14.

¹⁸ Lammy Review, p. 11.

has not been able to consider this. Additionally, many GRT communities will not identify with these labels, opting instead, for signifiers of country of origin, for example: “Welsh”.

48. The Ministry of Justice has therefore been consulting with the Office for National Statistics on the ethnicity categorisation proposed for the 2021 Census. These will, in turn, set the standards for ethnicity data capture across government. We are pleased to note that a ‘Roma’ tick-box will be added and that broader GRT sub-groups will be available in the ‘search-as-you-type’ function.
49. In the meantime, where quantitative data is not yet available or reliable, we have sought out opportunities to gain qualitative insight. For example, together with the Traveller Movement we organised a focus group with GRT prisoners.
50. HMPPS have also conducted statistical analysis of the Measuring the Quality of Prison Life (MQPL) survey for Gypsy / Irish Traveller respondents. Small (but statistically significant) differences were identified between Gypsy / Irish Traveller and White British respondents, with Gypsies / Irish Travellers more likely to report various negative experiences. This data has allowed us to thematically isolate the particular experiences of GRT communities and feed this insight into our policy work.
51. HMPPS are investigating these and the focus group findings and considering how best to respond to them as part of their GRT Action Plan (see below).

Improving awareness and cultural competence

52. Our research and engagement has highlighted the widespread misconceptions about GRT communities, and for our purposes, the common association between GRT people and criminal activity. A key aim of our work has therefore been to improve awareness that ‘Gypsy, Roma and Traveller’ signifies a range of races and ethnicities on the same terms as other BAME groups. Just as it is discriminatory to ascribe negative traits to whole racial and/or ethnic groups, it is hoped that better understanding will enable GRT people to be treated as individuals rather than automatically associated with criminal or anti-social behaviour.
53. Every June marks Gypsy, Roma and Traveller History Month (GRTHM). This presented an opportunity to undertake a range of awareness-raising initiatives, targeted at both policy-makers and operational staff. These efforts included:
 - a. An internal communications drive amongst MoJ, HMPPS and HMCTS policy-makers, featuring intranet articles, podcasts and posters. Content was designed to unpick common misconceptions about GRT communities (see ‘Myth-busting’ box below for example messages).
 - b. A resource pack created for HMPPS and HMCTS operational staff, including links to specialist GRT organisations, best practice guides for working with GRT

communities and ideas for marking or supporting GRT service-users more generally.

- c. Events held both locally in prisons and police stations, and nationally in MoJ HQ, to celebrate GRT history and culture.

Myth-busting – little known facts about GRT communities

54. The exact number of the GRT prison population is not known because levels of self-reporting are known to be low. However, compared to just 0.1% of the general population declaring themselves Gypsy/Irish Traveller in the 2011 Census, 4% of the prison population identified as Gypsy/Irish Traveller in a 2013/14 HMIP survey¹⁹

Travelling

55. Members of the GRT community have shared their impression that they are disproportionately given custodial sentences because of the fear they will abscond when supervised in the community. However, only 2% of GRT still travel continually and the 2011 Census found that the majority, 76%, of Gypsies and Irish Travellers in England and Wales lived in conventional bricks-and-mortar accommodation²⁰.

Educational disadvantage

56. The Race Disparity Audit in 2017 identified the Gypsy, Roma and Irish Traveller groups as having the lowest educational attainment of any ethnic group throughout their school years. They were also the group most likely to receive a fixed term exclusion and the least likely to leave education after the age of 16²¹.

Tailored provision

57. HMPPS has produced a GRT Action Plan, which embeds specific consideration of GRT needs into implementation of the wider Lammy recommendations. Some of these active actions include ensuring GRT is included in the latest data sets by December 2019, ensuring Prison staff are encouraged to treat GRT prisoners fairly in regard to Incentives and Earned Privileges (IEP), and tailoring HMPPS recruitment drives to target those from BAME backgrounds including GRT, with an end goal of 14% of all staff from BAME backgrounds by 2020.

¹⁹ <https://www.justiceinspectorates.gov.uk/prisons/wp-content/uploads/sites/4/2014/04/gypsies-romany-travellers-findings.pdf>, p.3

²⁰ <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/whatdoesthe2011censusstellusaboutthecharacteristicsofgypsyoririshtravellersinenglandandwales/2014-01-21#key-characteristics-of-gypsy-irish-travellers>

²¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/686071/Revised_RDA_report_March_2018.pdf, p.9

58. The September 2019 revision of the Equal Treatment Bench Book has been launched with a new section on GRT Communities. The Equal Treatment Bench Book, provides Judges important information about the lives of these disadvantaged groups and makes suggestions for how they can be helped with the Court process.
59. Work to improve outcomes and experiences for GRT individuals in the Criminal Justice System has also covered the experiences of GRT children and young people. An overview of this work is provided in the Youth Justice chapter, which focuses on the Youth Justice System. Broadly speaking, this work has focused on improving the data Youth Offending Teams (YOTs) collect about GRT children, disseminating best practice on engaging with GRT children within the system, and exploring and raising awareness of the specific needs of this group
60. The CPS has established a National Scrutiny Panel (NSP) to consider hate crime impacting Gypsy, Roma and Traveller communities. The NSP met for the first time in December 2016 and agreed an action plan in early 2017. The action plan included the following commitments: develop operational guidance for prosecutors with support of community members on how hate crime manifests itself towards GRT communities; include articles in the quarterly Hate Crime newsletter to cover issues of interest and cases studies; and to ensure that policy statements and legal guidance to refer to GRT communities as falling within the legal definition of “racial group”. In addition, the CPS hate crime team provided a legal workshop for NSP members and sought the support of the Judicial College to include to the House of Commons Library summary report on discrimination facing GRT communities to be included in the Equal Treatment Bench Book.
61. The NSP met in November 2019 to assess progress to date against the Action Plan and take stock of action by members to raise awareness of hate crime and to support victims to report it. The NSP will also consider items for inclusion in a further action plan for 2020.”
62. We are developing a centralised GRT guidance handbook which summarises the support services available to GRT communities in the UK, as well as a compendium of information on how other protected characteristics (sexuality, gender, disability) or related lived realities (youth, mental health, etc.) intersect with GRT identities, and how to consider this within the CJS.

BAME Victims

63. Some BAME groups – particularly Mixed ethnicity and Black/Black British adults – are more likely to be victims of personal crime. This is shown consistently over the last decade²². Despite this, there is some evidence that BAME victims can be less likely to be aware of or take up support than White victims²³.
64. In response to this issue MoJ is developing guidance for Police and Crime Commissioners around effectively supporting racial and ethnic minorities through the local victim support services they commission. We anticipate that the guidance will also be of interest to victim service providers and voluntary sector organisations.
65. We plan to monitor, and learn from, how local areas work to understand and support BAME victims of crime through reporting processes around Ministry of Justice's funding to Police and Crime Commissioners for victim's services.
66. The guidance will include information and case studies that focus on understanding BAME victims, delivering culturally competent services (which take into account the cultural beliefs, behaviours and needs of diverse service users), and raising awareness of victim's services among racial and ethnic minorities. This work aims to improve experiences for BAME victims – be that through enhancing how victim services provide quality support to the specific needs and experiences of BAME individuals, raising awareness or uptake of services, and/or contributing ultimately to increased trust and confidence in the Criminal Justice System.

²²See Table 3.01 in the victims tables of <https://www.gov.uk/government/statistics/race-and-the-criminal-justice-system-statistics-2018> and note that results are not statistically significant in every year

²³ <https://cdn.catch-22.org.uk/wp-content/uploads/2018/04/The-changing-needs-of-victims-and-how-to-support-them-better-2.pdf>

Youth Justice

67. David Lammy MP highlighted in his review that disproportionality within the Youth Justice System was his biggest concern. Since our last update, we have developed a programme of work that seeks to explain or change youth disproportionality. We recognise that more needs to be done to have a positive impact across the system.
68. In the year ending March 2019, Black children were over four times more likely to be arrested than White children.²⁴ During the same period, the proportion of minority ethnic children who were first time entrants to the system stayed at a similar level of 25%, compared to 24% in the year ending March 2018.²⁵ On average, 49% of children in custody were from a Black, Asian and minority ethnic background in 2018/19, compared to 45% in the year ending March 2018.²⁶
69. These statistics reinforce the need to tackle disproportionality in the Youth Justice System and our commitment to further this agenda goes beyond the recommendations made by David Lammy. As previously mentioned, the systemic nature of disproportionality means that progress in tackling it is incremental and positive outcomes will take time to be reflected in official statistics. Statistics and outcome measures, including the Youth Justice Board's Relative Rate Index, which compares measurements of outcomes for different ethnic groups relative to the White ethnic group, continue to be developed and monitored to understand the impact and effectiveness of this work.
70. The MoJ, the Youth Justice Board (YJB) and the Youth Custody Service (YCS) have each identified their own priorities for tackling disproportionality in the Youth Justice System. However, they also share a set of overarching aims and objectives.

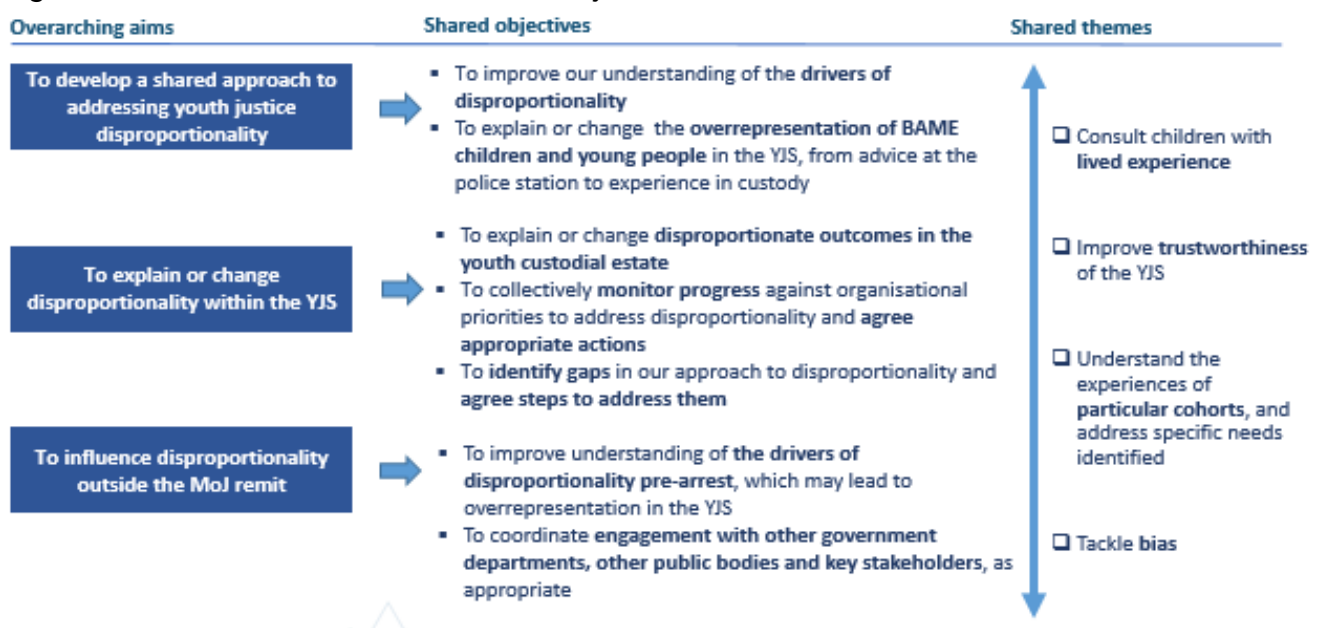
²⁴ Annual YJ Stats:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/862078/youth-justice-statistics-bulletin-march-2019.pdf

²⁵ Annual YJ Stats: <https://www.gov.uk/government/statistics/youth-justice-statistics-2018-to-2019>

²⁶ Annual YJ Stats: <https://www.gov.uk/government/statistics/youth-justice-statistics-2018-to-2019>

Figure 1. MoJ, YJB, YCS shared aims, objectives and themes



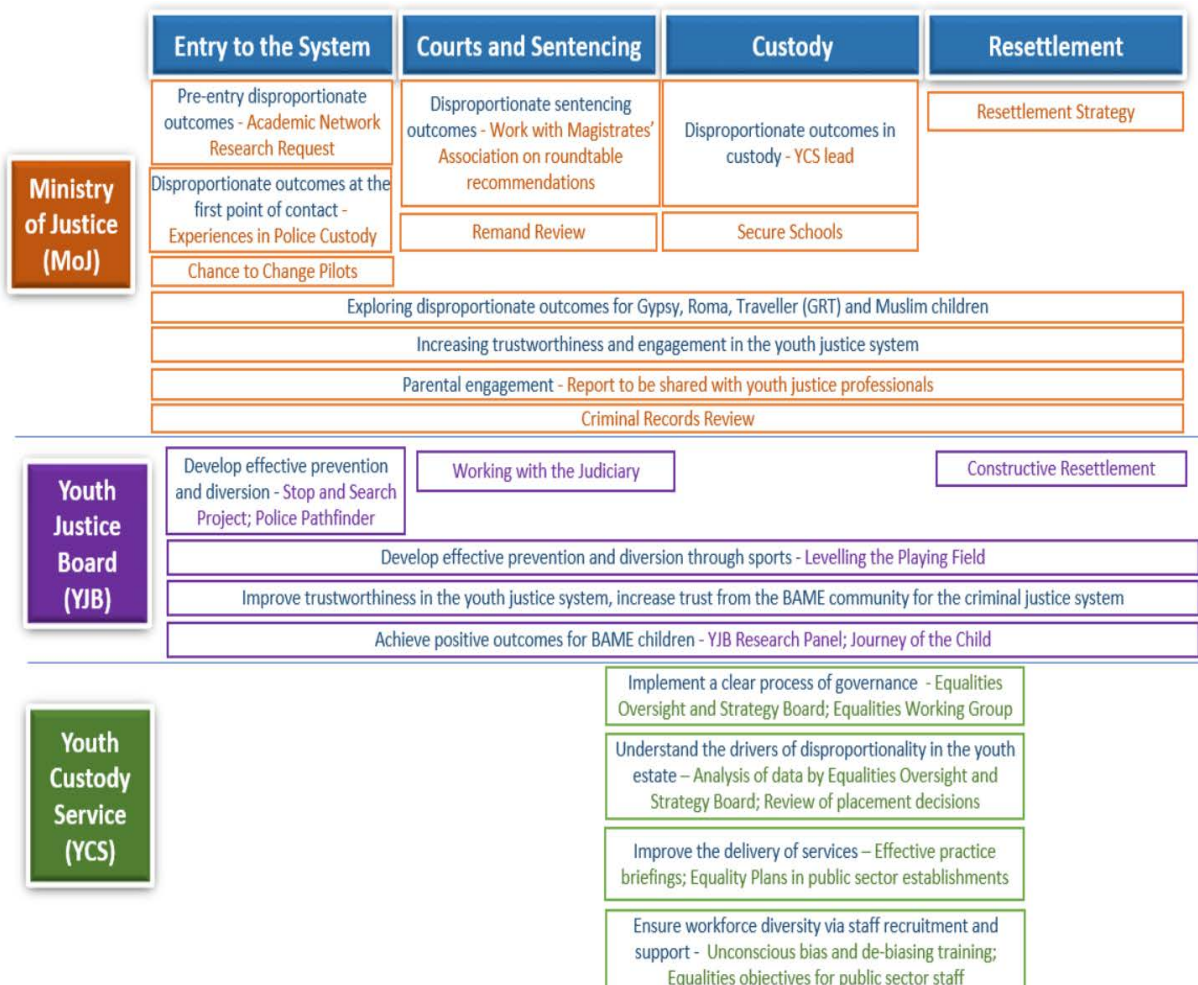
71. The MoJ’s Youth Justice Disproportionality team was formed in April 2018 and has been working to develop and test interventions to improve outcomes for Black, Asian and minority ethnic children in the system. Our priorities have been informed by working closely with key stakeholders, including organisations working directly with children from a range of Black, Asian and minority ethnic backgrounds, and children themselves, to consider the journey of the child through the system and where we might intervene to have most impact.

