

Justice Committee

Oral evidence: [Progress in the implementation of the Lammy review's recommendations](#), HC 2086

Tuesday 26 March 2019

Ordered by the House of Commons to be published on 26 March 2019.

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Members present: Robert Neill (Chair); Bambos Charalambous; Robert Courts; Janet Daby; David Hanson; John Howell; Gavin Newlands; Victoria Prentis; Ellie Reeves; Ms Marie Rimmer.

Questions 1 - 51

Witnesses

[I](#): Jess Mullen, Head of Policy and Communications, Clinks; Jabeer Butt OBE, Chief Executive Officer, Race Equality Foundation; Laurie Hunte, Criminal Justice Programme Manager, Barrow Cadbury Trust; and Nina Champion, Director, Criminal Justice Alliance.

[II](#): Rt Hon David Lammy MP.

Examination of witnesses

Witnesses: Jess Mullen, Jabeer Butt, Laurie Hunte and Nina Champion.

Chair: Welcome, everybody. Thank you very much to our panel of witnesses for coming to give evidence to us; we appreciate your time. Before we kick off with asking you questions, we have some formalities. We have to declare our interests every time. I am a non-practising barrister and consultant to a law firm.

Bambos Charalambous: I am a non-practising solicitor.

Robert Courts: I am a door tenant at 3 Paper Buildings.

Victoria Prentis: I am a non-practising barrister and a trustee of Nacro.

Q1 **Chair:** That has dealt with those things. Would each of you say who you are and the organisation you represent, for those who are perhaps watching or listening? We have seen some of the written evidence that you have submitted, along with others.

Laurie Hunte: My name is Laurie Hunte. I am the criminal justice programme manager for the Barrow Cadbury Trust. I am also the campaign manager for the Transition to Adulthood Alliance, which looks at the experience of 18 to 25-year-olds in the criminal justice system. Additionally, I am a former MOJ civil servant and I worked on the Lammy review.

Jess Mullen: I am Jess Mullen. I am head of policy and communications at Clinks, the national infrastructure organisation for voluntary sector organisations working in the criminal justice system. Among our membership are a number of BAME-led specific organisations working with people in the criminal justice system.

Jabeer Butt: I am Jabeer Butt, chief executive of the Race Equality Foundation. We do various things. Most importantly, we are behind the Strengthening Families, Strengthening Communities parent education programme that is being used by a number of youth offending teams across the country to try to improve experience and outcomes for black and minority ethnic people. We are also a member of the Coalition of Race Equality Organisations, which is a national collaboration of about 16 organisations.

Nina Champion: I am Nina Champion. I am the director of the Criminal Justice Alliance. We are an alliance of over 150 organisations right across the criminal justice pathway. We have recently published some reports on stop and search and community scrutiny of stop and search. I also sit on the Ministry of Justice advisory board for female offenders.

Q2 **Chair:** Thank you. It is 18 months since the review's publication. We have had Government responses, and we have had the One Year On update and so on. What is your take on where the situation stands? Have outcomes got better for BAME people in the justice system, or are we still



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treading water?

Jess Mullen: There has been significant activity, as evidenced by the length of the One Year On update. It is probably fair to say that it is quite difficult at this stage to point to concrete evidence of improvement in outcomes. It is probably important to note that the One Year On update is an update on activity, rather than on outcomes.

The main activity has been setting up structures and governance to take forward activity that will improve outcomes in the future. It is very complex; it sometimes feels like a lot is happening and sometimes it is a bit unclear where we are making steps forward. It is quite difficult for civil society and voluntary sector organisations to understand what is happening and to play the critical friend role. At the same time, race inequalities are persistent and ingrained, both in the criminal justice system and elsewhere. We have to be fair in our expectations of what could have been achieved by this point.

The fact that lack of progress in this area has been the norm in the past, and the fact that lessons from other reviews—for instance, the Zahid Mubarek inquiry—have shown us that implementation and recommendations have not necessarily led to improved outcomes, mean there is a real need for us to be vigilant. From that point of view, we welcome the Committee's interest in the area.

Q3 **Chair:** Nina, you are nodding.

Nina Champion: I agree. There has been a lot of activity and a lot of governance arrangements and outputs set up, but in terms of concrete outcomes we still have a way to go. For example, if you pick up one of the latest prison inspection reports from HMP Onley, 60% of their population is BAME, yet the inspectorate found poor management and oversight of equality and diversity, with disproportionate IEP against BAME prisoners. There is a long way to go if you are sitting in a prison like that.

There is also a risk that, while progress is being made from the Lammy review, there are some policies that are pulling in the opposite direction that could undermine the good work going forward. For example, the knife crime prevention orders are going to be debated this afternoon. There is increased disproportionate use of stop and search. There is the PAVA spray roll-out. We need to be aware of various things that could be going in the opposite direction.

Q4 **Chair:** What is the evidence that they are being operated disproportionately?

Nina Champion: In terms of stop and search, we know now that a black person is nine and a half times more likely to be stopped and searched than a white person. There is also increased use of section 60 stop and searches, where you do not require reasonable grounds. There are some proposals to make the checks and balances of those weaker by allowing



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them to be used for longer, and having a lower-ranking officer agree to them. We are concerned about that because we know that their use is disproportionate.

The PAVA roll-out came out in the evaluation report. There has been no equality impact assessment done on the roll-out of that. One of our members, the Prison Reform Trust, as well as the Standing Committee for Youth Justice, has done a lot of work in that area.