72. We have developed a series of practical interventions, some which have already been implemented, and others which require further development and testing, to address problems identified across the system, including:

- improving Black, Asian and minority ethnic children’s engagement and experience within police custody;
- understanding and addressing disproportionate sentencing outcomes;
- tackling disproportionality in the youth custodial estate;
- understanding how to better empower parents of Black, Asian and minority ethnic children to support their child’s journey in the system;
- improving the experiences of specific cohorts, such as Gypsy, Roma, Traveller and Muslim children, for which our data is scarce.

73. The YJB’s strategic priorities for race disproportionality are:
- improving trustworthiness in the Youth Justice System and increasing the trust of the Black, Asian and minority ethnic community in the Criminal Justice System;
 - developing effective prevention and diversion measures;
 - improving positive outcomes for Black, Asian and minority ethnic children.
74. The YJB will continue to measure the representation of Black, Asian and minority ethnic children within the Youth Justice System, using the Relative Rate Index methodology, outlined above.
75. The YCS has identified addressing disproportionality as a priority for 2019/20. They have established an Equalities Oversight and Scrutiny Board, chaired by the Executive Director, to agree and drive forward work on disproportionality, through an agreed Equalities Delivery Plan. They have also established an Equalities Working Group to focus on improving both the practice and delivery of establishment-level activity.
76. A summary of our current activity on disproportionality within the YJS is included below.

Figure 2.



Cross-Cutting Themes

77. We have identified and are progressing several themes that cut across our activity to address disproportionality in the Youth Justice System.

Improving data collection and our evidence base

78. The MoJ and YJB have been working to improve the current ethnicity data collection methods and to expand the current evidence base on youth disproportionality.
79. In particular, the YJB has been working to improve the ethnicity data collected by Youth Offending Teams (YOTs) to gain a better understanding of when disproportionality occurs and for which groups. YOTs case management systems were expanded to capture the 18+1 Office of National Statistics (ONS) ethnicity categories from the end of 2018. The YJB issued guidance for YOTs to update current live cases to the new 18+1 categories in September 2019. This will allow the YJB to analyse ethnicity data across the broader 18+1 categories with a full year's data from the year ending 2020.
80. The MoJ has issued a call for evidence within our Academic Network, including analysis on disproportionality at the local/regional level, and on the links between socio-economic factors, such as deprivation, and disproportionality. We have received several responses and are currently reviewing the research received, learning from research that is underway and considering next steps on further research in relation to this request.
81. The YJB has also developed an Academic Liaison Network, utilising academics from a pool of approximately 50 universities to assist with research within the Youth Justice System. This Panel will commission research across areas requiring further evidence, including disproportionality, which was identified as the first area of focus. The Panel intends to consider the Journey of the Child and to identify available research and evidence gaps to be addressed through future research requests.

Improving trustworthiness of the Youth Justice System

82. As previously mentioned, building trust is a theme that runs throughout our work on disproportionality.
83. Improving the trustworthiness of the Youth Justice System is a priority for the YJB and work has focused on improving data and understanding of disproportionality at the local level. The YJB has redesigned the Summary Ethnic Disproportionality Tool, which includes high level indicators of disproportionality and utilises a Relative Rate Index (RRI), as outlined above. This enables YOTs to understand the ethnicity of their cohorts and work with their partnership boards to consider locally-driven solutions. It is hoped that increasing local abilities and transparency will improve trustworthiness in the Youth Justice System.

84. The YJB is in discussions with the Association of Police and Crime Commissioners (APCC) to provide it with the data included in the Summary Ethnic Disproportionality Tool. This is so that ethnic disproportionality analysis is included in the development of Police Crime Commissioners (PCCs) Police and Crime Plans.
85. The YJB has also updated the [Disproportionality Journey of the Child Infographic](#). The YJB will continue to update with the most recent published Youth Justice statistics and RRI measures of success. These indicate the levels of disproportionality across the early years of a child, including criminogenic factors, and throughout the Youth Justice System. The YJB has utilised this infographic to help facilitate the understanding of data and evidence and identify how to address the challenges, including with its Stakeholder Engagement Group and the YJS Oversight Group chaired by Charlie Taylor, which brings together senior members of government departments to discuss solutions to issues in the Youth Justice System.
86. Additionally, the YJB is developing a research project to explore the trustworthiness of the Youth Justice System. The project looks at ways in which the YJB, YOTs and other associated organisations can ensure they are seen as trustworthy, and how current levels of trust from minority ethnic communities can be improved. This will involve considerations of the reasons for the lack of trust and trustworthiness, the different levels of trust for different organisations within the Youth Justice System, and the characteristics of organisations that are seen as trustworthy.

Improving parental engagement

87. Lammy highlighted that parental engagement amongst parents of minority ethnic children is seen as tokenistic, rather than a genuine vehicle for change and rehabilitation, and that more needs to be done to draw in the wider community. Recognising these concerns, we undertook a project looking at parental engagement and ways of better empowering parents to play a role in their child's journey in the Youth Justice System.
88. We engaged various stakeholders, including charities and practitioners, to gain their insights on good practice for parental engagement. We have also held focus groups, in collaboration with the Sutton Youth Offending Integrated Service and the Race Equality Foundation, in which we tested our findings with parents of Black, Asian and minority ethnic children with experience of the Youth Justice System.
89. The project highlighted a number of important aspects regarding the engagement of parents, including:
 - the need to acknowledge and address the potential for a multi-generational lack of trust in the Criminal Justice System within minority ethnic families, through the promotion of transparency and concentrated engagement;

- the need to understand the value of, and to develop, closer partnerships with peer and community organisations in supporting parents with a Black, Asian and minority ethnic child in the Youth Justice System; and
 - the need to ensure that parents can access appropriate resources to understand and navigate the system, to facilitate and encourage them to support their child and to challenge the decisions and actions of their child, where necessary.
90. For parents of Black, Asian and minority ethnic children specifically, the potential lack of trust in authorities and the Criminal Justice System can lead to them not engaging early enough, or at all, with available support services. This in turn leads to parents not being able to access appropriate resources to understand and navigate the system.
91. To promote best practice and raise awareness of these issues, we have produced a findings report, which is currently being circulated to Youth Justice practitioners, YOTs and staff in the youth custodial estate, to inform their training, practice and services.

Identifying specific experiences and outcomes for different cohorts

92. Whilst we recognise disparities in outcomes for Black, Asian and minority ethnic children overall, we are mindful that these differ between (as well as amongst) ethnicities. Our data particularly highlights disparities for Black children at different stages of the Youth Justice System, and our priorities and work have been informed by the experiences of this group.
93. There are groups for which we do not hold reliable, representative quantitative data to highlight where disproportionality might occur. The two cohorts for which we are currently exploring specific disproportionate outcomes and experiences are Gypsy, Roma, Traveller (GRT) children and Muslim children. We are seeking to build an evidence base through alternative routes to identify and address specific issues for these children.
94. A step towards improving our evidence base is the implementation of the 18+1 ethnicity categorisation in the YOTs Case Management System, which will provide new data on Gypsy and Irish Traveller children. An analysis of that data is planned for year ending 2020.

GRT children

95. The HM Inspectorate of Prisons ‘*Children in Custody*’ report published in January 2019, found that 11% of the children surveyed in Secure Training Centres (STC), and 6% of the children surveyed in Youth Offending Institutions (YOI), were from a GRT background,²⁷ compared to 0.1% of the whole population (based on the 2011 census).²⁸
96. We are concerned about the overrepresentation of GRT children and, based on a literature review and discussions with stakeholders, we have identified a number of specific areas in which GRT children might face challenges in the system. These include engagement with Youth Offending Teams and education provision within custody. We are currently engaging with GRT children, community representatives, and Youth Offending Teams who have worked, or are currently working, with GRT children, as well as other key stakeholders, to explore some of these issues in more detail and identify specific interventions that can be implemented to improve experiences and outcomes for this group.
97. The MoJ and YJB have developed a briefing for YOTs, to promote good practice in working with GRT children and to raise awareness of some of the potential issues faced by this group. The briefing is currently being tested with GRT children and other key stakeholders, and will be circulated to YOTs in Summer 2020.
98. Recognising the overrepresentation in youth custody, the YCS, working with the Traveller Movement and MoJ, has developed an effective practice briefing on how to better support GRT children and young people. This will be circulated to staff in the youth custodial estate and other Youth Justice practitioners in March 2020.
99. Materials produced by MoJ to celebrate the GRT History Month, in June 2019, and ‘myth-busting’ materials regarding GRT communities and children were shared with the Magistrates’ Association. They have also been circulated to other Youth Justice practitioners and policymakers.

²⁷ https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2019/01/6.5164_HMI_Children-in-Custody-2017-18_A4_v10_web.pdf . The 2018-19 Children in Custody report is due to be published in the coming months and will provide more up to date figures.

²⁸ <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/whatdoesthe2011censusstellusaboutthecharacteristicsofgypsyorishtravellersinenglandandwales/2014-01-21>

Muslim children

100. The HM Inspectorate of Prisons 'Children in Custody' report published in January 2019, found that 13% of the children surveyed in Secure Training Centres (STCs), and 23% of the children surveyed in Youth Offending Institutions (YOIs), identified as Muslim²⁹ compared to 4.8% of the general population.³⁰
101. Whilst 62% of Muslim boys surveyed felt their religious beliefs were respected (80% compared with 40% of non-Muslim boys), a significantly higher proportion of Muslim boys said they had experienced victimisation by staff because of their religious beliefs (10% compared with 2% of non-Muslim boys).
102. To better understand whether there are specific challenges faced by Muslim children within the Youth Justice System, identify and learn about good practice, what approaches work to engage Muslim children and what, if any are the particular factors that contribute to Muslim children's offending behaviour, we are currently consulting with stakeholders, including YOT practitioners.

Ethnic disparities prior to entering the YJS

103. David Lammy highlighted that the 'upstream' factors leading to crime are also disproportional. YJB's [Journey of the Child](#) demonstrates that from early years through to adult life, there is evidence that children from Black, Asian and minority ethnic backgrounds fare worse than the general population. Disproportionality is evident in multiple areas - people from Black, Asian, and minority ethnic backgrounds are more likely than the general population to live in inadequate housing and areas characterised by poverty. They are more likely to be diagnosed with mental ill health and to experience poor outcomes from treatment. Furthermore, Black and GRT pupils are more likely to be excluded from school than the rest of the population. Additionally, being from a Black, Asian or minority ethnic background has been identified as a characteristic of being a 'harder to place' looked-after child. This shows that Black, Asian and minority ethnic people are disproportionately disadvantaged before they enter the system.
104. Work is underway to understand and explain the links between race disparity in the system and factors, such as socio-economic circumstances, education and disproportionate arrest rates. The Cabinet Office Race Disparity Unit is developing a cross-government youth ethnic disparities analytical study, which will assist in further

²⁹ https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2019/01/6.5164_HMI_Children-in-Custody-2017-18_A4_v10_web.pdf The 2018-19 Children in Custody report is due to be published in the coming months and will provide more up to date figures.

³⁰ <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/religion/articles/religioninenglandanddwales2011/2012-12-11>

understanding and explaining why children from minority ethnic backgrounds are over-represented in the system.

105. Stakeholder feedback has suggested that a person's community (including their peers and geographic location) can contribute to an assessment of risk. Experimental studies in the US have also shown that a person's ethnicity can impact on perceptions of risk.³¹ This has been confirmed by analysis, in the form of a literature review, conducted by the MoJ. The main studies included in the review focused on the US, but the findings offered insights that could be applied more broadly. The review found that young Black males are perceived by non-Black adults as being taller, heavier, more muscular, and more capable of harm than their White counterparts. This suggests that risk perception could play a role in the bias against young people from Black, Asian and minority ethnic backgrounds, and therefore impact on their treatment and outcomes. As a result, we have embedded considerations regarding risk perception throughout our work, and ensured this is noted as a potential factor when attempting to explain disparities.
106. Socio-economic deprivation has been linked to serious youth violence. However, the evidence on links between ethnicity and serious violence (considering both offending and victimisation rates) is limited.³²
107. A multi-agency approach that tackles the root causes of serious violent crime is essential and we are committed to working with partners to ensure that children at risk of involvement in serious violence are supported and prevented from entering the Criminal Justice System. It is important to acknowledge the potential impact of serious violence strategies on Black, Asian and minority ethnic communities and we actively monitor how our response to serious violence affects different communities differently.
108. To address some of the pre-arrest factors identified in the Journey of the Child, the YJB is seeking to influence issues, such as employability, and the role of sport as a means of diverting Black, Asian and minority ethnic children from the Criminal Justice System and helping them desist from harmful behaviour.
109. To help improve the opportunities for BAME children, the YJB is working with partners to develop an employment model that improves the flow between services, including job readiness, mentoring, apprenticeships and traineeships.
110. It has also supported the Alliance of Sport 'Levelling the Playing Field' project bid, enabling the Alliance of Sport to secure funding of £1.7m, £1m of which has been provided by the London Marathon Charitable Trust. This is for an initiative aimed at using the power of sport and physical activity to engage and improve health and life

³¹ Finkledey, J. G., and Demuth, Sp. (2019), Hugenberg & Rule (2017), Assari and Caldwell (2017).

³² <https://www.gov.uk/government/publications/serious-violence-strategy>

outcomes for over 11,200 Black, Asian and minority ethnic children who are at risk of entering, or who are already involved in the Criminal Justice System across England and Wales. This will be a three-year pilot programme, with an evaluation, to provide support for this approach in future policy discussions.

111. The MoJ has published practice guidance for all YOTs and frontline practitioners nationwide on [County Lines Exploitation](#). This aims to provide clearer referral pathways, promote best practice and improve how we safeguard children who are being exploited. We have highlighted that traditional risk assessments have the potential to underestimate the risk of harm.

Entry into the YJS

Arrest and engagement with Youth Offending Teams

112. The YJB has completed a project looking at how stop and search is being applied to children and young people. The project also assessed how the YJB can add value to work already being undertaken by the Police, to ensure a child-centred approach is being applied consistently and fairly, particularly with regards to the Black, Asian and minority ethnic community. Recommendations from this work are now being taken forward with the College for Policing and the Independent Office for Police Conduct.
113. It is also working with the Police to explore a pathfinder with reference to community resolutions and disparities that exist within them.
114. The multi-agency nature of YOTs makes them an important agent in addressing youth disproportionality. A recent HMI Probation report has highlighted some examples of good practice and also noted that more needs to be done to ensure consistency across YOTs and more sharing of effective practice, to maximise their role in preventing minority ethnic children from entering the system and supporting them whilst they are in it.³³ The YJB is reviewing its Resource Hub, which is continuously updated with effective practice examples, and utilises the Regional Effective Practice Fora to establish best practice examples to disseminate nationally.

³³ HM Inspectorate of Probation (2019), 'Annual Report: Inspection of Youth Offending Services (2018-2019)'. Available here: <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2019/10/Youth-annual-report-inspection-of-youth-offending-services-2018-2019.pdf>.

Good Practice YOT examples:

Essex Youth Offending Service (YOS) has undertaken a comprehensive forensic analysis of current offending patterns, profiles of children and young people, and their desistance needs, which identified issues of disproportionality within wider aspects of the Youth Justice System. A range of actions has been taken in response, including a presentation of the analysis and challenges to sentencers, and making diversity and disproportionality a development objective in the YOS. Diversity was also the topic of a deep-dive quality assurance exercise. HMI Probation inspectors assessed that enough attention had been given to diversity factors in almost all cases that were inspected.

Sandwell YOS's Management Board had specific concerns about the overrepresentation of Black and mixed race young males in the Youth Justice System. This led to several projects being commissioned, including from a company specialising in the engagement of young people from minority ethnic groups. The company completed a consultation exercise with young people whom the YOS was not engaging well and produced a video of their responses. As a result of this feedback, the YOS is now working with two mentoring companies and the Intensive Supervision and Surveillance cohort has access to a music studio. This has also led to the piloting of Kitchen Table Talks, a new initiative that aims to capture parents' ideas and feedback. The YOS has also introduced the Heritage Project, which gives young people from a variety of ethnicities and cultures the opportunity to explore their heritage, including the experiences of older generations.

Wandsworth YOT identified Black and minority ethnic disproportionality as a local priority. The Community Safety Partnership and YOT Board commissioned a disproportionality report on the YOT cohort, which addressed issues such as Black and minority ethnic young people and school exclusions, stop and search numbers by the police, involvement with services and areas of deprivation. The report also considered whether Black and minority ethnic young people were pleading not guilty to offences more often than their White counterparts, something that would exclude them from accessing Out-of-Court Disposals. The review proposed that a number of services across the early help division identify and address the factors linked to disproportionality at an earlier stage.

Experiences in Police Custody

115. To expand on the findings from the Lammy Review, particularly in relation to how Recommendation 9 should be taken forward for children, we undertook a project looking at Black, Asian and minority ethnic children's experience and engagement in police custody, including the reasons for declining to comment in police interviews.
116. The project aimed to understand whether the current experience after arrest prevents minority ethnic children from accessing non-Court interventions and increases the likelihood of negative justice outcomes. It also explored issues of trust and trustworthiness at this stage of the system.
117. After considering the available data, we undertook a qualitative approach and conducted individual interviews, focus groups, visits and observations. We engaged various stakeholders including appropriate adults, YOT managers, the Metropolitan Police, duty solicitors, as well as young people from minority ethnic backgrounds to gain insight into the children's experiences in police stations. We partnered with specialist youth services and young leaders from Peer Power, Youth-Ink and Leaders Unlocked to hear directly from children and young people about their experiences of police custody. Leaders Unlocked also led peer-to-peer interviews to gain further insights.
118. A group of the young people met with the Minister responsible for Youth Justice to explain their experiences of police custody and present their recommended interventions. The majority of issues highlighted were relevant for all children, not just Black, Asian and minority ethnic children; however, stakeholders and minority ethnic children did highlight instances of experiencing perceived bias against them due to their race.
119. Stakeholders identified recommendations, outlined below, which highlight how trustworthiness and trust could be increased at this stage of the process. We are currently exploring how to take each of these forward in some way, including working with other organisations and government departments to share findings which impact on areas wider than MoJ's remit.
120. In particular, we have shared our findings with the National Police Chiefs' Council (NPCC), who have since identified tackling disproportionality in custody as one of its three priorities for next year's Custody Portfolio, and we are working collaboratively to seek to improve the experience for both adults and children held in police custody.
121. We have shared our project findings with the Mayor's Office for Policing and Crime (MOPAC) to support their action plan which is being developed in collaboration with partners from across the Criminal Justice System. It tackles ethnic disproportionality

in Youth Justice in London. The action plan is due to be published in Spring 2020, with actions expected to be completed within a year.

Clearly explain the process:

122. Findings revealed that children and young people do not understand the process in the police station and beyond. Intense emotions can make it hard for young people and their parents to trust and/or process the information given to them at this point. We are working with stakeholders to develop more innovative ways to engage young people.
123. We continue to work with Dr Vicky Kemp, from the University of Nottingham, who is developing an app designed to be used in voluntary interviews. The app will prompt police officers on the Police and Criminal Evidence Act 1984 and inform suspects of their legal rights. Dr Kemp is testing and developing the app with a police force. Whilst the app will be used for all suspects, information will be incorporated in a 'child-friendly' way, informed by interviews with 95 children and young people.
124. We are liaising with the Metropolitan Police's Detention Safeguarding Team, who piloted a "peer-to-peer" video at Notting Hill Carnival. The video was produced by The Prince's Trust ambassadors discussing their personal stories about knife crime, gangs etc. The Prince's Trust is testing tablets with this material in eight custody suites across London to monitor suitability for roll out. They also offer the 'Voice of the Child' initiative across London. YOTs identify children who are at risk of offending and police staff walk them through the arrest process in a closed custody suite, breaking down any existing misconceptions. Feedback is used to improve the custody experience. This will now be promoted to the police Youth Engagement Teams across all boroughs.
125. We are working with the industry-led Quality of Advocacy Working Group, which is exploring the creation of a panel of specialist youth advocates. Other professionals who work with children and young people would also benefit from training on how to communicate using age appropriate language.

Independent community youth workers

126. The project found that there was often a lack of trust and respect between children and professionals in the police station. Children expressed the need for a relatable and trustworthy member of the community to break down information using familiar language. To avoid having too many professionals present in this process, which could potentially overwhelm young people, we are focussing on ensuring that those professionals who are already present (i.e. solicitors and appropriate adults) are appropriately trained to engage and communicate with young people.

127. The Metropolitan Police's Met Detention Safeguarding team are piloting the Engage Project. Independent youth workers are available at Camden and Islington Police stations, to engage young people and identify support needs. The youth workers meet young people (who are not already known to the YOT or social services) within 48 hours of being released and complete a family support plan which signposts to relevant services. They continue to work with the family until they feel a significant progress has been made. This is currently being evaluated by London Metropolitan University. We will continue to liaise with them to understand the benefits of independent community youth workers in this setting.

Youth areas of police custody/reducing time in police custody

128. We are exploring ways of reducing the time young people spend in custody, as well as improving the support that is provided. Work with the NPCC includes exploring how to better support children in police custody suites. The NPCC have undertaken a consultation exercise across all police forces on suggested measures for the development of a national custody performance framework. The aim is to identify and agree key performance measures for police custody, including by age and ethnicity, which would help inform performance management and how to improve systems and processes by sharing good practice.

Trained appropriate adults provided to all young people

129. The project revealed that family and friends who act as appropriate adults do not always understand the process and can also feel overwhelmed themselves. This suggested a potential need for appropriate adults to be available to all children, even when a parent or other family member or carer is present at the police station.
130. We are exploring options for ensuring the quality of appropriate adult provision for children with the National Appropriate Adults Network (NAAN). They have developed National Standards and a self-assessment tool, which have been approved by the YJB and are included in the MoJ/YJB Standards for children in the Youth Justice System. NAAN members now have access to a new Ofqual-accredited Appropriate Adult qualification, with trained Appropriate Adults submitting a portfolio of work that is independently assessed and verified.
131. The Metropolitan Police's Met Detention Safeguarding team have secured funding to develop a video that explains the role of being an appropriate adult to parents/carers. One of the aims of this initiative is to empower parents be more proactive during the process. Filming for this has begun. We will continue to liaise with the Metropolitan Police as this progresses.

Increasing the take-up of legal advice for young people

132. Findings showed that children and young people do not always utilise their right to legal advice. Whilst police inform children of their entitlement to free legal advice, children do not always understand what this means, the solicitor's role or how this could benefit them. The Youth Justice Policy team, Legal Aid Agency and Legal Aid Policy teams are working closely to ensure that young people engage with legal advice in the police station. This includes exploring the potential for children to opt-out of, rather than into, receiving legal advice.
133. A review of legal aid is currently being undertaken. The feedback and suggested interventions have been provided as evidence for the review. The review includes considering how the fees paid to solicitors in the police station can be reformed to provide high-quality legal advice for children. The Legal Aid review is a longer-term project and we expect to be able to update on this in Summer 2020.

Young people training for the police

134. We are working with the NPCC to identify ways to improve both trust and outcomes by increasing awareness of Black, Asian and minority ethnic children's experiences. The NPCC and College of Policing are developing a national training programme concentrating on priority and high-risk areas for both custody sergeants and detention officers. Youth has been identified as a priority area of focus and they will be looking to include this as a national module. We are exploring the potential inclusion of a module relating to race, ethnicity and cultural competence.
135. The Metropolitan Police's Met Detention Safeguarding team recently delivered training on trauma-informed practice to their police custody staff. This helped to encourage staff to think about the young person, rather than the offence/process. We will be sharing this with the NPCC to explore the potential for this to be extended further.

Aftercare provision

136. Young people requested information on what to expect following an arrest. We are liaising with police forces to consider how this might be improved for children.
137. We have shared our project findings to support the development of the DIVERT Youth Programme. This is led by the Metropolitan Police; currently being piloted in the Brixton Police station. It supports children below the age of 18 who are arrested and brought to the police station, back into education/employment, as well as further positive activity. In October, this secured 2 years funding from the Youth Endowment Fund.

Remand and sentencing

138. Data analysis published in 2017 found disproportionality in the likelihood of custody for Black and Asian children for comparable proven offences,³⁴ and that this may go some way to explain proportions in youth custody. Disproportionate sentencing outcomes did not increase or decrease over the period of the study, and so sentencing outcomes alone cannot explain the sharp increase in the proportion of Black, Asian and minority ethnic children.
139. It is likely that other factors, including recent increases in the Black, Asian and minority ethnic remand population, have influenced the change in the ethnic make-up of the youth custodial population, as well as the overall custodial volumes.
140. Between 2010/11 and 2016/17, the average monthly youth custodial remand population (under 18s only) decreased by 54% (from 528 to 183). In 2017/18 however, the average monthly population saw an increase of 19% (to 217). A further increase of 12% (to 243) was seen in 2018/19.³⁵ Alongside these recent increases, the proportion of the youth custodial remand population that is made up of Black, Asian and minority ethnic children has also been increasing. In 2017/18, Black, Asian and minority ethnic children on average, made up 57% of the youth remand population, whilst in 2010/11, Black, Asian and minority ethnic children on average, made up 41% of the youth remand population.³⁶
141. As a result of these recent increases, we have committed to undertake further work to consider the use of remand. Within the next year, we aim to identify options to reduce numbers where appropriate, while ensuring victims and the public are protected. The overrepresentation of Black, Asian and minority ethnic children held on remand will be a key area of focus and we plan to engage with a range of stakeholders to consider this.
142. The Youth Disproportionality team has also been working with the MA on understanding sentencing outcomes for children from Black, Asian and minority ethnic backgrounds. Work has been undertaken by the MA to embed addressing disproportionality across their policy work and in the training and development of Magistrates.
143. Mandatory unconscious bias eLearning training for all Magistrates, legal advisers and advisory committee members was launched by the Judicial College in June, and the Equal Treatment Bench book, which covers issues relating to fair and equitable treatment in Court, has been updated. The MA has produced resources for

³⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/669095/Race_and_the_CJS-youth-amended-01122017.pdf.

³⁵ YJ Annual Statistics, <https://www.gov.uk/government/statistics/youth-justice-statistics-2018-to-2019>

³⁶ YJ Annual Stats: <https://www.gov.uk/government/statistics/youth-justice-statistics-2018-to-2019>

Magistrates to ensure fair decision-making, which includes taking steps to challenge prejudice or bias.

144. The MA has also developed a specific project on disproportionality in Youth Justice to focus on what they, and the youth Magistrates, could do to address it. A roundtable was convened, including statutory agencies working in Youth Justice and third sector organisations working specifically on the issue of disproportionality. It explored both how wider disproportionality in the system affects Court processes and may affect sentencing outcomes, as well as practical ideas for the magistracy and others to tackle the drivers of disproportionality. The resulting report, '[Disproportionality in the Youth Justice System](#)', published in September 2019, highlights the key themes raised and makes several recommendations for the MA in relation to its policy work and to learning for youth Magistrates. Progress against these recommendations will be discussed through the MA's Youth Court Committee.
145. We are continuing to work with the MA in implementing some of the roundtable recommendations. For example, the recommendation to collaboratively promote awareness of the Overarching Principles for Sentencing Children and Young People, particularly that unique consideration should be given to specific issues that arise for Black, Asian and minority ethnic children. The YJB is updating its Case Management Guidance to include reference to these in the pre-sentence reports prepared by Youth Offending Teams.

Youth Custody

146. It is likely that a range of factors including trends in police activity, sentencing outcomes and the recent increase in the Black, Asian and minority ethnic remand population, have influenced the change in the ethnic make-up of the youth custodial population, as well as the overall custodial volumes. As well as the work outlined above on youth Courts and sentencing, wider factors are being explored through analytical work with the Cabinet Office to help inform why the proportion of Black, Asian and minority ethnic children in custody has risen.
147. The Youth Custody Service has developed an Equality Delivery Plan and is monitoring delivery against this to address disproportionality in the youth custodial estate. As of October 2019, the YCS has ensured that each public-sector establishment has an individually tailored Equality Plan in place.
148. In March 2019, the YCS launched a new evidence-based behaviour management strategy, '*Building Bridges – A Positive Behaviour Framework*', aimed at incentivising good behaviour and building positive relationships. This introduced a set of requirements for developing positive, proactive practice and cultures, with one requirement being that each secure setting demonstrates a commitment to

addressing discrimination and disadvantage and to promoting equitable outcomes for children.

149. In addition, the YCS responded to Lammy's recommendation 27, by implementing in April 2019 a requirement for secure settings to use a problem-solving approach to complaints received. The YCS has been delivering workshops within the youth estate to explain the framework, and discussions are being held to specifically assess the estate against the framework in 2020.
150. In response to Lammy's challenge to 'change or explain' trends in youth custody, the YCS conducted analysis on the youth custody population, restricted physical Intervention (RPI) and self-harm 2018 datasets, and the 2018 Inspectorate reports for Secure Training Centres and Youth Offending Institutions. As a result of the findings, an action plan has been put in place, to address issues identified in different areas, including children and young people's experiences related to respect, disability and self-harm.
151. The YCS is also developing a series of Effective Practice Briefings, to help improve practice and inform staff in the youth custodial estate about specific topics. They aim to complete briefings for all staff on Girls and Bullying, Working with Gypsy Roma Traveller Young People, Working with Autism and Working with Difference, by March 2020.
152. Work to consider placements decisions commenced in January 2020. Using the 'explain or change' principle, the aim is to explore the data and decision-making process on where children from minority ethnic backgrounds are placed within YOIs and STCs. This includes ensuring that factors that are specific to BAME children are, wherever appropriate, considered when making placement decisions.
153. The YCS has mandated and is monitoring the take-up of unconscious bias training for senior managers at senior management level across public sector establishments, and has introduced 'debiasing training' for key-staff.

Sport in custody

154. HMPPS and YCS have committed to improve the way in which they monitor and evaluate outcomes from sports-based programmes, to build a stronger evidence base and inform how we can best create effective practice in the future. Each YOI now has a local action plan in place to address each of the recommendations from the Independent Review of Sport in Youth and Adult Prisons report and HMPPS/YCS are working with the UPSHOT team from the DCMS-supported Football Foundation, using its tool to monitor physical activity.

155. This tool allows PE staff and Governors to have a real-time snapshot of the PE programme, participation levels, progress and other critical management information. HMPPS are currently piloting UPSHOT in 4 adult prisons and plan to continue the rollout to HMYOI Feltham. Once the pilot is complete a national rollout plan, including YCS sites, will be put in place. Professor Rosie Meek, the author of the report, is now part of the YJB 'Levelling the Playing Field' project, discussed above, which will also include activity in various secure estates.

Secure Schools

156. We have appointed Oasis as our provider for the first Secure School. Secure Schools represent an opportunity to design a new way of doing custody; addressing disproportionality from the outset is a key priority. We will be working in partnership with the provider of the Secure School to do so.

Resettlement

157. We recognise that Black, Asian and minority ethnic children might experience specific issues in the process of resettlement – both in custody prior to release and when back in the community. For example, we recognise that finding suitable accommodation is often flagged as an issue for children going into care or supported accommodation after release. Given that Black, Asian and minority ethnic children are overrepresented in both custody and in care, this issue is likely to have a disproportionate impact on them.
158. We are currently working across government to review the main issues in youth resettlement and explore potential improvements. This will include consideration of the needs of and specific issues faced by Black, Asian and minority ethnic children.