Our concern about the knife crime prevention orders is that they could be imposed on children as young as 12 as a civil order. Breaches can result in up to two years in custody. Of course we know that youth custody disproportionality is there, and there is no evidence that the orders will stop what we are trying to stop. What we need is a greater public health approach, and working with children to support them, rather than criminalising them.

Q5 Chair: Some might say that is just a reflection of the diverse nature of some of the communities that police and others have to deal with in those areas.

Nina Champion: They certainly do, but we need to look at how the intelligence we get from those is looked at. As we know, Lammy raised issues with the matrix, with algorithms and other areas, and that can feed into the disproportionality coming through. What we need to be doing is working much more on the ground.

The Youth Violence Commission—a cross-party commission—highlighted that, rather than taking an enforcement approach, if you work at grassroots with communities and young people, you do not have the element of distrust. You do not get a wall of silence and people not coming forward as victims or witnesses. More needs to be done in that area to build trust between the police and communities, and the whole criminal justice system and communities.

There has been a ministerial roundtable led by Edward Argar. The disparity newsletter updated us. They have been meeting young people, and it is great that they are getting young people's views, but what comes across clearly is that lack of trust in the system can start from a very young age. It is important that first interactions with the police are positive and not negative, and that we look at building good relationships from an early stage.

Laurie Hunte: There has been a lot of activity and there has been very good progress in collecting data, making sure that the data is accurate and ensuring that the governance systems are in place. The foundations are being laid.

At this time, I would like to see some of those metrics start to change. I feel that potentially it has not got embedded in the culture that race inequality in Government service is unacceptable. The principle of



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“explain and reform” is not really there, where staff have the freedom to look at what is happening and are able to take that to senior managers to challenge the ingrained nature of some of the justice processes.

Q6 **Chair:** Jabeer, what is your take on it?

Jabeer Butt: I am not sure that we were expecting a huge amount of change in the period that has passed. We are dealing with ingrained problems that lots of us have known about for many years. As for expecting change, even in 18 months, that would be quite an achievement.

However, I think we were hoping for a change in the debate around black and minority ethnic young people’s experiences, and the wider experience of offenders. Unfortunately, I do not think that has happened. Nina has already pointed to the knife crime debate, which has once again seen particular communities being identified as problems to be dealt with, rather than being about understanding the reasons behind it.

We are very quick to talk about a public health approach, but often our response is a criminal justice one. I fear that we have not really changed that debate. The hopes that some of us had—that we would get on to thinking about prevention, and how to stop reoffending—have not really happened.

Q7 **Janet Daby:** Nina, you raised a point that I obviously have my own thoughts about. Would you say a bit more about why you mentioned the lack of trust between the police and the communities we are speaking about?

Nina Champion: There was clearly a common golden thread that ran through the Lammy review about trust in the criminal justice system and the ripple effect that it has, whether it is around accepting legal advice or around guilty pleas. The whole understanding throughout the whole system often comes from the first interaction that young people have with the police. There were some shocking statistics published recently by CRAE looking at the use of tasers and spit hoods on BAME young people. They were disproportionately used against black children. We have to look at that space.

In the report, David Lammy looked at the involvement of community scrutiny and highlighted the Northamptonshire reasonable grounds panel. We have done some work in the last few months at the Criminal Justice Alliance mapping community scrutiny of stop and search. There is some good practice where people are engaging. For example, in Ipswich and Suffolk, they are engaging with the Race Equality Council, with organisations like Leaders Unlocked, and with young people to ensure that scrutiny is independent, that people have the right data and are held to account and that, if they are seeing worrying trends, something happens as a result.



We are recommending that the “best use of stop and search” scheme be reviewed, so that that scrutiny can happen right across the country in an effective way and involve communities. I was in a great meeting in Croydon where a small grassroots organisation, ANOS, was trying to have those conversations and change the dialogue, bringing the police together with young people and BAME communities. They were starting a dialogue and understanding each other in a very restorative-type way. The organisation Why Me? is also doing some work with police and young people using restorative approaches. We need a different type of engagement and conversation.

Q8 Janet Daby: The review found that black and Asian or minority ethnic prisoners suffer disproportionately from the use of force. There is also the issue that the incentives and earned privileges system seems unfair. What more do you feel the Government could do to support prison governors in tackling that unfairness?

Laurie Hunte: I was recently in a prison working with User Voice. They are setting up prisoner councils. The governor and the senior staff attended those councils. They are looking at how they can start to develop and co-produce in the prison environment. That way of co-producing and collaborative working is potentially going to help resolve some of the issues where disparity occurs. The importance of communication between prisoners and senior officers is essential for trust to be rebuilt.

Jess Mullen: The new draft incentives and earned privileges framework and the instruction to governors around use of force committees both suggest that that kind of co-production and collaborative working might be a way forward, but they are very much suggestions.

There is a feeling within the sector that the IEP framework is not sufficiently robust, and we certainly responded about that. There could be more that is mandatory for prison governors in the way the IEP forums are set up. In terms of what the Lammy review says about open decision making and fair treatment, there is concern that because a lot of it is not mandatory there is a risk that we will not have consistency of application. It could be made more robust.

Similarly on the prison performance framework, there is work towards having a single equalities measure around that. There have been some issues around looking at how that would use the 18+1 ethnicity categories, which the Lammy review suggested should be the categories used. That is to do with statistically significant results and the population in prisons. There have been lots of conversations in the external advice and scrutiny panel, which Clinks sits on, for HMPPS’s implementation of the recommendations around how we need to use the 18+1 and aggregate up if there is not statistically significant data. We are still unsure whether that will happen. It looks like the 5+1 categories are happening.