Charging Decisions to Court

Charging Decisions

159. As recognised in the Lammy Review, in most cases, defendants' ethnicity does not affect the likelihood that they will be charged by the CPS. The CPS has continued to take significant further steps over the last 12 months to promote fairness and equality across the Criminal Justice System.
160. In 2019, the CPS developed, consulted upon and is now finalising specific guidance on evidence relating to gangs. Given the negative connotations of the term 'gang', it urges prosecutors to be cautious about referring to a group as a 'gang' in proceedings, and to do so only if there is an evidential basis to support the assertion. This must be an evidence-led process, whereby prosecutors consider whether there is evidence of a joint enterprise or admissible evidence of gang membership, which merits putting a case on this basis. The risk otherwise is that the term "gang" amounts to a wider casting of the net of liability than can be justified, and one which disproportionately affects minority ethnic people. For that reason, prosecutors are advised to actively resist assertion or imposition of a gang label which is not borne out in evidence.
161. Beyond addressing the recommendations made by the Lammy Review, in May 2018, the CPS published an innovative and ambitious Inclusion and Community Engagement strategy. This strategy is based on an independent review of CPS work on inclusion and community engagement which sought the views of a wide range of CPS staff and external stakeholders. The strategy emphasises the importance of the link between a diverse workforce and inclusive culture, and public confidence and trust in the CPS. This is particularly important for BAME groups where trust in the Criminal Justice System is low. The strategy will enhance CPS work to deliver a prosecution service that is fair and transparent, while addressing barriers and issues of disproportionality. In year one of the strategy, the CPS delivered:
- A programme of 'Community Conversations' to enable senior leaders to engage with 'seldom heard' groups in their communities;
 - Work experience opportunities to young people from 'low socio-economic' backgrounds and groups with relevant protected characteristics, underrepresented in CPS Areas, which is also an ongoing commitment;
 - The piloting of local Twitter accounts to improve their reach within communities;
 - Local stakeholder mapping exercises across England and Wales to improve their understanding of local community issues;

- The development of a national Hate Crime External Consultation Group consisting of members who support victims of hate crime and academics with a focus on hate crime with the aim of supporting CPS policy development and critical challenge; and
- and their first ever career development conference with a particular focus on Black, Asian and Minority Ethnic staff.

Community Conversations – CPS Thames and Chiltern

Community Conversations are part of the CPS' commitment to increase public confidence in the prosecution process. A community conversation is a dialogue between senior leaders in CPS Areas with members of 'seldom heard'¹ communities. Community Conversations provide an opportunity for members of communities to engage with the CPS, and feel assured that the issues and concerns that are impacting on their communities are understood by the CPS. It also provides the CPS with an opportunity to explain their decision-making process. The aim of the conversation is for the CPS, with members of the community where feasible, to take practical steps to address any concerns raised.

Thames and Chiltern CPS held a community conversation with members of the Somali Community to discuss issues of young people being lured into gangs and the impact of Female Genital Mutilation (FGM) on families and the wider community. This engagement has led to participants having a better understanding of how the CPS prosecutes cases and the support available for vulnerable and intimidated victims and witnesses. It has also led to the Area working with the community to identify opportunities for work experience and working with other partners, to explore strategies to divert young people away from gangs and raise their aspirations.

Targeted work experience programmes to aid social mobility and the recruitment of underrepresented groups – CPS West Midlands

CPS West Midlands delivered 68 work experience places to university students, young people and groups for 2018-2019. As part of its work experience strategy the area commissioned the West Midlands Social Mobility Foundation to identify potential schools to work with in the region. This led to 12 work placements being offered to young people between the ages of 15-18 from low social economic backgrounds.

In addition, one-week placements were offered to university students. The work experience covers Magistrates' Court office observations and Crown Court office observations, shadowing days at Courts with experienced prosecutors and shadowing

operational delivery staff. A further 59 places were offered in the first two quarters of 2019-2020.

1. The West Midlands Chief Crown Prosecutor, Grace Ononiwu OBE, delivered a series of highly successful career lectures to students in 2018-2019 leading to 12 Birmingham Metropolitan College students taking up work placements.
2. This year in 2019-2020 Grace Ononiwu invited the students and lecturers to CPS offices to explore the work of the CPS further. As a result of the work experience strategy and the experience gained, two BAME University participants have successfully applied for posts as legal trainees at CPS West Midlands.
3. CPS West Midlands has also committed to provide 150 students with work experience this year.

Chance to Change' pilots

162. The Lammy Review recommended that Government roll out a 'deferred prosecution' model in which someone accused of committing a low or medium level crime is given an opportunity to complete specified conditions (e.g. rehabilitative work, reparation to the alleged victim and/or a restriction such as a curfew) as an alternative to prosecution proceedings being brought against them.
163. A key feature is that the model should be offered to an accused offender without an admission of guilt being required. This is intended to address racial inequalities stemming from a lack of trust in the justice system amongst ethnic minority defendants, who we know are consistently more likely to plead not guilty and so face more punitive outcomes.
164. As well as tackling racial disproportionality, the model has the potential to reduce reoffending and crime harm and improve victim satisfaction. However, more evidence is needed before a decision to promote wider use of this model.
165. The Ministry of Justice has partnered with police forces (North West London and West Yorkshire), Police and Crime Commissioners and the Mayor's Office for Policing and Crime in London since Autumn 2018, to develop pilots of a scheme now entitled 'Chance to Change'. We have been working at pace to set out national standards around pilot design and eligibility, quality assurance and data collection. We continue to support forces in implementation and sharing best practice, and have established a new national group to oversee the systems, processes and management of the pilots during implementation.

166. The commitment of partners in North West London and West Yorkshire to innovation and the positive way in which both pilot areas have engaged with the process of developing these pilots has been an asset in exploring this novel model.
167. As of January 2020, both pilot sites are live. Implementation is being phased (gradually picking up additional staff teams and areas within the two pilot forces) in order to resolve any teething issues. Both areas are including youths, given Ministry of Justice' wider aims to divert youths away from the Criminal Justice System at the earliest opportunity. West Yorkshire is currently focused solely on youth cases. Both areas are randomising cases eligible for Chance to Change, to provide a counterfactual group to improve analysis of results.
168. We are also working in partnership with Barrow Cadbury Trust and Manchester Metropolitan University who will undertake a qualitative study on the views and experiences of participants in Chance to Change, including the impact of removing a requirement for admission of guilt; and Centre for Justice Innovation who are conducting related work on adult diversion which may support pilot areas in implementation.
169. It will naturally take some time before we see management information, and subsequently insights on reoffending, in order to inform national policy decisions on wider support of this model.
170. Note this model is completely separate from Deferred Prosecution Agreements for *organisations* (overseen by the Serious Fraud Office and CPS) and we use the term 'deferred prosecution' in this section to reflect the language used in the Lammy Review.

Local scrutiny of ethnicity and Out of Court disposals (OOCs)

171. OOCs allow the police to deal quickly with low-level offending without recourse to the Courts. Local scrutiny of decision-making on OOCs is one important protection against inappropriate use of OOCs, and helps improve police practice. Police forces are expected to have scrutiny panels in place with external representation, who review a selection of cases to determine whether the method of disposal is considered appropriate, based on a review of the information/evidence available to the decision maker at the time.
172. This year Ministry of Justice collaborated with the National Police Chief's Council to develop National Scrutiny Guidance, which sets out best practice around local scrutiny of decision-making on OOCs and helps improve police practice. The guidance sets out best practice around how panels should operate and deliver according to local need, including: scope, panel membership, frequency of meetings, case selection and outcome and reporting.

173. Critically, we have also included an expectation for examination at least annually of disproportionality with respect of OOCs issued to ethnic minority individuals. This to achieve greater transparency, supported by a thematic review of the data and individual cases of BAME individuals receiving OOCs, so that police and partners can identify any variation in practice of concern to inform future practice.

HM Courts & Tribunals Service

174. HMCTS has made the commitment to capture protected characteristic data for users. Collecting this data will allow HMCTS to identify disproportionality and any discrimination in its services. This will in turn allow HMCTS to meet legal requirements (Equality Act 2010), evaluate the reform programme particularly the impact on vulnerable users. HMCTS are beginning this work within civil, family and Tribunals with the view to exploring how this can be expanded into Criminal Courts in the future. HMCTS are exploring how we collect this data for citizen users with the application process for both online and paper channels. HMCTS have developed prototypes and have tested these within the context of online civil money claims and divorce, with corresponding paper versions. Once HMCTS have finished testing, these questions will be rolled out into existing reformed services and will be included in any new service before they enter public beta.
175. HMCTS has recently developed new guidance regarding the public-sector equality duty, which was signed on in June. The guidance complements the MOJ guidance focusing on how equality implications should be considered throughout the service design process. The guidance stipulates when Public Sector Equality Duty (PSED) considerations should be formally considered within the 7-step project lifecycle and the governance associated. This ensure that all protected characteristics including race are considered within the design of Court services.

Guidance for defendants in Criminal Courts

176. The Ministry of Justice has produced a four-part guide to support defendants as they move through the Criminal Justice System from charge to case completion. The guides are clear, accessible and designed to be understood by all defendants and are now available online and in Courts. They explain common legal terms; flag available legal advice; explain Crown and Magistrates' Court processes; and give advice on practicalities such as childcare and how to address a judge. We recognise that going to Court can be a confusing experience for defendants, particularly if they are unrepresented. We want to ensure that people are given the help they need to understand the Court process and the consequences of their own decisions, as well as those made by the Court.

Sentencing Council

Research – Ethnicity and Sentencing for Drug Supply Offences

177. In January 2020 the independent Sentencing Council published research that looked at the sentencing of three supply-related drug offences in the Crown Court between 2012 and 2015. The research was carried out in support of the revision of its Drug Offences sentencing guidelines and was published alongside a consultation paper seeking views on revised draft guidelines.
178. The research considered the association between an offender's sex and ethnicity and the type and length of sentence they received. It showed that, when taking into account the main sentencing factors for the three offences, the sex and ethnicity of offenders were associated with different sentencing outcomes.
179. The analysis showed a disparity between the odds of immediate custody for Black, Asian and Minority Ethnic offenders and the odds for White offenders, albeit a lesser disparity than that found in the MoJ research that was cited in the Lammy Review. It also showed that Asian offenders received slightly longer custodial sentences than White offenders but found no differences between the other ethnic groups.
180. The analysis also found that the odds of male offenders receiving an immediate custodial sentence were found to be higher than for female offenders, and male offenders received longer sentences.
181. The research was not able to provide clear evidence as to reasons for these disparities or any aspect of the guidelines that may have contributed to them. The research analysed only the three supply-related drug offences, and no wider conclusions can be drawn from it. Nonetheless, the consultation document published alongside the research stated the Council's concern that the sentencing guidelines should not inadvertently contribute to or exacerbate any disparities and that the guidelines should meet the Council's obligations under the Public-Sector Equality Duty. The consultation therefore seeks views on whether any of the factors in the draft guidelines, or the language used in the guidelines, could impact disproportionately on different social groups. The consultation is open until April 2020.

Judicial Diversity

182. In the 2019 Judicial Office statistics ³⁷7% of Court Judges and 11% of Tribunal Judges were BAME. BAME representation among Court Judges was generally lower than the working age population, but it was similar for those aged 50 to 59. BAME representation among Tribunal Judges was higher or similar to the general population at all age groups, other than those under 40.
183. The Judiciary and the Government remain strongly committed to its aims of achieving greater diversity. In the past 12 months, the Judiciary has continued to lead on a number of initiatives as set out in the Judicial Diversity Committee of the Judges' Council Report on Progress and Action Plan³⁸, but are limited by and dependant on those who apply, and on the diversity of the professional pool with appropriate and transferable skills.
184. The Lord Chancellor has agreed with the Lord Chief Justice and the Chair of the JAC to produce a combined statistical publication to bring together the two official statistical publications, showing the diversity of the Judiciary and the diversity of Judicial appointments, and where available the diversity data of the legal professions. The first publication is in September 2020 and aims to provide a more holistic assessment of the current landscape, including more granular data on the diversity of the eligible pool for Judicial appointment.
185. Following the MoJ announcement to fund the Pre-Application Judicial Education Programme (PAJE) in April 2018, a joint initiative of the Judicial Diversity Forum (JDF), the programme launched in April 2019. The JDF is chaired by the Chair of the Judicial Appointments Commission (JAC) and membership comprises the Lord Chancellor, the Lord Chief Justice, the Chair of the Bar Council, the President of the Law Society, the Chair of the Legal Services Board and the President of CILEx. The Forum provides strategic direction to coordinate agreed activities aimed at encouraging greater Judicial diversity. This work is supported and progressed by senior officials from each organisation and judges
186. The PAJE programme has been offered to candidates from underrepresented groups (including BAME Lawyers) in the first instance and has provided participants with a greater understanding of the role and skills required to be a judge. The Judicial College drafted and produced the online materials and trained the facilitator judges. 77 participants attended the first round of judge-facilitated discussion groups from September until December 2019.

³⁷ Available at: <https://www.gov.uk/government/statistics/Judicial-diversity-statistics-2019>

³⁸ Available at: <https://www.judiciary.uk/about-the-judiciary/who-are-the-judiciary/diversity/Judicial-diversity-committee-of-the-judges-council-report-on-progress-and-action-plan-2019/>

187. A second round of Judge-facilitated discussion groups are taking place from January to March 2020 in London, Leeds and Cardiff. 101 places have been allocated to Lawyers from underrepresented groups, including 55 BAME Lawyers. Further discussion groups are planned to take place from May to July 2020.
188. As well as supporting programmes such as PAJE, MoJ is continuing to review policy areas that may have an impact on supporting further diversity in the Judiciary, such as the salaried part-time working, which we have reviewed the policy with the aim of publishing it this Spring, to ensure that, wherever possible, opportunities are open to those who wish to work part-time.
189. The Judicial Appointments Commission continues to review and improve its selection processes to ensure they are fair and identify talented candidates from a wide range of backgrounds. All selection materials and processes are routinely checked for bias and the independent review conducted by Work Psychology Group endorsed the JAC's shortlisting tools as being in line with best practice. The JAC has also extended the use of its equal merit approach, to cover the shortlisting stage of every exercise so that where two or more applicants are of equal merit, the candidate (or candidates) that are underrepresented, will be given priority.
190. The Judiciary, supported by the JAC, are continuing to work with the legal professional bodies to offer regional outreach seminars to support a greater number of candidates from underrepresented groups to prepare for the JAC selection process. The Judiciary continues to build upon existing initiatives such as the Judicial work shadowing scheme and mentoring schemes, as well as introducing new initiatives such as increasing their engagement with schools.

Magistracy Diversity

191. 12% of Magistrates were from BAME background at 1 April 2019, representing a 4-percentage point increase since 2012.
192. The Government published its response to the Justice Select Committee's follow-up inquiry into the Role of the Magistracy in November 2019. On diversity, the JSC focused on both the proportion of BAME Magistrates (comparing Magistrates to non-legal members in Tribunal s), and the social class of Magistrates, which is currently not recorded. We are investigating (with colleagues in Judicial Office) how best to expand the collection of diversity data amongst new and existing Magistrates, including on socio-economic background.
193. The Magistrates Recruitment and Attraction Steering Group, jointly headed by the Ministry of Justice and leadership Magistrates, will hold its first meeting in February 2020, and will lead activity to promoting the magistracy and increase recruitment, with a particular focus on increasing the diversity of the Magistracy.

Judicial Training

194. The Judicial College promotes equality and diversity through its Equal Treatment Bench Book. In September 2019, the revised Equal Treatment Bench Book was launched to include a new section on Gypsies, Travellers and Roma (GRT). The Equal Treatment Bench Book gives Judges important information about the lives of disadvantaged groups and makes suggestions for how they can be helped with the Court process.
195. Training on fair treatment and bias, including cognitive/unconscious bias is embedded in Judicial College training events. Recent examples of this include:
 - a) Starting in April 2019, all Courts and Tribunal Judges and coroners appointed to their first Judicial role will attend a compulsory Faculty Induction Seminar which includes presentations and practical and reflective workshops to achieve the following Learning Outcome - Reduce the impact of cognitive bias as a judge or coroner by applying strategies to mitigate and insulate their influence. Other outcomes include:
 - b) Adapt their style of communication to the needs of those in the hearing, with greater awareness of vulnerability and the needs of those appearing in the hearing and the communication issues that can arise,
 - c) Locate and use the Equal Treatment Bench Book as a resource to assist them in conducting a fair hearing;
 - d) In June 2019, the College launched a bespoke eLearning course on unconscious bias for all Magistrates, their legal advisers and Advisory Committee members to be completed in this training year, supplementing existing face to face material on fair treatment delivered by trainers locally.
196. Tailored online resources are available on the Judicial College Learning Management System for all Judicial office holders on unconscious bias.
197. Regular e-Alerts are issued to all Judicial office holders who are registered on the Judicial College Learning Management System to refer to topical events, whether dates, anniversaries, judgments or reports. They attach direct links to the relevant section(s) of the Equal Treatment Bench Book.
198. Complementary e-Learning modules to Equal Treatment Bench Book were launched in February 2019 to raise Judicial awareness and skills in inter-cultural communication.