In terms of all of those outcomes in prison, the one we need to see, in addition to the more mechanistic responses, is some significant culture change. It links to the earlier point about trust. A lot of the disproportionate outcomes that we see in prison are often the result of individual decision making that is discretionary. When security is the primary concern, those decisions are often based on perceived risk. When perceived risk then interacts with bias, be it conscious or unconscious, we end up with the outcomes we are seeing: "Black people are in gangs" or "Muslim people are extremists." To deal with that issue, we need a culture change that sees rehabilitation and meeting people's needs, rather than responding to their risk, as being the primary aim, or at least as being on the same footing as security. That would be quite a brave response.

Q9 Janet Daby: What sort of training would you say needs to be mandatory?

Jess Mullen: I know the training has been reviewed. One of the things that we have been quite clear on, and that was raised at the last ministerial roundtable with Edward Argar, was that the training has been reviewed but involvement of the BAME-led sector and service users in developing and delivering that training is not happening. That would probably go quite a long way. Training is important, but it is not the only thing that will create culture change. There is something about leadership and priorities that also needs to come with it.

Q10 Janet Daby: Anyone else?

Nina Champion: I want to raise something about scrutiny. One of the recommendations that David Lammy made was having IMB members sit on use of force committees. As we know, IMB is not diverse of itself in terms of its volunteers and are not necessarily understanding equality issues. There is a piece of work that needs to be done now around ensuring that IMB reports, when they are looking at equality and diversity issues in particular, are a lot stronger.

There is a positive example of a report. The Swinfen Hall report looks at use of force and disproportionate outcomes, questioning them and asking for action. That is exactly the sort of response that would be useful to have, because they are on the ground all the time and are able to get those statistics and talk about them on a regular basis.

I agree with Jess that the other thing to think about—another key element of Lammy—is workforce diversity in itself in the prison system and across the criminal justice system. Progress has been made, and everyone knows what they need to do, but there needs to be a more strategic approach. We need to bring together the different bits of the silos in the criminal justice system that are trying to increase representation, whether by paid staff or volunteers like IMB members or magistrates, to understand what the barriers are and to share good



practice. We should have a much more strategic approach across the whole criminal justice system to increase diversity in the workforce.

Jabeer Butt: The importance of cultural change and leadership is demonstrated in other fields as well. We know, for example, that black and minority ethnic people with learning disabilities are much more likely to be restrained in institutions they end up in. The issue seems to be about how we manage risk. Training is a key part of that, but leadership will be important as well. Until we address that, diversity on its own does not bring about that change. We need to change the way we practise.

Q11 **Janet Daby:** Half the children in the youth estate are from BAME backgrounds. What is your view on why that figure has gone up? How can it be brought down? I understand that it is not a prison issue alone. It is much wider and broader. Could you give me your perspectives in relation to the review?

Laurie Hunte: The numbers are very high, and some of those individuals have committed horrendous crimes. The numbers are disproportionately very high for people aged between 18 and 24; 39% of 18 to 20-year-olds in custody are BAME, and 34% are between the ages of 20 and 24. It is not just an issue for the youth estate. We should look at the adult estate as well, and what services are offered to young and emerging adults.

As to why that could be the case, it is very important to look at the early intervention work that is going on, and ensure that any diversionary early intervention work works for all people, and that people are channelled out of criminal justice services as and when appropriate. The criminal justice service should be used as a last resort, rather than a first resort.

Jabeer Butt: For us, one of the big successes of the last 10 to 15 years is the decline in the number of young people in the secure estate. It has been important and a major achievement. What has been disappointing, however, is that we have not seen that reflected in the experience of black and minority ethnic children and young people. A number of us were there in 2011 saying that, if you do not take specific measures, you are going to end up creating a situation where, proportionally, we end up with those communities being a bigger part of that. That is where we are now some seven or eight years later. It is deeply frustrating.

Part of it seems to be that we have failed to work with communities in a real way. We are not really engaging with families or young people outside the system. By the time they have got into the system, it is very difficult to divert them, particularly given some of the things they are charged with. It means that custodial sentences become a greater likelihood, rather than less likely. Prevention is the thing we need to invest in.

It is also interesting that some people are starting to think about what we do with children and young people once they are in the estate. We are doing some work with Cookham Wood, for example, preparing young



people to return to their families and communities. It has only recently started so we cannot talk about what the impact will be, but, hopefully, we are thinking about trying to make sure that they do not go on to reoffend, and go back to be a productive part of the community.

Q12 Janet Daby: Who do you conceive as doing that type of preventive work, to prevent young people from coming into the system?

Jabeer Butt: There are lots of voluntary and community organisations up and down the country—PLIAS Resettlement in London, for example. There is the Kuumba centre in Sandwell and the Khidmat Centre in Bradford, working with different parts of the community, trying to do that.

The truth of the matter is that they are all in a comparatively fragile state. The reality is that the last 10 years, in terms of funding, has meant that inevitably the impact they can have is limited. That is not to say that they are not still doing that. Importantly, forward-thinking prisons are trying to build those links and, hopefully, will create a situation where people do not return to the criminal justice estate.

Jess Mullen: Clinks's two most recent state of sector surveys have shown a harder and more difficult picture for BAME-led organisations. We know that they are more likely to be at risk of closure than other organisations working in criminal justice. They tell us that they are more likely to see service users with more acute and more urgent needs. In the youth estate and youth world, that is made even more difficult because we know that funding for YOTs is reducing, as local authorities are struggling. That is where a lot of the organisations working specifically with young people would have found funding in the past.

To revisit your broader question, and to echo what colleagues have said, we have not seen a concerted and specific strategy for this group of children in the criminal justice system. While the statistics show us that the strategy has been successful for young people overall, it is not being successful for BAME children. The leadership of the YJB still seems to be quite committed to the view that, if you improve outcomes for all children, it will improve outcomes for BAME children, but that is not what the statistics show. There is something about needing a concerted and targeted approach for this group.

In relation to the specific recommendations from the Lammy review around youth justice, there was one recommendation to the Youth Justice Board, and that was to publish the evaluation of the disproportionality toolkit. That has been done, but we have not seen anything saying "And what next?" The Ministry of Justice has been quite clear in talking about wanting to understand Lammy and its spirit rather than its letter, but it seems like the YJB is looking more at the letter and saying, "We have done that one recommendation." We need to see some next steps from them.



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- Q13 **Janet Daby:** If the Government invest more in preventive third-sector work, we could probably prevent young people coming into custodial sentences and costing the public more.

Nina Champion: The other thing is to see young people as victims of crime. Something positive that has come out through the Lammy review is that work is being done with BAME victims of crime. Minister Argar has authorised that, and as the CJA, we are going to work with our members who work with victims of crime to see what more can be done at that stage.

The other thing we should be looking at is child exploitation and county lines, and understanding better that idea of grooming—seeing young people as victims at that point and working with them. One of our members, the St Giles Trust, is doing some fantastic work. They are working intensively with young people who have been caught up in that, and providing support to allow them to exit that journey. It is about the narrative of seeing them where we are.

The other thing is about remand. We have seen a greater increase in remand for BAME children, and BAME adults as well. I went to a meeting recently with the Prisons Minister. He was committed to trying to do some work around that. We could do with having bail information services in every court, with more bail accommodation, and understanding why BAME people are more likely to be remanded in custody. That will be a key element.

Janet Daby: That obviously raises more questions.

Chair: Yes, we have quite a bit to get through today.

- Q14 **John Howell:** I want to pick up one short question before asking you a potentially longer one. It is about safety. Has safety improved in the youth estate?

Laurie Hunte: I do not have specific knowledge about whether safety has improved, but the direction in which the Prison Service seems to be travelling is one of becoming far more oriented around trauma-informed environments, understanding the routes that individual people go through and the conditions they have that lead them to offending behaviour, and trying to work with them to resolve some of those issues. Although I cannot answer as to whether safety has improved, the direction of travel seems very optimistic.

- Q15 **John Howell:** What more needs to be done? If the direction of travel is right, why hasn't it gone further?

Laurie Hunte: There is a need for a concerted strategy, and a clear leadership mandate that it is the right approach. That needs to be followed up with resources.

Nina Champion: There is something about dynamic security and dynamic safety, as opposed to command and control and use of force.



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Those things are working against each other. The roll-out of OMiC—the key working—will be positive if it is done effectively. It is about developing relationships. It comes back to what Jabeer was saying about who we have in those roles and how they can build effective relationships to reduce security, and understand the issues that are going on before they escalate.

Then you have the roll-out of PAVA spray on the opposite side, which seems to go against that. It is about relying on those sorts of tools rather than relying on conversations. The evaluation of the PAVA roll-out showed that on occasions people were using it inappropriately. There are significant concerns that that goes against the grain of trying to build more relational dynamic security in prisons. It is about co-production and working together using restorative practices. There are about 25 or 30 prisons using restorative adjudications, trying to understand the harm caused. These things are pushing in opposite directions.

Jess Mullen: We have a lot of members who work in prisons doing exactly the relational work that will have an impact on security. I will not rehearse the evidence my chief exec gave the prison population inquiry, but we know that there are real challenges for the voluntary sector in the current context, in getting into prisons and getting access to prisoners. That will have an impact here as well.

Nina Champion: There is the impact that people with lived experience of the criminal justice system have in those roles and building relationships of trust as well, whether in custody or in prevention and across the criminal justice system. We need to put a lot more value on the work that they bring in engaging people, and enable them to move from volunteer positions into the paid workforce and into leadership positions. They bring a huge amount of value.

Q16 **Chair:** Jabeer, do you have any thoughts?

Jabeer Butt: I wonder whether we are using all the tools that are available to us. Re-establishing relationships with families, particularly with parents, is a key part of managing children's and young people's behaviour in the estate. I suspect that perhaps we do not use that, or do not do it well enough to ensure that it has an influence in what happens when people are in custody. A bit more effort there might pay off.

Laurie Hunte: On that point, it is important that the Ministry of Justice and the people who are starting these big change processes go out and engage with community members who are interested in justice issues. They should be led by them in early engagement.

Nina Champion: Some young people do not have family; they have been in local authority care. There is some work that the Care Leavers Association is doing with PCCs to try to support young people in care. That is a really important group that we must not forget.



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Q17 John Howell: I want to move on to a different subject. It is about how probation deals with those with protected characteristics. Do you think that probation meets the needs of people with protected characteristics?

Jess Mullen: There have been some serious issues with that in the current probation model. That is recognised in the probation review, and there is a desire to address it in the future. The focus of attention has shifted towards the future. What that means is that it is much more challenging for HMPPS to incentivise the current CRCs to do anything additional.