Prisons and Rehabilitation

199. There were 82,868 in prison as at 31 December 2019³⁹. Over the last five years self-identified ethnicity proportions of prisoners have remained largely unchanged (White, 72%; Black, 13%; Asian, 8%; Mixed, 5% and Other, 2%). In 2018, the number of people given Court orders with requirements as part of a community or suspended sentence was 107,800⁴⁰. Of all the people receiving either type of Court order, 83% were White, 7% Black, 5% Asian, 3% of Mixed ethnicity and 1% of Chinese or Other ethnicity. In 2018, of the 70,000 offenders supervised on post-release licence, 71% were White, 11% Black, 7% Asian, 4% of Mixed ethnicity and 1% of Chinese or Other ethnicity. The proportions of the community caseload have remained relatively stable across the last year. Whilst the population remains unchanged overall, we know that there are issues within the prison and probation system which we are working to address as discussed below.
200. Her Majesty's Prison and Probation Service' (HMPPS) business strategy reflects our commitment to equalities. We are working to ensure HMPPS has an increasingly diverse workforce at all levels of seniority; is inclusive in the way we treat our staff; and delivers our services fairly. In addition, the Chief Executive of HMPPS Dr. Jo Farrar is the cross-MoJ Race Champion, taking the voices and experiences of Black, Asian and Minority Ethnic (BAME) colleagues to MoJ's Executive Committee on the real issues that are affecting them, as well as the progress being made to diversify the workforce in line with David Lammy's recommendations.
201. HMPPS have continued to progress work against each of the recommendations made within the Lammy Review across the adult male and female estates as well as the youth estate – more detail on work to tackle disparities for young people in our care is included in the Youth Disproportionality section of this report. These efforts have been bolstered by revised accountability and governance structures for diversity and inclusion across the Agency and the appointment of regional equalities managers across prisons.

³⁹ Offender Management Statistics quarterly bulletin, published 30 January 200

<https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-july-to-september-2019>

⁴⁰ Statistics on Race and the Criminal Justice System 2018, published 28 November 2019

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/849200/statistics-on-race-and-the-cjs-2018.pdf

Transparency

202. HMPPS have continued to regularly engage with the External Advice and Scrutiny Panel, chaired by Jeremy Crook OBE, to ensure voluntary and community sector stakeholders can provide constructive challenge to implementation of the Lammy Review recommendations. Since the Panel was established in February 2018, members have conducted visits, held meetings with senior officials, and provided advice on developing policies and processes on a range of topics, including incentives, use of force, and staff diversity.

Diverse Workforce

203. As at 30 September 2019, there were 52,733 staff in post in HMPPS⁴¹. 10.2% of staff who had declared their ethnicity were from a BAME background, which is an increase from 9% in September 2018. The representation varied across the different business operations of HMPPS, with 7.9% of staff working in Public Sector Prisons, 15.1% in the Youth Custody Service (YCS), 12.7% in Headquarters and 15.6% of staff working in NPS declaring as BAME.

204. HMPPS is committed to recruiting a more representative workforce and have set a target for 14% of all new recruits to be from a BAME background by December 2020. With regards to prison officer entry level recruitment, BAME candidates made up 20.5% of all Prison Officer applicants, and 12.1% of formal offers accepted between October 2017 and September 2019⁴². The proportions varied during this time, dependent on the geographic location of the recruitment campaigns. HMPPS have revised the Prison Officer application test which was found to be dis-advantageous towards BAME applicants and are continuing to monitor BAME representation at each stage of the recruitment process to address any identified disparities.

205. Investing in and supporting our workforce is critical to the success of the changes we are making to strengthen the performance and delivery of the probation service. In order to achieve this there are a number of key areas in which we must take action. As a first step, we are developing a comprehensive probation workforce reform strategy, which will crucially set out our ambition and vision for the probation workforce including action needed to support the Government's ambition for the wider Criminal Justice System. The strategy will also set out our vision for improving representation, diversity and inclusion within the workforce, including through the recruitment and training of new staff.

⁴¹ Workforce Quarterly Statistics, published 21 November 2019
<https://www.gov.uk/government/statistics/hm-prison-and-probation-service-workforce-quarterly-september-2019>

⁴² Prison Officer and Operational Support Grade (OSG) Experimental recruitment diversity statistics, published 21 November 2019
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/847414/po-osg-recruitment-diversity-statistics-sept-2019.pdf

206. As at 30 September 2019, 8.7% of staff working in senior leadership roles⁴³ across HMPPS had declared their ethnicity as BAME. HMPPS are determined to increase BAME representation at senior levels and intend for the representation of staff in senior HMPPS roles to match the working age population by 2030. To support this commitment, a Senior BAME Staff Recruitment and Progression Lead has been appointed, to lead on work to attract high-quality new BAME entrants to the Agency, through targeted recruitment. HMPPS have also appointed four Senior BAME Staff Development Leads to work across the business to ensure that all BAME staff have the right support, mentorship and opportunities to progress on an equal footing into senior roles. In addition, HMPPS have launched initiatives such as requiring every senior leadership recruitment or promotion board to include a BAME panel member to bring greater transparency to the recruitment process and the development of a new coaching programme for BAME staff to be matched to a coach that identified themselves as having specialism in the applicants' specified area for need.

Treatment of Staff

207. Staff declaration rates across HMPPS have continued to improve, enabling better analysis of the data and outcomes for different groups of staff. The Annual HMPPS Staff Equalities report⁴⁴ contains data on outcomes for a range of staff processes for BAME and White staff, including total staff in post, promotions, appraisals, investigations and conduct and discipline cases. Where disparities are identified, HMPPS are investigating the reasons for this using the principle of 'explain or reform'.
208. HMPPS are determined to create a working environment where everyone feels comfortable and diversity is embraced. To support this commitment, HMPPS are piloting 'climate assessments', or cultural assessments across all protected characteristics which highlight issues, as well as examples of good practice, to understand better the experiences of staff. If these are successful, further assessments will be rolled out across the agency with additional support provided for managers to deal effectively with complaints of unacceptable behaviour.

Treatment of Service Users

209. HMPPS have continued to implement all the recommendations made in the Lammy Review with respect to BAME service users in custody and the community, as well as overseeing broader work to tackle disparity for Gypsy Roma Traveller and Foreign National populations. This includes work to refresh the Incentives and Complaints policies and develop the maturity resource pack which is referenced below.

⁴³ <https://www.gov.uk/government/statistics/hm-prison-and-probation-service-workforce-quarterly-september-2019>

⁴⁴ <https://www.gov.uk/government/statistics/hm-prison-and-probation-service-staff-equalities-report-2018-to-2019>

Incentives

210. A new Incentives Policy Framework was published on 11 July 2019. The policy, which replaces PSI 30/2013, Incentives and Earned Privileges required all prisons to introduce Incentive Forums by 27 September, with the whole Policy Framework implemented on 13 January 2020. The Framework focuses on reinforcing positive behaviour as evidence shows that this approach can be effective at achieving positive changes to behaviour, helping people make the right decisions. The new approach provides a common framework whilst giving governors the freedom they need to encourage people to follow the rules, engage with the regime and work towards desistance.
211. The new policy reflects the findings of the Lammy Review which found that BAME people were more likely to feel unfairly treated by Incentives processes and less likely to say that it motivated them to follow prison rules. It recommended that each prison should have an Incentives Forum which brings together a diverse group of staff and people in custody to discuss the fairness of the Incentives system. The new Policy Framework made it mandatory for prisons to hold these Forums creating opportunities to reflect on how staff use the scheme and to ensure outcomes are fair for everyone, including people with protected characteristics.

Complaints

212. A new Prisoner Complaints policy framework was launched on 1 August 2019, shaped by feedback received from staff, prisoners and stakeholders during extensive consultation in 2018. Alongside this, new guidance and forms have been created, to assist staff to investigate prisoners' issues thoroughly and make sure they are resolved fairly and effectively at an early stage. Key recommendations from the Lammy review have been incorporated: to have a problem-solving approach to investigating complaints and to ensure balance of probabilities is applied as the burden of proof. Prompts have been added to the new forms to support staff with this. The principles of procedural justice run throughout the new guidance and forms to increase prisoners' understanding and confidence in the fairness of the process.
213. Following a separate consultation with staff, prisoners and external stakeholders on the Discrimination Incident Report Form (DIRF), a series of recommendations has been agreed and work is underway to refresh the policy and operational guidance to ensure the process is more accessible and transparent, to build trust amongst prisoners.

Maturity

214. A maturity assessment screening tool has been developed by HMPPS which supports staff in identifying males aged 18-25 with lower levels of maturity. HMPPS have also developed a Maturity Resource Pack (entitled Choices and Changes) which provides a series of exercises which staff can use with young adult males aged 18-25 to support their maturation. Improved screening will help providers determine how many young adults in their care are likely to require services or interventions to promote maturation, as well as help those with the lowest levels of maturity.

Rehabilitation

215. In May 2019, HMPPS announced plans for a Unified Model for probation services, building on responses to the 'Strengthening Probation, Building Confidence' consultation. Under this model, HMPPS will improve provision for service users with protected characteristics and vulnerable groups, including those from BAME communities. The probation reforms are far-reaching, and the programme team are scoping equalities impacts and considerations across the probation workforce, our service design and commissioning of services, as well as a strong focus on future data and performance measures.

216. A Dynamic Framework will underpin the future probation model and is intended to facilitate participation in the market by smaller providers and charitable organisations by simplifying the bidding process, to allow for flexible commissioning of rehabilitation and resettlement support to meet the needs of different areas and cohorts, including people from BAME backgrounds. This will provide opportunities for specialist BAME organisations from the voluntary, community and social enterprise sector to innovate and deliver services. The probation reform team will continue to engage with external stakeholders to develop understanding of issues BAME service users face, with a view to improving services and reducing disproportionality.

Di-biasing Decision Making

217. HMPPS has completed a review of evidence of the role of bias in decision-making and strategies for mitigating its impact. The results of this review have been disseminated widely across the organisation and beyond, including in sessions at the 2019 Parole Board conference, through workshops, presentations and a written evidence summary. All Lammy Workstream Leads have been briefed on this evidence, and are, where appropriate, incorporating bias reduction strategies into revised policies and practices. Training in promising strategies for reducing bias in decision making is in development and a brief version forms a module of the new mandatory online Diversity and Inclusion training, which is now live. The first stage of a trial of "debiasing" strategies in Courts, as part of the pre-sentence reporting process, is underway. A pilot of a revised staff performance management process

that also aims to reduce potential bias in decisions about staff, for people working in prisons, is planned for the New Year.

218. Revised policies and practices are making explicit the objective to reduce the potential impact of bias on decisions. The evidence sessions and summary are being well received, with requests coming in from across the organisation for workshops and presentations on this topic, to enable groups and teams to start to integrate the learning into their practice.

Pre – Sentence Reports

219. Through consultation with both internal and external stakeholders, we have identified opportunities to improve Pre-Sentence Reports (PSRs) in a number of key areas, including through use of language and terminology; improving confidence to talk about difference; improving cultural competence; stereotyping and de-biasing decision making; and quality assurance.
220. We are piloting a revised approach to training and guidance which is being supported by tailored communications for pre-sentence report writers that addresses these challenges. This is currently being trialled in two Courts, with further pilots commencing in early 2020, which will be evaluated before national rollout to all NPS staff.
221. The PSR template was amended in October 2019. A prompt to report writers was added to consider if they have effectively incorporated equality and diversity considerations in the formulation of their reports and sentencing proposals.
222. A video of David Lammy discussing unconscious bias and how it influences disparities within the Criminal Justice System has been produced and shared with probation staff. Further guidance on producing inclusive pre-sentence reports has been created and is currently under revision prior to dissemination.

Strengthening Prisoners' Family Ties

223. To ensure the needs of people of BAME background are met, the Strengthening Prisoners Family Ties Policy Framework was published in January 2019 helps to standardise the quality of services provided that enable prisoners to develop, maintain or enhance family and significant relationships. The Framework responds to recommendations from Lord Farmer's 2017 review into the importance of strengthening prisoners' family ties, and similarly in line with the follow-up Review for Women (2019)⁴⁵.

⁴⁵ <https://www.gov.uk/government/publications/farmer-review-for-women>

224. An equalities analysis conducted as part of the policy formulation process and family test made explicit, the importance of ensuring that people of BAME background would not be adversely affected by the policy.
225. Since April 2018 all prisons are tasked to publish local family strategies which includes an expectation that the needs of BAME prisoners and their families are identified and addressed. This includes how they are engaged through positive interactions, ensuring that they have equal and fair access to family services such as family visits and programmes that are designed to support the building of family and significant other relationships.
226. In April 2019/20 a 'shadow' family self-assessment performance measure was introduced. The 'shadow' element of the measure means that final performance for the business year 2019/20 will not form part of each establishment's overall performance score. This will allow each Governor/Director and all concerned, to develop confidence in the self-assessment process and the robustness of the measure itself. The self-assessment supports and provides crucial guidance for the delivery of more consistent services that help to improve relationships between prisoners, their families and significant others. Such services include, extended visitations and family days across the prisons estate. The measure encourages and recognises positive and proactive work by prisons.

Diversity within the Parole Board

227. A recruitment campaign in the North of England has seen a record number of Black, Asian and Minority Ethnic (BAME) candidates appointed to become Parole Board members. Following an extensive outreach campaign, 53 independent members will join the Board, 48% of whom are from a BAME background. In separate campaigns, 3 retired Judges and 20 psychologists, including 17% from a BAME background, were also appointed from across England and Wales for their specialist skills.
228. The Board has been calling for a more diverse membership that better reflects the community it serves and brings a mix of perspectives and experience to decision making. It was highlighted the Lammy Review, that a lack of diversity can impact on confidence and trust in the Criminal Justice System.
229. Prior to this campaign, fewer than 5% of the Board's members identified as being from a BAME background. These appointments triple the number and will bring the Board's BAME diversity to nearly 13%.
230. The strategy used in this recruitment campaign will be applied (and improved) for all future campaigns. We are committed to building on this success across the country, and planning is already underway for campaigns in the Midlands and then London/South East. There is still work to be done – this is just the beginning.

Next Steps – How we are working

Governance

231. In January 2018, the Race and Ethnicity Board was established with the objective of holding the key partners across the Criminal Justice System responsible for improvement in their respective areas to account. As part of its membership the board appointed two external advisors and representation of lived experience of the Criminal Justice System, to allow for further challenge and transparency.
232. To further demonstrate our commitment to addressing the recommendations of the Lammy Review, we invited David Lammy MP to our Race and Ethnicity Board to update him on progress across all recommendations. In addition to that on 26 March 2019, the Justice Select Committee invited David Lammy MP to give evidence on progress in implementing the recommendations arising from the Lammy Review. This was a one-off session and not, currently, part of a wider enquiry. Lammy recognised significant positive activity as a result of the review and was pleased in regard to the governance structure that had been established to progress the recommendations in his review.
233. The recommendations made within the Lammy Review covered a breadth of issues of varying complexity, with ownership shared by an array of organisations. We recognise that whilst some recommendations are more straightforward, there are also areas where the issues are deeply entrenched and cannot be solved in a year. Therefore, we continue to pledge our commitment to continue our work in analysing, challenging racial disparity within the CJS, but also work towards a much wider and longer- term cultural and strategic change around race disparity.
234. The MoJ will continue to drive progress on each recommendation within the Lammy review and invite independent scrutiny where appropriate to remain transparent and cognisant of various perspectives to aid the work of the department. The Board has an enduring commitment long beyond the 35 recommendations to supervise and address racial disparity and will continue to work laterally to better the treatment and outcomes of BAME individuals within the CJS.