Obviously the Lammy review highlighted that there were very few BAME organisations in the supply chains. We know that from our own work on mapping the impact of transforming rehabilitation on the voluntary sector. In the context both of the contracts ending early and of the challenges that the current contractors are facing, it is very unlikely that they are looking to extend their supply chain. Addressing that issue is quite challenging.

In terms of the future, and future models of probation, there are some real questions. If the model we are looking at continues to contract out probation for the majority of people under supervision, there is going to be a need to formulate contractual requirements to meet the needs of people with protected characteristics. Under the last contracts, there was a requirement around women's needs, but women-centred services, which are widely accepted to be the way to meet women's needs, fared worse under the current model.

There are going to be some real challenges about how you make contractual requirements that drive the outcomes we want to see in this area. There needs to be a clear direction to the new contracted providers that they should work with specialist services, and that the way to work with those specialist providers might be more than a traditional, simplistic, contracted arrangement. It will need to take into account things like grant funding. Beyond that, it will need to think about the ecosystem of the voluntary sector and the need to have responsibility, from a market stewardship point of view, to nurture and allow the sector to flourish. That will require some serious capacity building and resource to build sustainability for the sector, to meet the needs of those individuals.

Q18 John Howell: Before anyone else comes in, I will throw another question in and you can answer them both together. Do you think that the Government's response is going to have any effect at all on this?

Laurie Hunte: I believe that the Government are still working on their response to the consultation. One of the organisations that the Barrow Cadbury Trust works with has submitted a response to the consultation. It makes the case for more BAME-led organisations working with probation services and with offenders, and for those services to have contract directives to improve outcomes for BAME people. We will wait to



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see what is specified in the target operating model and the consultation response, but we have made representations to that effect.

Nina Champion: I agree with my colleagues on that.

Q19 **John Howell:** Mr Butt?

Jabeer Butt: I wonder whether we are making the most of the opportunities we have. For example, Lammy and others have pointed out that black and minority ethnic young people are much more likely to have GCSEs and achieve some of the targets for them, even though they have ended up in that estate.

We have seen some work with black and minority ethnic young fathers in prison. They say that one of the things they want for their future is to return to education. I wonder how much effort is actually being put into not only supporting education while they are in the estate, but preparing them, once they have left the estate, to return to education. We know that education is a real protective factor. It has an impact, not only on work but on how you manage relationships and so on. These are things we need to look into—the change in practice, what is happening around education and how we are building on the opportunities.

Nina Champion: I worked for the Prisoners' Education Trust for seven years. We have the new employment and education strategy within prisons, but it does not just end at the prison gate. It needs to be linked to what happens afterwards. We know that did not happen under the previous round of contracts. The progress that had been made in prison did not carry on afterwards.

To go back to what Jabeer said about potential, I was involved in lots of the prison-university partnerships that are now flourishing in prisons. Young people and young adults have aspirations to go to university, and supporting those aspirations is important—connecting them up with colleges and universities, as well as with employers.

On the employment point, something that has not been mentioned is that one of the recommendations of Lammy was around criminal records. We have now had the Supreme Court ruling, and we need to move on that to ensure that cautions and records do not hold people back from being able to move on with their lives, use the education they have gained and then gain employment.

With community sentences, there could be a lot more done in unpaid work sentences to focus on rehabilitation; 20% of them are supposed to be focused on getting some sort of education, but there could be a much greater emphasis on unpaid work leading to practical work that could lead people into employment after they have finished.

Jess Mullen: What Jabeer and Nina both said points to the fact that there could be more done to join up different strategies in different areas. Sometimes in the response to the Lammy review and the work around



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racial disparities, it is almost like that work is being siloed. As Nina has already pointed out, we see other policies pulling in other directions.

Another protected factor, as we know, is family contact. We have just seen the completion of a pilot in three prisons using facial recognition software for visitors. There are wider concerns about facial recognition software and racial bias. It does not seem as if those sorts of concerns are being joined up with the implementation of the Lammy review. It is about embedding the Lammy review response across everything, and therefore pre-empting the explain or reform principle. We are saying that we will not need to explain or reform because we will do proper impact assessments in the first place and we will not get to that point.

Nina Champion: I sit on the female offender advisory board. There is currently no BAME women's organisation that sits on part of that advisory group, for example. Again, it is the idea of ensuring that Lammy really does embed across the different strategies effectively. We know that BAME women have disproportionately worse outcomes, so we need to focus on that in the strategy.

Q20 **Victoria Prentis:** Could you explain a bit more about facial recognition software, Jess, and why you think it is a problem?

Jess Mullen: There have been examples, outside criminal justice generally, where facial recognition software can have some inbuilt racial biases. I am not an expert on the technology, so I apologise in advance, but, as I understand it, sometimes it does not recognise non-white people in the correct way. I am unaware of whether work has been done in the Department to think about what effect that might have when using it for visitors to prisons.

Q21 **Victoria Prentis:** It is when you visit a prison. When I went recently, I had my fingerprints taken, but there was no facial recognition.

Jess Mullen: They have piloted facial recognition in three prisons. I cannot remember off the top of my head which three. It was announced that the pilots were successful. What I do not know is how much work was done within that to look at whether there was any impact both on families more generally and on families from black and minority ethnic groups.

Q22 **Victoria Prentis:** You are concerned about its making it harder for family visitors to visit—having embarrassing questions every time.

Jess Mullen: Family contact is a protected factor.

Q23 **Victoria Prentis:** Given that family contact is a protected factor, which has come out very strongly from David Lammy's review, and from Lord Farmer's review of course, do you think there is anything specifically we can do with BAME families to help? As a secondary question, can we do anything to help with the community more generally?



Jess Mullen: The youth justice policy unit in the MOJ has been doing some work around parental engagement. That is in its early stages. I am not sure that it has been extended across the whole estate, and the adult estate. I know that some of the organisations that work specifically with families would be interested in that, particularly Partners of Prisoners, which has been involved in work around race equality in the criminal justice system for many years alongside their family work. There is scope to explore that. It remains an unexplored area that has potential that could be looked at.

In terms of the community more generally, this builds on Laurie's point about going out to the community. There has been some significant engagement with the voluntary sector and community-based organisations. It has been good and more substantial than it was in the past, but there is a missed opportunity to go even further and work in partnership with community-based organisations.

I would say everything I said before about capacity and what we know. What we have not seen with this response is any resource attached. To make a difference in this area, there needs to be resource.

Laurie Hunte: On the facial recognition point, it will potentially be quite damaging if appropriate equality impact assessments are not done and if the technology does not comply with the Equalities Act 2010. We need to be reassured that they have done that work. If there are false positives—matches with people who are not on the database—there must be a robust complaints procedure. That complaints procedure must be resourced and look to improve the technology, so that fewer people are affected by the inappropriate use of technology.

Q24 **Victoria Prentis:** At the moment these are pilots. Have you fed in those concerns?

Laurie Hunte: The result of the pilot came back last week. It would be useful if the Committee could look at the issue and then feed those concerns back to the Ministry of Justice. I have some research carried out by the Massachusetts Institute of Technology which shows that darker skin is not as well recognised in those systems¹. It is very important that all of the systems comply with the Equalities Act.

Nina Champion: The families point is important. One of the concerning things around the use of IEP is that sometimes family visits can be one of the things used in the incentive and earned privileges scheme, and we know that that is disproportionately used against BAME prisoners. As a protected characteristic, it should not be part of the mix in any sanctions; family visits should be promoted.

¹ The witness has clarified that he was referring to the following study: http://www.aies-conference.com/wp-content/uploads/2019/01/AIES-19_paper_223.pdf



I previously worked at PACT, working with the children of prisoners. Again, if we are looking at prevention and their needs as a group, focusing on resources for prisoners' children is something that could benefit.

Jabeer Butt: There is a real issue. The Lammy review made a statement about parenting, and perhaps we have given up on parenting as an issue. The reality is that we need to think about families in the wider sense. It is both about re-establishing links with parents and about parents in prison. Even in young offender institutions quite a large number of them are already parents. What are we doing with them to ensure that future generations do not repeat what their parents are doing?

There is some valuable work around that talks about promoting self-esteem, self-discipline and social competence. If we are able to do that, we will be able to skill people up to break out of some of their past experiences and, hopefully, not repeat them in future generations.

Chair: Thank you all very much. Those are fair points. I am grateful for your time and for your evidence. I am sure we will be in touch about a number of those issues in the future. Thank you very much.

Examination of witness

Witness: David Lammy.

Q25 **Chair:** Thank you very much for coming to give evidence to us, David. Your review was commissioned in David Cameron's time. You worked over a long period and it is 18 months since you did that work. It was hailed at the time, but what is the situation on the ground now?

David Lammy: I thank the Committee for taking an interest in my review. This is my first opportunity to speak to the Committee about it. I obviously ask you to continue to take an interest in my review and to revisit the issues. There are some issues that the NGOs and the third sector, which you rightly speak to, are less able to comment on, and where the Committee more appropriately has a very significant role, and I will return to that. They are in the area of the judiciary and the courts, where the independence and the cross-party nature of the Committee is particularly important.

In many contexts, the need for the review is illustrated by the fact that things have got worse since completion of the review. The fact that, as we sit here this morning, 51% of the youth prison population are from a black, Asian or minority ethnic background is something that should concern us all. It is a major development when you look at the proportion in the public as a whole.

It is also the case that violent crime has risen. We have had 132 homicides in London, the highest in 10 years. Overall, the level of violent crime is the worst it has been since the war. Clearly, many of the victims



are from a black, Asian and minority ethnic background. It would be crazy, frankly, if I suggested that things had not got considerably worse since my review.

Having said that, as you have heard from others, it is right to say that it was commissioned by the Government. It was commissioned in a cross-party sense, and it is absolutely the case that I have detected quite a lot of activity in the Ministry of Justice, and indeed in the agencies that it works with, particularly in the area of prisons, where there has been a lot of activity. Activity should not be confused with measurable outcome, but it is right to say that the seriousness and the complexity of the subject means that it would be churlish to expect dramatic change just a year from the Government publishing their response to my review.

I emphasise to the Committee in relation to my review that while I made 35 recommendations specific to what I was asked to do—to look at the disproportionality of black, Asian and minority ethnic people in our criminal justice system—I emphasised at the time of publishing the review that the vast majority of my recommendations are as relevant and as pertinent to all populations in our criminal justice system, particularly white working-class populations in our criminal justice system. An example of that is that I raised real issues about the age of maturity in our system and about the effect of the criminal records regime. I know that is an issue the Committee has taken up in the past. Those are issues that have particular relevance to black, Asian and minority ethnic communities, because we know that there is a double penalty in the employment market if you are black, Asian or minority ethnic. But of course they are relevant to everybody.