Stakeholder Engagement

235. As part of the implementation of the Lammy review, we are committed to ensuring stakeholders are kept abreast on progress made in addressing racial disparities and that transparency flows throughout our policy implementation. Furthermore, where possible we involve user-voices, lived experiences and stakeholder input in to our workstreams.
236. Our engagement with stakeholders includes quarterly ministerial led roundtables. Ministers have held roundtable meetings with BAME focused and led organisations since January 2018. These have largely had a thematic focus with recent topics including Trust and Confidence in the CJS, the first point of contact with the Youth Justice System (YJS), and experiences of Muslims in the CJS.
237. The Race Disparity team produce a quarterly newsletter informing on work achieved to tackle race disparity, updates from the Race & Ethnicity board and roundtables also ad-hoc news and opportunities, the newsletter is sent to external stakeholders, voluntarily sector organisations and Criminal Justice agencies. If you are an organisation we are not in touch with already and would like to share relevant work or expertise, we welcome approaches to [Race and Ethnicity@justice.gov.uk](mailto:Race_and_Ethnicity@justice.gov.uk).

Conclusion

238. Reducing racial disparities in the justice system is a challenging task, but there is significant further work ahead to continue challenging and eliminating these inequalities.
239. As time and progress on our work resulting from the Lammy Review recommendations continues, we will increasingly focus on more work above and beyond the recommendations made and we will be in a continuing process of refreshing and building our programme of work to identify the next challenges and areas of focus for future years of our programme, in partnership with our stakeholders, departmental groups and operational agencies.
240. The MoJ will also continue to collaborate with stakeholders, other government departments and operational agencies and align our work with that of the Race Disparity Audit and the work currently on going across Government to address the injustice of race disparity. We will also continue to provide updates on activity and progress – to coincide with the major biennial Race and the CJS statistics update.

Annex 1 – Update on each recommendation of the Lammy Review

Data recommendations

Recommendation 1: *A cross-CJS approach should be agreed to record data on ethnicity. This should enable more scrutiny in the future, whilst reducing inefficiencies that can come from collecting the same data twice. This more consistent approach should see the CPS and the Courts collect data on religion so that the treatment and outcomes of different religious groups can be examined in more detail in the future.*

UPDATE: The Race and Ethnicity Board senior governance group are tracking progress on publication of new data, those recommendations which lend themselves to measurement and where we currently hold relevant data including key cross-CJS data on ethnicity as promised.

CPS and the Courts to explore opportunities to collect data on religion so that the treatment and outcomes of different religious groups can be examined in more detail in the future. However, this is dependent on the Police collecting this data which is a Home Office lead. Development of Common platform is underway and will aim to include updated 18+1 ethnicity classifications where possible.

Our aim is to update existing data systems to capture necessary information and where necessary explore the possibility of new data systems as part of the HMCTS reform programme. A Data Governance Authority is being established within HMCTS, intended to support common data standards and opening up data to external researchers and the public.

Recommendation 2: *The government should match the rigorous standards set in the US for the analysis of ethnicity and the CJS. Specifically, the analysis commissioned for this review – learning from the US approach – must be repeated biennially, to understand more about the impact of decisions at each stage of the CJS.*

UPDATE: Relative Rate indexes (RRIs) are currently being used across a number of MoJ publications including in the Race in the Criminal Justice System, Youth Justice annual and the Judicial Selection and Recommendations for Appointment publications. We recognise the benefits of RRI to allow clear comparison and are supportive of using them wherever possible. However, if either comparison group used to calculate the RRI is too small or unrepresentative, the RRI can easily fluctuate or be misleading and not necessarily be suitable for determining statistical significance or to explain differences in outcomes. The MoJ has conducted a review of the current use of the RRI and alternative

analytical approaches for use in our statistical publications. A report covering their recommended use and interpretation will be published in late February 2020.

Recommendation 3: *The default should be for the Ministry of Justice (MoJ) and CJS agencies to publish all datasets held on ethnicity, while protecting the privacy of individuals. Each time the Race Disparity Audit exercise is repeated, the CJS should aim to improve the quality and quantity of datasets made available to the public.*

UPDATE: Further ethnicity updates in the [HMPPS offender and staff equalities reports](#) (released in November each year), [Youth Justice annual statistics](#) (released in January each year) and updated [Judicial Appointments Commission \(JAC\) official statistics](#) (June). Further breakdowns of ethnicity for prisoners released on Home Detention Curfew to complement the breakdowns previously published on releases from temporary licence. In addition, a quarterly prison population tool now includes ethnicity breakdowns at an establishment level.

New ethnicity data published in response to the Lammy review recommendations will continue to be reported within our official statistics updates on gov.uk and we are working closely with the Race Disparity Unit to identify other justice areas where further ethnicity data may be published on gov.uk, including the [Ethnicity Facts and Figures website](#). As much as possible we intend to publish ethnicity data sets by the 18+ 1 standard. Where this is not possible, we will take steps to improve the quality of data sets.

Recommendation 4: *If CJS agencies cannot provide an evidence-based explanation for apparent disparities between ethnic groups than reforms should be introduced to address those disparities. This principle of “explain or reform” should apply to every CJS institution.”*

UPDATE: The Lammy review provided detailed recommendations that helped us to focus our priorities and soon after the review was published we accepted the principle of ‘explain or change’ amongst other recommendations. Every quarter at the Race & Ethnicity Board (internal governance overseeing progress on race disparity in the CJS), we conduct ‘data deep dives’ as part of exploring this principle to further investigate and address disparities in race related data within the CJS.

Recommendation 12: *The Open Justice initiative should be extended and updated so that it is possible to view sentences for individual offences at individual Courts, broken down by demographic characteristics, including gender and ethnicity.*

UPDATE: Produced and updated annually in May, as part of the Criminal Justice Statistics publication, were the [sentencing and offence tools which break ethnicity data down by demographic characteristics](#) in response to the Lammy recommendation.

As part of our commitment to release more data under Lammy Review recommendation 3, the MoJ has published ethnicity breakdowns for prisoners given early release on home detention curfew (HDC) to go alongside the ethnicity data we published for the first time in July 2018, for prisoners released on temporary licence (ROTL).

Recommendation 23: *The MoJ and the Parole Board should report on the proportion of prisoners released by offence and ethnicity. This data should also cover the proportion of each ethnicity who also go on to reoffend.*

UPDATE: In October 2018 we published for the first-time reoffending data on all those released from indeterminate sentences, showing: a) a one-year reoffending rate; b) an index offence by reoffence table – to give an indication of reoffence seriousness; c) and reoffending rates by ethnicity. This will now be updated in future MoJ Race and the Criminal Justice System publications.

Youth Justice Policy

Recommendation 18: *Youth offender panels should be renamed Local Justice Panels. They should take place in community settings, have a stronger emphasis on parenting, involve selected community members and have the power to hold other local services to account for their role in a child's rehabilitation.*

UPDATE: In the Government response to Lammy, we stated that we had no plans to change the formal powers of Youth Offender Panels. However, we recognise the underlying principles of embedding rehabilitation of young people in their local community and of strengthening the involvement of Courts and Magistrates with young people who offend.

Following on from the Youth Justice Board's analysis of the regional break down of demographics of Youth Offending Team volunteers to inform diversity of recruitment, revised Referral Order Guidance was published in October 2018. This placed a stronger emphasis on recruiting from diverse communities, as well as establishing diverse panels for Black, Asian and minority ethnic children, where possible.

An effective practice example in this area is from the Hounslow Youth Offending Service, where a number of innovative initiatives were developed following the publication of the guidance, have helped improve the diversity of the Youth Offender Panel. These include the promotion of the Panel's membership and recruitment scheme through contacting local places of worship, including mosques, temples, synagogues and churches; creating a radio advert and promoting it on a local, predominantly Asian network; and utilising the local council's social media and communication team support.

Another example is from the Wandsworth Youth Offending Team. In 2007, only 15% of the Panel members were from the Black, Asian and minority ethnic community, and there

were no Black male panel members. The YOT coordinator visited local churches and mosques, and Black, Asian and minority ethnic community events to raise awareness of Referral Orders and the opportunities to work with the Youth Offending Team to tackle youth crime in their community. In November 2019, 13 out of 25 active Panel members were from Black, Asian and minority ethnic backgrounds, 6 of whom are Black males. The YOT is continuing to find ways to reach out to underrepresented communities directly, to raise awareness and highlight the benefits of involving them in decisions regarding the Criminal Justice System.

Recommendation 19: *Each year, Magistrates should follow an agreed number of cases in the Youth Justice System from start to finish, to deepen their understanding of how the rehabilitation process works. The MoJ should also evaluate whether their continued attachment to these cases has any observable effect on reoffending rates.*

UPDATE: As stated within the Government response, we have no plans to require Magistrates to follow an agreed number of individuals cases each year. However, we agree that information sharing between Courts, Youth Offending Teams and local services should be strengthened, and we have taken steps to improve information sharing between Magistrates, Courts and services via the revised 'Referral Order Guidance' that the Youth Justice Board have published. As noted in last year's update, we continue to monitor and review the use of the referral order tools and to gather good practice examples.

Recommendation 33: *The Youth Justice Board (YJB) should commission and publish a full evaluation of what has been learned from the trial of its 'disproportionality toolkit', and identify potential actions or interventions to be taken.*

UPDATE: The Youth Justice Board completed Recommendation 33 of the Lammy Review in October 2018, by updating the Local Ethnicity Disproportionality Tool, and in November 2018 it was made available to all YOTs nationally. The YJB is continuing to work with YOTs to develop improvements based on feedback. It is also working towards an integrated tool which will provide YOTs with more regular and up to date information on disproportionality. This is being developed for a March 2020 release.

An example of YOTs using the Local Ethnicity Disproportionality Tool comes from Hackney YOT, which has used the tool to assess whether the findings in the Lammy review applied accurately to their area. Their analysis highlighted that Out-of-Court Disposals appeared to be successful for Black, Asian and minority ethnic children in their area, but that formal outcomes were disproportional. The YOT continues to use the tool to look at disproportionality and to produce analysis that is then included in reports to their Governance Board and feeds into other local programmes aimed at supporting Black, Asian and minority ethnic communities.

HM Courts & Tribunals Service

Recommendation 11: *The MoJ should take steps to address key data gaps in the Magistrates' Court including pleas and remand decisions. This should be part of a more detailed examination of Magistrates' verdicts, with a particular focus on those affecting BAME women.*

UPDATE: Criminal Justice organisations of England of Wales have adopted a revised Self-Defined 18+1 data standard to deliver greater precision when recording the defendant's ethnicity status. This standard added "Arab" and "Gypsy or Irish Traveller". HMCTS integrated this into its systems from June 2018 and while the use of the 18+1 standard by Police Forces for the 2019/2020 Home Office data return is discretionary consideration is being given to making the 18+1 standard mandatory from April 2020. This standard relies on self-identification by a defendant, who may choose to withhold this information.

Under the HMCTS Reform Programme new systems are being developed to improve accuracy and consistency of data across the Magistrates' Court and Crown Court jurisdictions.

Recommendation 13: *As part of the Court modernisation programme, all sentencing remarks in the Crown Court should be published in audio and/or written form. This would build trust by making justice more transparent and comprehensible for victims, witnesses and offenders.*

UPDATE: The MoJ agrees that the driving factors behind this recommendation needs to be prioritised. However, after looking at the investment required to create and share either audio clips or transcripts with the current technology we have available, we concluded that the costs are prohibitive at this time. We believe that these costs could be alleviated by more reliable and advanced technology in the future. We are currently investing in digitising the Criminal Courts and once these reforms are complete, they should provide opportunities for better and more cost-effective solutions.

The Ministry of Justice has however produced a four-part guide to support defendants as they move through the Criminal Justice System from charge to case completion, available online and in Courts. MoJ want to ensure that people are given the help they need to understand the Court process and the consequences of their own decisions, as well as those made by the Court. The guide includes information on sentencing and in the Crown Court defendants are encouraged to speak to their lawyer if they need their sentence explained again.

We recognise that access to clear, timely and accurate information is essential for victims and yet awareness of the Victims' Code, which provides information about the Criminal Justice process and sets out the support that victims are entitled to receive, remains low.

The MoJ announced as part of the cross-government Victims' Strategy published in September 2018, a commitment to revise the Victims' Code to address its complexity, accessibility and update the rights it guarantees so that they are more reflective of victims' needs. The revised Code will be published in early 2020.

Fully understanding sentencing decisions is particularly important to victims and therefore, as also announced in the Victims' Strategy, the Crown Prosecution Service and the National Police Chiefs' Council (NPCC) are working together to improve the quality of sentencing explanations provided to victims by Witness Care Units in accordance with the Victims' Code.

Plea Decisions

Recommendation 10: *The 'deferred prosecution' model pioneered in Operation Turning Point should be rolled out for both adult and youth offenders across England and Wales. The key aspect of the model is that it provides interventions before pleas are entered rather than after.*

UPDATE: The Ministry of Justice has partnered with police forces (North West London and West Yorkshire), Police and Crime Commissioners and the Mayor's Office for Policing and Crime in London since Autumn 2018, to develop pilots of a scheme now entitled 'Chance to Change'. We have been working at pace to set out national standards around pilot design and eligibility, quality assurance and data collection. We continue to support forces in implementation and sharing best practice, and have established a new national group to oversee the systems, processes and management of the pilots during implementation.

The commitment of partners in North West London and West Yorkshire to innovation and the positive way in which both pilot areas have engaged with the process of developing these pilots has been an asset in exploring this novel model.

As of January 2020, both pilot sites are live. Implementation is being phased (gradually picking up additional staff teams and areas within the two pilot forces) in order to resolve any teething issues. Both areas are including youths, given Ministry of Justice' wider aims to divert youths away from the Criminal Justice System at the earliest opportunity. West Yorkshire is currently focused solely on youth cases. Both areas are randomising cases eligible for Chance to Change, to provide a counterfactual group to improve analysis of results.

We are also working in partnership with the Barrow Cadbury Trust and Manchester Metropolitan University who will undertake a qualitative study on the views and experiences of participants in Chance to Change, including the impact of removing a requirement for admission of guilt; and the Centre for Justice Innovation who are

conducting related work on adult diversion which may support pilot areas in implementation.

It will naturally take some time before we see management information, and subsequently insights on reoffending, in order to inform national policy decisions on wider support of this model.

HM Prison and Probation Service

Recommendations: 17, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32

Recommendation 17: *The MoJ and Department of Health (DH) should work together to develop a method to assess the maturity of offenders entering the justice system up to the age of 21. The results of this assessment should inform the interventions applied to any offender in this cohort, including extending the support structures of the Youth Justice System for offenders over the age of 18 who are judged to have low levels of maturity.*

UPDATE: A maturity assessment screening tool has been developed by HMPPS to help prison and probation providers determine how many young adult males (aged 18-25) in their care are likely to require services or interventions to promote maturation and to identify the 18-25 year old males with the lowest levels of maturity. The tool is supported by a flexible Maturity Resource Pack (entitled Choices and Changes) which aims to support young adult males with lower levels of maturity. The resource pack provides opportunities for young adult males to build skills in specific areas that research indicates are linked to psychosocial maturity. The screening tool and resource pack were piloted in 2018 and learning was disseminated across HMPPS at a Young Adults Conference which took place in July 2019. HMPPS continue to monitor uptake and use of the maturity screening tool and the Choices and Changes resource pack across prison and probation.

The resource pack is used one-to-one with men identified as having the lowest levels of psychosocial maturity (via the maturity screening tool). The Offender Management in Custody (OMiC) model provides opportunities for staff such as Keyworkers and Prison Offender Managers (POMs) to deliver Choices and Changes on a one to one individual basis. However, this will be rolled out gradually as Keyworkers develop the skills and confidence to do this type of work. Keyworkers and POMs will be supported by Senior Probation Officers and Programme Teams in the delivery of this work.

We recognise that 'Choices and Changes' is more likely to be offered, and to achieve the intended benefits, if it is implemented as part of a supportive culture for young adults in prison who have low psychosocial maturity, together with other services that are available as part of an enabling environment.

In the short-term while Keyworker roles are being implemented flexibility will be given to prisons to decide which staff group delivers Choices and Changes.

In the long-term it will be embedded as part of POM and Keyworker sessions with all eligible prisoners who are willing to engage.

HMPPS is committed to evaluating the resource pack and this work is currently underway at four separate custodial sites (led by HMPPS Psychology Services). The planned evaluations, although small in scale, will help us to identify experiences of support workers and young adults who have engaged with the resource pack, as well as giving us a clearer picture of the possible behavioural changes that might occur as a result. Once this work is completed, further guidance on Choices and Changes will be produced in March 2020.