Q26 Chair: And if you are young, it is a double hit.

David Lammy: Absolutely. I spoke of the age of maturity because I have concerns, supported by current understanding of child psychology, that what we are hearing from the professionals is that the adult brain is fully formed at the moment around 25, yet we have 18-year-olds sitting in adult prisons being groomed by hardened criminals and coming out to commit further crimes. I remind the Committee that the recidivism rate among black populations in prison is among the worst in the entire system. That would suggest that something is not working. My recommendations are relevant to everyone, but there are particular areas where they affect black, Asian and minority ethnics.

There are two more things I want to emphasise. One is the breadth when I am talking about black, Asian and minority ethnic. Those who came before emphasised black populations in our system. There has been a rise of over 50% in Muslim populations in prison. The most over-represented group in our criminal justice system—hardly ever discussed and it could have a review all on its own—are Gypsies and Travellers, who represent 0.1% of the population but 5% of our criminal justice and prison population. It is important to understand that that is a historically disproportionate community in our system.



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The other area that I sought to deal with in the review, but that, frankly, could do with a separate inquiry all of its own, is black, Asian and minority ethnic women in the criminal justice system, notwithstanding the excellent work of Jean Corston a few years ago. I found that specific cohort to be very vulnerable and experiencing quite a lot of discrimination in our prison system. I made the point that often the children of those women are coming further into the criminal justice system. There are real concerns about women in the system. I did my best, but my view was that a separate piece of work could be targeted particularly at those women.

Q27 **Chair:** Yours was a detailed review, but the essence is that there is much more, and more detail is required in a number of areas.

David Lammy: Yes.

Q28 **Victoria Prentis:** The most shocking part of your review for me was the section on women. After your review, the MOJ set up the Race and Ethnicity Board. How well is it doing? In answering that, could you focus on how well it is doing with regard to women in the penal system?

David Lammy: I was very pleased to visit the board. I was pleased at the seniority of stakeholders on the board. When I visited, I wanted to emphasise that I was pleased that in the work that has been done on deferred prosecution pilots around the country—I am sure we will return to that shortly—the board seems to be driving and encouraging change within the prison system. That will take some time but I felt that it was happening. I was less pleased with the response from both the judiciary and the Judicial Appointments Commission to my review. I did not feel that they were able to drive change there. I will return to that.

In relation to women I was not fully convinced, but it is early days, that the board had gripped the entirety of what I say. In their October 2018 response, the section on women feels a little cursory. They talk about a female offender strategy and a commitment to a new programme of work and the unique challenges, but there are not many specifics in relation to those women.

Let me give you an example. Some of this was very new to me, although I have been in Parliament a long time and you cannot represent Tottenham and find that a lot of these areas are not new. There has been a huge increase in the vulnerability of Muslim women. There is stigma attached to being a Muslim woman in the criminal justice system. Families sometimes cut off women in the criminal justice system. There are specific needs of those women in the criminal justice system. That was an area that needs a lot more explanation. There are real issues too, which were only at the edge of my review, around foreign national women in the system.

One of the things I picked up in relation to the area I prioritised in my review was youth and young people, and the youth criminal justice



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system. I talked about the role of adults. I raised parenting. I raised the number of adults who are exploiting young men. I note that the Children's Commissioner has recently picked that up. She has concerns that a lot of what drives knife crime is about adult gangsters and drug dealers exploiting young men. She equates that to the exploitation of girls a few years ago, and the way the system has changed to safeguard those girls.

I raise that because I happen to believe that the vast majority of women I met in the criminal justice system are there because of a man and because of exploitation. The system is not responding sufficiently to the role of the man who has brought them to court. There is a lot to do in that area.

Q29 Victoria Prentis: The Government response also said they were working to adopt "a cross-criminal justice system approach" in response to your review. Do you think significant progress has been made in that area? You said you were worried about the reaction of the judiciary, for example.

David Lammy: There are two points to emphasise. The first is that I want the Committee to understand my judgment. I said this on announcement of my review. If we were talking in this Committee about education, the Committee would understand that the priority that has been given on standards in education—cross-party for well over two decades—has meant that it is virtually impossible to walk into a secondary school, whether academy or comprehensive, in London, in Birmingham or in Manchester, and not have teachers, head teachers and the local authority all over the ethnicity data. You cannot move for them saying, "This is what is happening with my black boys. This is what is happening with my Bangladeshi students. Where are my white working-class? How am I going to boost performance?" They are all over it.

What I found in the criminal justice sector is that there is nothing like that equivalent. My view is that you cannot be in the criminal justice business—you cannot be a prison officer or a prison governor; you cannot be a judge; you cannot be a probation officer; you cannot be in the CPS—if you are not in the business of racial difference and disproportionality. You have to be engaged in that subject.

You asked me about cross-cutting work among Government Departments. I have a sense that the Ministry of Justice understands the issues, but I am yet to be persuaded that its ability to drive those issues across Whitehall is entirely there, understanding that many of the issues start upstream. There are real issues with pupil referral units; real issues with school exclusion; and real issues with young people in care. What are the MOJ's levers into that Department?

Of course, it has traditional relationships with the Home Office, but I have been an MOJ Minister, and whether the MOJ usually comes out winning those battles is another story. This Committee will have long-term views



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on that. The ability to be cross-cutting and drive change remains a question, notwithstanding the good work that the Race and Ethnicity Board they set up is attempting to do.