Recommendation 20: *Leaders of institutions in the youth estate should review the data generated by the Comprehensive Health Assessment Tool (CHAT) and evaluate its efficacy in all areas and to ensure that it generates equitable access to services across ethnic groups. Disparities in the data should be investigated thoroughly at the end of each year.*

UPDATE: The Youth Custody Service (YCS) have proposed to use data generated through AssetPlus (a common assessment framework used across youth justice), to identify and explain or reform differences in the assessed health needs of young people in custody. To facilitate this, the YCS have worked alongside the NHS to agree data flow principles, and to ensure that the children and young people's secure estate's AssetPlus assessments have the best chance of being populated with up to date and accurate health information, by developing a tool allowing key CHAT summary data to be electronically flowed between on-site health providers and secure estate staff. YCS' work with the Youth Justice Board, to improve the AssetPlus reporting model will result in the ability to scrutinise secure estate staff's health information input to AssetPlus.

This response to the recommendation goes as far as possible within the context of the NHS (SystemOne) IT upgrade, and the current inability to report CHAT data directly from their systems.

Recommendation 21: *The prison system, working with the Department for Health, should learn from the Youth Justice System and adopt a similar model to the Comprehensive Health Assessment Tool (CHAT) for both men and women prisoners with built in evaluation.*

UPDATE: The Comprehensive Health Assessment Tool (CHAT), which is used by the NHS for assessing young people's health needs, is not suitable for use in the adult prison estate. In April 2019, the National Prisons Health Board (NPHB) [comprising of members from HMPPS, NHS England, Public Health England, Department of Health and Social Care] agreed that CHAT was not the right tool and that the existing screening tools in the adult estate provide the same level of screening for adults as the CHAT does for Children and young people.

Since the Lammy Report was published NHS England have revised prison clinical assessment templates and made significant improvements to prison health IT which will support the intention behind this recommendation without the need to use CHAT. A key element driving the decision is the concern that CHAT is the local clinical IT system and does not allow for CHAT data to be used to identify needs broken down by ethnicity.

The functionality of the new NHS IT infrastructure is currently being tested prior to roll out in 2020 and the NPHB is monitoring the results which will allow it to determine what additional action would be required to further improve both the existing screening tools and the new IT infrastructure and reporting systems. This will ensure equitable access to services for those with protected characteristics.

Recommendation 22: *The recent prisons White Paper sets out a range of new data that will be collected and published in the future. The data should be collected and published with a full breakdown by ethnicity.*

UPDATE: HMPPS publishes Annual Staff and Offender Equality reports containing information drawn from administrative IT systems and data collection to provide commentary on key trends over time for protected characteristics as stated in the Equality Act 2010.

Staff declaration rates across HMPPS have continued to improve, enabling better analysis of the data and outcomes for different groups of staff. HMPPS continue to publish quarterly workforce data and have expanded the experimental statistics on diverse recruitment to incorporate analysis by gender and disability as well as for BAME candidates at each stage of the recruitment process. Analysts have also been working with the newly appointed BAME Staff Development Leads in HMPPS to provide management information on the numbers of staff who have declared their ethnicity working in each business area, in order to help monitor our progress to improve senior leadership diversity.

Prison and Probation Analytical Services (PPAS) have been continuing their work to improve the internal prison Equality Monitoring Tool (EMT). This includes developing an offender Equality Data Dashboard which provides easily accessible information to enable equality related trend analysis and comparisons by prisons and regions. Further guidance has been issued to staff to enhance their understanding and use of the EMT. Alongside these developments, the HMPPS Digital Team are rolling out a new National Offender Management Information System (new-NOMIS) which will provide prison staff with the ability to more readily access data on protected characteristics of the local population.

Further work is also ongoing to develop a Probation Equalities Monitoring Tool which will enable analysis of outcomes for different groups of service users. In addition, rigorous data collection and performance measurements are being incorporated into the design of the new probation programme. Key processes in the system, and the outcomes achieved for BAME service users will be analysed in the future system. HMPPS are currently

developing these performance measures. This information will be made public wherever possible, with the commitment to 'explain or reform' any disparity.

In addition, the HMPPS Diversity & Inclusion Team have started circulating quarterly Management Information data packs to Prison Group Directors and senior leaders across NPS, YCS and Wales about key differential outcomes for prisoners, service users and staff with respect to ethnicity, disability and religion. This enables regional staff to ensure their equality action plans seek to address disproportionate outcomes and progress is monitored using the principle of 'explain or reform'.

Recommendation 24: *To increase the fairness and effectiveness of the Incentives and Earned Privileges system, each prison governor should ensure that there is forum in their institution for both officers and prisoners to review the fairness and effectiveness of their regime. Both BAME and White prisoners should be represented in this forum. Governors should make the ultimate decisions in this area.*

UPDATE: A new Incentives Policy Framework was published on 11 July 2019. The policy, which replaces PSI 30/2013, Incentives and Earned Privileges required all prisons to introduce Incentive Forums by 27 September 2019, with the whole Policy Framework implemented on 13 January 2020.

The Policy Framework focuses on reinforcing positive behaviour and provides consistency in key areas, whilst giving governors greater flexibility to tailor incentives to the local needs and challenges in their prison. Incentive forums are designed to review the fairness and effectiveness of the local incentives policy and are for both staff and prisoners, including representation from BAME and white prisoners, and from other prisoner groups with protected characteristics where present in the local population. Kent, Surrey and Sussex prisons, in particular HMP/YOI Rochester, have been working closely with MoJ policy leads and colleagues from across HMPPS to understand what steps need to be taken to implement the new policy successfully. Learning from this work continues to be shared with prison leaders across the estate, including through regional workshops, held during September 2019, and through the provision of implementation packs which included resources to help prisons establish and run their Incentives Forum.

This work is also supported by wider HMPPS work to address the Lammy Review, which includes working on improving the data Governors have access to on incentives decisions, developing new guidance to help prisons make the most of their Incentives Forums, and exploring practical ways to improve the fairness of Incentives decisions.

Recommendation 25: *Prison governors should ensure Use of Force Committees are not ethnically homogeneous and involve at least one individual, such as a lay prison observer, with an explicit remit to consider the interests of prisoners. There should be escalating consequences for officers found to be misusing force on more than one occasion. This approach should also apply in youth custodial settings.*

UPDATE: Following consultation, a Use of Force Good Practice Guide has been produced and issued to all Governors. This reiterates the recommendation and is in addition to all governors being written to by the Director of Security Order and Counter Terrorism, restating the expectation that Use of Force Committees should be ethnically diverse. We are sharing best practice across the estate, such as prisoner representation at Use of Force committees. Additionally, we are formalising the escalating consequences process, which is being trialled at some establishments. We have also worked with our Operational Systems and Assurance Group to monitor compliance under the new Risk Management in Prisons audit. A digital reporting tool has been developed and is currently being trialled to enable better identification of disproportionality at both a local and national level that can feed into further equalities analysis, interventions to tackle disproportionality, and future policy development.

A national Use of Force committee has also been established to provide scrutiny by the National Tactical Response Group, as well as other internal teams, including senior Diversity and Inclusion staff. This national committee will also be able to monitor national trends in data and provide support back to prison groups and establishments.

A revised Use of Force policy framework has been drafted and contains information on governance and accountability, including around equalities issues. Formal consultation of the draft policy is planned for Spring 2020.

Disproportionality considerations have been incorporated into the 'readiness assessment' for the rollout of PAVA incapacitant spray. This will see a requirement for prisons to demonstrate they are monitoring for any disproportionality in their use of force, they are able to understand any present trends and have appropriate action plans in place to tackle any identified disproportionality before they are signed off to be equipped with PAVA.

The earlier version of this publication referenced engagement with the HMPPS External Advice and Scrutiny Panel on the disproportionality considerations which have been incorporated into the readiness assessments for the rollout of PAVA incapacitant spray. During this engagement the EASP argued that evidence shows racially disproportionate outcomes in use of force which persist, are unexplained, and, in their view, are therefore very likely to occur in the use of PAVA. Following publication, the EASP have expressed concern that the earlier version of this document did not sufficiently represent these concerns and have further highlighted that they currently do not feel there are sufficient safeguards in place to address these issues. The EASP will be consulted on the revised Use of Force policy framework.

Recommendation 26: *Her Majesty's Prison and Probation Service should clarify publicly that the proper standard of proof for assessing complaints is 'the balance of probabilities'.*

Recommendation 27: *Prisons should adopt a 'problem-solving' approach to dealing with complaints. As part of this, all complainants should state what they want to happen as a result of an investigation into their complaint.*

UPDATE: HMPPS implemented a new Prisoner Complaints policy framework on 1st August 2019. This was shaped by feedback received from staff, prisoners and stakeholders during extensive consultation. The revised process embeds a problem-solving approach into both the submission and response stages of complaints as well as reinforcing to staff that ‘balance of probabilities’ is the standard of proof for investigating prisoner complaints.

Following a separate consultation with staff, prisoners and external stakeholders on the Discrimination Incident Report Form (DIRF), a series of recommendations have been agreed and work is underway to refresh the policy and operational guidance to ensure the process is more accessible and transparent, to build trust amongst prisoners. The guidance aims to better equip staff in handling complaints of discrimination. It provides prisoners and visitors with a more accessible process and enables a consistent approach to monitor such incidents.

To ensure that the complaints framework is sustainable and continues to deliver all the required outcomes, there is a prerequisite that monitoring data must be collected locally and used to drive performance. Weaknesses in the operation of the process must be identified and rectified. It will be the responsibility of managers at all levels to ensure that responses to prisoners’ complaints are of a high quality and are consistent with how similar complaints have been dealt with previously. Compliance will need to be evidenced within the appraisal process.

An internal evaluation has been commissioned to review the effectiveness of the revised processes and provide evidence of the impact on the quality of responses to complaints, whether prisoners feel they have been treated in a procedurally just way and whether there has been a reduction in disproportionality following publication of the framework. We are also working to establish performance measures for assessing the impact of the refreshed DIRF process, particularly in terms of prisoner confidence in the system, accessibility and outcomes.

Recommendation 28: *The prison system should be expected to be recruiting in similar proportions to the country as a whole. Leaders of prisons with diverse prisoner populations should be held particularly responsible for achieving this when their performance is evaluated.*

UPDATE: HMPPS is committed to recruiting a more representative workforce and the initial target was set at 14% of all new recruits to be from a BAME background by December 2020 (in line with the national workforce statistics). We are clear, however, that whilst we expect this to be achieved that this is only the beginning of the upward trajectory that we are continuing to work towards. Therefore, we are also improving our data analysis of staff retention.

As at 30 September 2019, 10.2% of all HMPPS staff declared themselves to be from a BAME background. On the same date, 7.9% of all Public-Sector Prisons staff were from a BAME background

With regards to prison officer entry level recruitment, BAME candidates made up 20.5% of all Prison Officer applicants, and 12.1% of formal offers accepted between October 2017 and September 2019. The proportions varied during this time, dependent on the geographic location of the recruitment campaigns. Integral to this was HMPPS' analysis and subsequent revision of the Prison Officer application test which was found to be disadvantageous towards BAME applicants. This response resulted in improved success rates for BAME applicants and importantly has set a more general recruitment equality analysis approach which we now apply to all our external campaigns. We now routinely monitor BAME representation at each stage of the recruitment process to address any identified disparities, whereas prior to the Lammy Review we did not. The important learning from the Prison Officer campaigns is being applied to our other large volume campaigns, such as Probation Officers and Operational Support grades.

Furthermore, HMPPS have committed to recruiting more diverse applicants through the Unlocked Graduate programme, a two-year scheme whereby graduates are employed directly by HMPPS as Prison Officers on a two-year fixed term basis, completing a Masters in Leadership in a Custodial Environment. The Unlocked programme was launched in 2017 and we have received two cohorts of graduates to date. 18% of the third Unlocked cohort identified as BAME.

MoJ Resourcing recruited a Senior BAME Staff Recruitment and Progression Lead in June 2019, to support the organisation to increase the external BAME recruitment into non-operational and operational roles. The post-holder is responsible for scrutinising, improving and leading our approach and strategy for the attraction of external BAME candidates through campaigns and selection processes which can compete with the best practise of external employers. This includes analysis of all campaigns to ensure that there are no elements that are discriminatory and that they reach out to BAME sections of the public who have not considered a role in HMPPS previously.

MoJ People Group successfully convened community engagement events, such as those at Mosques in Redditch and Bristol, to provide further information about career opportunities within the prison service. HMPPS engaged prison Imams and local prison officers to speak to 200+ (mostly) BAME members of the public. Further events are being designed in regions where there is low BAME staff representation.

To build on the success of the POR programme, HMPPS are planning further activities to sustain this increase through targeted marketing and attraction initiatives and using positive action to areas where it can be applied.

We are undertaking further work to ensure local recruitment campaigns have tailored marketing and attraction initiatives to increase BAME representation. This includes:

- a) regional activity – focussing on prison establishments that do not have a representative workforce, with 7 locations identified as needing attention in the first instance;
- b) designing and facilitating staff focus groups within prisons to address barriers to recruitment from diverse communities
- c) hosting conferences with diverse communities and charities across the country

We are also working on:

- a) a pilot to deliver a pre-assessment workshop for Prison Officer campaigns to all applicants for HMP Exeter. Additional support will be offered to BAME candidates by assigning a volunteer “buddy” from the relevant staff network, a member of staff or a BAME development lead. Analytical reports have identified both prisons as hotspot areas for low BAME representations, and run regular campaigns.
- b) whether we can use “equal merit” positive action for campaigns where BAME recruits are under-represented in the position to be advertised.

Recommendation 29: *The prison service should set public targets for moving a cadre of BAME staff through into leadership positions over the next 5 years.*

UPDATE: Statistically this is a significant challenge because the attrition rate of senior posts is low and currently, we do not have sufficient BAME middle managers ready to apply for vacancies when they do arise. Therefore, much of our focus in the short term is on improving the middle management position and in appropriate senior positions advertising externally for BAME applicants.

We have recognised through extensive engagement with existing BAME staff that to achieve and sustain this scale of progress we need to fundamentally change and challenge existing culture as well as build the trust of talented BAME staff working in the organisation who regrettably do not always have the confidence to apply for progression opportunities. We have also recognised the need to fundamentally improve our recruitment, attraction and selection processes to ensure that they are more attractive to BAME applicants and are non-discriminatory in their application. To ensure that we make the necessary progress, HMPPS decided to fund the appointment of five dedicated roles to progress this agenda.

Alongside the Senior BAME Staff Recruitment and Progression Lead, we have appointed four Senior BAME Staff Development Leads who are responsible for ensuring that we have the right systems and processes in place to ensure that all talented BAME staff have the right support, mentorship and opportunities to progress on an equal footing into senior roles.

Since their recruitment, the Staff Development Leads have been working with our existing BAME staff and management teams to build trust and address the cultural issues and practice, which has impeded opportunities and discriminated against BAME staff. The post holders are focused on what we need to do to increase BAME staff representation in senior roles and have been assigned to drive cultural change in the different business and geographical areas of HMPPS operations. They are working to a nationally agreed set of success measures as well as measures which are bespoke to their part of the organisation. Early successes have included a significant raising of awareness and appreciation amongst managers in the role that they need to play; the increase of BAME staff applying for career mentoring support and accelerated development schemes; and a small but encouraging number of successful appointments of BAME staff into senior roles. The Development Leads have also been integral to driving the increase that we have reported in staff ethnicity declaration rates, which enables a quarterly challenge board to scrutinise our staff ethnicity data to inform the work to improve BAME staff representation.

To support our ambitions for more BAME staff to progress into more senior roles, we launched a new coaching programme in June 2019. We have a number of qualified coaches across HMPPS who will be matched to applicants based on their strengths and areas of specified need.

We are working closely with the BAME staff network to increase participation in all of our leadership development programmes, including offering bespoke coaching sessions to BAME staff prior to applying for any programmes. Most recently we held a tele-conference for any BAME staff who were interested in applying for the University of Cambridge Masters programme. This directly led to an increase in the number of BAME staff applying for the opportunity. The Unlocked programme has been very successful at attracting BAME graduates into the organisation, and the best of these candidates will be encouraged to progress their career within HMPPS – offering the organisation a much more diverse talent pool than we have previously had.

The equality analysis of our operational promotion process found that BAME staff actually did slightly better than white staff at the assessments; the main issue was the lack of BAME staff applying for the opportunities in the first place. So, our efforts are now concentrated in encouraging more staff to consider applying for promotion. The BAME development leads, the network, and all managers are being encouraged to have development conversations with BAME staff to ask them to consider their career path and to sign-post them to development opportunities, mentoring and coaching.

In September 2019 the Senior Leader Programme [SLP] was launched by Dr Jo Farrar, HMPPS CEO. For this SLP we utilised an anonymised, structured selection process to assess applicants against core criteria. This process led to an increase in successful applicants from BAME backgrounds, with 5 out of 15 being offered a place on the Senior Leaders Programme.

We have several leadership development programmes to develop our Governors and future talent pipeline including an Experienced Managers Programme, an Empowered Senior Leaders Programme and a new Senior Leaders Programme which is aimed at staff who have been assessed as having high potential. This nine-month programme will support candidates to become agile strategic leaders.

To equip future leaders with the confidence and competence to lead from the front on matters relating to equality and diversity, our new leadership programme will better equip staff with the skills to address disparities and foster a culture which better promotes the opportunities for all staff. Following the Lammy Review, HMPPS are actively acquiring leaders to be at the forefront of change, for example mentoring and sponsorship schemes for BAME staff and encouraging our leaders to develop and implement their own plans to improve staff diversity.

Recommendation 30: *HMPPS should develop performance indicators for prisons that aim for equality of outcome for BAME and white prisoners.*

UPDATE: Data and Analytical Services Directorate (DASD) are developing a single performance measure to assess the equity of treatment and outcomes for BAME and white prisoners, and the measure will be added to the Prison Performance Tool (the prison-level annual performance framework) once a robust baseline and data set have been established. The measure will use the Relative Rate Index (RRI) to understand disparity in prisoner treatment against various prison processes and outcomes. Indicators intended for inclusion within the Lammy performance measure include: Release on Temporary Licence (ROTL); Incentives and Earned Privileges; Adjudications; Home Detention Curfew (HDC); Accommodation on release; Employment on release; and Use of Force.

Development of the performance measure is dependent on the development and delivery of the new Equalities Monitoring Tool that will now consider outcomes for each individual, rather than grouping the total number of incidents by ethnicity. Work on this tool and the wider performance measure had been delayed whilst DASD investigated the suitability of the RRI methodology. Now this approach has been confirmed, work has resumed on both the EMT and measure. We anticipate that a draft measure will be ready to run in shadow (i.e. without targets) from Q3 2020/21 and as a weighted and targeted measure from 2021/22.

Recommendation 31: *The Ministry of Justice (MoJ) should bring together a working group to discuss the barriers to more effective sub-contracting. The working group should involve the CRCs themselves and a cross-section of smaller organisations, including some with a particular focus on BAME issues.*

Recommendation 32: *The Ministry of Justice should specify in detail the data CRCs should collect and publish covering protected characteristics. This should not just be written into contracts but also enforced with penalties for non-compliance.*

UPDATE: Following the announcement in May 2019 that the current CRC contracts will end early in 2020 and be replaced by a new model for the management of community, work is ongoing to rescope the outputs required to meet the spirit of Recommendations 31 and 32 to ensure that probation services continue to improve outcomes for BAME service users.

Through the Unified Model for the delivery of probation services, there will be increased opportunities for specialist BAME organisations from the voluntary, community and social enterprise sector to innovate and deliver services. The probation reform team will continue to engage with external stakeholders to develop understanding of issues BAME service users face, with a view to improving services and reducing disproportionality.

For regional Probation Delivery Partner contracts, HMPPS have required consideration of groups with specific needs and vulnerability, including service users from BAME backgrounds, and require bidders to detail sub-contracting arrangements for specialist services.

Judiciary Policy

Recommendation 14: *The Judiciary should work with Her Majesty's Courts and Tribunals Service (HMCTS) to establish a system of online feedback on how Judges conduct cases. This information, gathered from different perspectives, including Court staff, Lawyers, jurors, victims and defendants, could be used by the Judiciary to support the professional development of Judges in the future, including in performance appraisals for those Judges that have them.*

UPDATE: As stated within our Government response in 2017, we do not consider the use of an online feedback system as the best approach in the professional development of the Judiciary. However, to continue to support the professional development of the judges, the Judiciary are continuing to work to further extend use of appraisals across the Judiciary which includes observations of how Judges hear cases.

Recommendation 15: *An organisation such as Judicial Training College or the Judicial Appointments Commission should take on the role of a modern recruitment function for the Judiciary – involving talent-spotting, pre-application support and coaching for 'near miss' candidates. The MoJ should also examine whether the same organisation could take on similar responsibilities for the magistracy. The organisation should be resourced appropriately to fulfil this broader remit.*

UPDATE: Following the MoJ announcement to fund the Pre-Application Judicial Education Programme (PAJE) in April 2018, a joint initiative of the Judicial Diversity Forum, the programme launched in April 2019 through online resources which provides Lawyers with information to develop their understanding of the role and skills required of a judge. PAJE has offered targeted support to participants from under-represented groups including Black, Asian and minority ethnic Lawyers through judge-facilitated discussion groups which launched in September 2019 across England and Wales. 86% (66) of places on the

autumn groups were offered to BAME participants. The Judiciary and the legal professions continue to offer programmes to support aspiring Judges from underrepresented groups to support the shared aim of increasing diversity.

The JAC continues to review and improve its selection processes to ensure they are fair and identify talented candidates from a wide range of backgrounds. The independent review undertaken by the Work Psychology Group endorsed JAC's shortlisting processes and tools as being in line with best practice and provided recommendations for further improvement to ensure their tools fully assess the potential of candidates, particularly for entry-level roles. In 2019, the JAC extended the use of the equal merit approach to cover shortlisting stages of every selection exercise, following a review of the approach by the Commission. Following a number of pilots, the JAC has revised its approach to feedback; providing enhanced feedback following interview for 'near-miss' candidates and providing more detailed feedback at shortlisting stages. The JAC is taking forward name-blind sifting of paper applications and recently ran a successful pilot on an alternative approach to live role play at the selection day stage.

The Judicial Diversity Forum is also overseeing the publication for the first-time next year, of a comprehensive statistical report combining membership diversity information from the legal professions with JAC statistics on recommendations for new appointments, Judicial Office statistics on the diversity of the current Judiciary. This will provide a fuller picture of the makeup of the eligible pool, the flow, and current population of the Judiciary thereby providing a more comprehensive evidence base that can inform the targeting of activity to promote Judicial diversity.

Magistrates' recruitment requires a different approach to other Judicial Office holders, not least because the pool of eligible applicants is so wide. Recruitment of more diverse Magistrates remains a key priority for MoJ, and we are working with the Judicial Office and the magistracy themselves to build on the progress made in recent years. Relationships are being forged with universities and religious centres throughout the country to raise the profile of the magistracy among young people and BAME communities to ensure we reach a wide representation of society. We have also designed socially inclusive recruitment and advertising materials that Advisory Committees are encouraged to use, highlighting the fact that people from all backgrounds and walks of life are encouraged to apply.

MoJ is also establishing a Recruitment and Attraction Steering Group, to be jointly chaired by MoJ and the magistracy. The Steering Group will lead activity on promoting the magistracy and increasing recruitment, and increasing diversity amongst the magistracy will be a core strategic objective.

Recommendation 16: *The government should set a clear, national target to achieve a representative Judiciary and magistracy by 2025. It should then report to Parliament with progress against this target biennially.*

UPDATE: As stated within our Government response in 2017, it is our view that although we want our Judiciary to be more diverse, we maintain the view that targets are not the right approach as it is important for the quality, independence and impartiality of our Judges that we continue to appoint the most talented candidates solely on merit. The use of targets could undermine the confidence of the appointee both personally and in the public mind.

MOPAC

Recommendation 5: *The review of the Trident Matrix by the Mayor of London should examine the way information is gathered, verified, stored and shared, with specific reference to BAME disproportionality. It should bring in outside perspectives, such as voluntary and community groups and expertise such as the Office of the Information Commissioner.*

UPDATE: A reference group comprising of individuals and organisations with experience in working with those affected by the Matrix; human rights; and criminology was set up to seek views during the completion of the Mayor's Office for Policing and Crime's (MOPAC) review of the Metropolitan Police Service's (MPS) Gangs Matrix, and engagement with the group continued throughout 2019. The reference group was formed in addition to community engagement events held in Southwark, Waltham Forest, Haringey and Westminster during completion of the review, where 110 young people, parents and community members provided their experiences and views of the Matrix.

The Information Commissioner's Office (ICO) issued an enforcement notice against the Metropolitan Police Service in November 2018, and MOPAC Officers had liaised with the ICO throughout their investigation into Matrix data practices. MOPAC maintained contact with the ICO throughout 2019 as the MPS implemented the requirements set out in the ICO's enforcement notice, and then as the ICO considered the work undertaken by the MPS.

Following the publication of MOPAC's review of the Matrix in December 2018, joint MPS and MOPAC Oversight Group meetings were held throughout the year to monitor the progress made by the MPS in implementing the recommendations set out in MOPAC's review. The recommendations required the MPS to produce an Equalities Impact Assessment of the Matrix, and have seen the MPS refresh the guidance and training to officers; ensuring that officers understand criteria for inclusion on the Matrix, and that reasons for inclusion and further actions can be audited.

Audit and governance of the Matrix has been overhauled, and a review has been carried out of all lower-risk 'green' individuals resulting in nearly 490 individuals being removed from the Matrix cohort as there was no longer evidence that they were affiliated with a criminal gang.

Quarterly data on demographics of the cohort is now being published on the MPS Matrix website. The MPS had until the end of 2019 to implement the recommendations from MOPAC's review, and the MPS have acted on all recommendations. The Mayor's Office for Policing and Crime will publish a progress report on the review recommendations in the spring, and consideration is being given to how annual reporting can make use of independent expertise to ensure that an outside perspective continues to be provided.

CPS

Recommendation 6: *The CPS should take the opportunity, while it reworks its guidance on Joint Enterprise, to consider its approach to gang prosecutions in general.*

UPDATE: The final guidance on Joint Enterprise and a summary of responses to the public consultation held was published on 21 May 2018. The guidance confirms the CPS understanding of the law on secondary liability following the decision in *R v Jogee; Ruddock v The Queen* [2016] UKSC 8; UKPC 7. It focuses on the requirement that an accessory intend, rather than foresee, that a crime be committed. It provides guidance on the evidential value of association and presence, on knowledge of weapons, and on group assaults in cases of murder and manslaughter. This was a priority for the CPS, to ensure that our guidance reflects the law and practice on joint enterprise. As set out above, we are finalising our guidance on gangs.

Recommendation 7: *The CPS should examine how Modern Slavery legislation can be used to its fullest, to protect the public and prevent the exploitation of vulnerable young men and women.*

UPDATE: The CPS published a typology about 'county lines' offending in November 2017 which sets out the approach of the police and the CPS to the safeguarding of vulnerable persons involved in this type of crime and the prosecution of criminal offences of this type. The typology has a particular focus on the relevance of the Modern Slavery Act 2015 to county lines offending. In July 2019, the CPS concluded the UK's largest ever modern slavery prosecution, which involved hundreds of vulnerable victims where six defendants were sentenced between a range of 4 ½ to 11 years' imprisonment.

Recommendation 8: *Where practical all identifying information should be redacted from case information passed to them by the police, allowing the CPS to make race-blind decisions.*

UPDATE: The CPS has upheld its commitment, as part of its Inclusion and Community Engagement strategy, to publish [data on ethnicity and charging decisions](#) to monitor disproportionality. The 2017/18 data was published on 22 March 2019.

From an operational perspective it is not feasible to redact all identifying data from case information passed to the CPS by the police or other investigators. Victim and witness

statements may refer to defendant ethnicity, and many cases will involve (Achieving Best Evidence) ABEs, social media, CCTV or body worn video footage.

In certain circumstances, understanding the ethnicity of the defendant and victim is relevant to a case. For example, members of a CPS Hate Crime Scrutiny Panel (comprising community representatives, academics and voluntary sector organisations) have raised their concerns with the principle of race blind prosecutions, noting that the ethnicity of defendants can be relevant in hate crime cases. Retaining information about ethnicity on files submitted to the CPS by the police and other investigators allows the CPS to undertake its own analysis of disproportionality in charging decisions and deliver on its commitment in the Inclusion and Community Engagement strategy to publish this data.

Explaining Legal Rights

Recommendation 9: *The Home Office, the MoJ and the Legal Aid Agency should work with the Law Society and Bar Council to experiment with different approaches to explaining legal rights and options to defendants. These different approaches could include, for example, a role for community intermediaries when suspects are first received in custody, giving people a choice between different duty solicitors, and earlier access to advice from barristers.*

UPDATE: Work to date has centred on the principle of experimenting with different approaches to explaining legal rights and options. Legal Aid Agency and Ministry of Justice (MoJ) Legal Aid Policy officials have been working with the MoJ Youth Justice Policy team, on its research into the experience of BAME individuals in police custody and what obstacles may be preventing them from trusting the Criminal Justice System. That work has focused on the experience of youths, but the MoJ will explore the extent to which learning from this disproportionality work can be applied to BAME adults as well as youths.

Alongside this work, the Legal Aid Agency (LAA) has also been supporting work by the University of Nottingham in the development of a website, which provides information on rights and entitlements to people - particularly young people - who are attending the police station for a voluntary interview. The website was launched in early 2019.

Criminal Records

Recommendation 34: *Our CJS should learn from the system for sealing criminal records employed in many US states. Individuals should be able to have their case heard either by a judge or a body like the Parole Board, which would then decide whether to seal their record. There should be a presumption to look favourably on those who committed crimes either as children or young adults but can demonstrate that they have changed since their conviction.*

UPDATE: We have noted the Supreme Court judgment in *P and others* regarding the criminal records regime and are considering the ruling carefully before responding. Alongside the judgment, we are considering this recommendation along with recommendations on criminal records made by the Justice Select Committee, the Law Commission and Charlie Taylor's Review of the Youth Justice System.

Recommendation 35: *To ensure that the public understands the case for reform of the criminal records regime, the MoJ, HMRC and DWP should commission and publish a study indicating the costs of unemployment among ex-offenders.*

UPDATE: The Education and Employment Strategy was published on 24th May 2018. The Strategy introduced reforms so that each prisoner is set on a path to employment, with prison education and work geared towards employment on release from the outset. We expect this to improve employment opportunities and outcomes for all cohorts of offenders, including those from BAME backgrounds. We will continue to explore what data is readily available on this with OGD colleagues.

In addition, from October 2019 prisons have been held to account on the first night of release accommodation and six-week post release employment outcomes of custodial releases managed by a CRC or the NPS via the Prison Performance Framework. Whilst not publicly available at present, the accommodation and employment measures are intended to form part of the recommendation 30 Lammy performance measure.

Annex 2 – Guide to Acronyms

BAME – Black, Asian and Minority Ethnic
CHAT – Comprehensive Health Assessment Tool
CJS – Criminal Justice System
CPS – Crown Prosecution Service
CRCs – Community Rehabilitation Companies
DIRF – Discrimination Information Report Form
DWP – Department for Work and Pensions
EMT – Equalities Monitoring Tool
GRT – Gypsy, Roma and Traveller
HMCTS – Her Majesty’s Courts and Tribunals Service
HMPPS – Her Majesty’s Prison and Probation Service
HMRC – Her Majesty’s Revenues and Customs
ICO – Information Commissioner’s Office
IEP – Incentives and Earned Privileges
JAC – Judicial Appointments Commission
JDF – Judicial Diversity Forum
LAA – Legal Aid Agency
MoJ – Ministry of Justice
MOPAC – Mayor’s Office for Policing and Crime
MQPL – Measuring the Quality of Prison Life
NHS – National Health Service
NSP - National Scrutiny Panel
OASys – Offender Assessment System
PAJE – Pre-application Judicial Education Programme
PCC – Police and Crime Commissioner
PSED - Public Sector Equality Duty
RDA – Race Disparity Audit
RDU – Race Disparity Unit

SRA – Solicitors Regulation Authority

YOT – Youth Offending Team

YJB – Youth Justice Board



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