Q30 **Victoria Prentis:** There should be a greater focus on outcomes.

David Lammy: Greater focus on outcomes. There is one specific area I have concerns about. I was very pleased to meet the new Lord Chief Justice two weeks ago, and his predecessor on two occasions after completing my review. This is an area traditionally where the Department is pretty hands off. I have real questions about whether the Judicial Appointments Commission, as it is currently chaired and organised, is able to deliver on issues of diversity for our country. I emphasise that issues of trust with black, Asian and minority ethnic communities are not just in relation to the police. That gets a lot of focus, but it is as important in relation to who are our judges, where are they from, what are their backgrounds, what is their understanding, what is their proximity to the issues and how can they establish that they are fully and truly independent?

Q31 **Chair:** I have talked to both Lord Chiefs about it as well. We have this odd dilemma. Educators, for example, or police officers are deliberately tasked on society's behalf to be interventionist. A judge is deliberately and rightly tasked not to be interventionist, many might say. How do you square that circle? How do you protect judicial independence in that situation, if a well-meaning Minister says, "I want to put a steer on things"?

David Lammy: It is a very good question. Of course we want our judiciary to be independent. We want the scales of justice to be balanced, but you will see, and you will be reminded, that in my review I found significant sentencing disparities. It does not feel independent when you are 240% more likely to be convicted for a drug offence if you are black than if you are white. That feels like an outlier in terms of sentencing.

I said it is for the judiciary to demonstrate why those anomalies exist. I have spent time in other common law jurisdictions, in New Zealand, Australia and the United States. Obviously they have a slightly different model for their judiciary in the United States, where they are elected. I found that our judiciary seem to hide behind the cloak of independence far more than in those other communities.

What do I mean by that? Can the judiciary demonstrate that all of their judges have actually visited a prison? There have been substantial cuts to the college and the training of our judges. Those things seem to me to be very important indeed. Are diversity training and things like unconscious bias being routinely dealt with across the judiciary? That is not about independence. It is about fitness for purpose and task. I am not convinced that it is happening at all across the piece.



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In other jurisdictions—take the Canadians—they have gone very far to ensure that their judges have a real understanding of indigenous communities. I do not see demonstrable understanding here of ethnic minority communities. In fact, you could also make that point for white working-class communities in some parts of the country.

I said to the Lord Chief Justice that this is not about David Lammy. It is, “If you, Lord Chief Justice, were in Brixton town hall or Salford town hall with your judges, can you demonstrate to the community in Salford town hall or Brixton town hall the confidence they should have that you can relate to them as victims of crime, and that you are properly dealing with it?” That is the test, it seems to me. I am not fully convinced that that test is met. There is a particular challenge in relation to the diversity figures for our judiciary. We might come on to that in more detail. Where they are coming from is a real issue.

To end this point, it is virtually impossible in the UK for the Prime Minister of the day—whoever that is and whichever party is in power—not to convene a Cabinet of women and ethnic diversity. That has now been the case in Britain for about 20 years. If you compare that system to what we have in the judiciary, you can see that it is one area of public life that is completely different from doctors and surgeons and head teachers. It is an area of public life that is an outlier in relation to gender and ethnic diversity. That is why I was very disappointed that even though I did not recommend quotas in my review, as some in the legal profession wanted me to do, but decided to recommend a pretty tame target—a goal—it was rejected by the Government and by the Judicial Appointments Commission. I think that is a mistake, and I therefore think we will make very slow progress on diversity over the next period.

Q32 Chair: You have spoken to both Lord Chiefs. Have you spoken to the President of the Supreme Court, Baroness Hale?

David Lammy: I have not spoken to Baroness Hale. I spoke to the President of the Queen’s Bench, Lord Leveson, who also attended all of those meetings, and the head of the Sentencing Council.

Q33 David Hanson: You said that you recommended targets. You confirmed that the Government rejected those targets. It is not going to happen then, is it?

David Lammy: No, it is not going to happen. What I said to them is that I expect to be returning to the issue. Let’s just talk about the area of disagreement.

Q34 David Hanson: Before that, for the Committee, do you still think one year on that the Government should set targets as in your recommendations?

David Lammy: Absolutely, without a shadow of doubt.

Q35 David Hanson: What impact will the current approach of not setting



targets have?

David Lammy: It will mean that progress will be slow, if at all. Progress since the review has been snail-like. Let's be clear: the JAC and the judges will say that they have to appoint on merit. I wish they would not keep repeating that. None of us thinks that we should not be appointing on merit, but I think we push back quite hard on the fact that somehow merit is not found among women or ethnic minorities. We all want that, but we also want to ensure that it is not just the same old people for the same old jobs who have been to the same old schools and the same old universities.

Q36 **David Hanson:** I will quote to you what the Lord Chief Justice told us last year. He said that "there is nothing so far that anybody has found, and there is certainly nothing that I can think of, that is an obvious explanation" for the lack of judicial diversity. Apart from education, social mobility and finance, perhaps he is right.

If you are faced with a Government who do not want to set targets and maybe a Chief Justice who does not have the understanding you have expressed of why there is not judicial diversity, what is the strategy? What should we be pressing as a Committee?

David Lammy: I recommend to you table 4 on page 38 of my review. In that, you will see that the significant issue is that in every exercise for judicial appointment, at every stage, there is a disproportionate drop-off between black, Asian and minority ethnic applicants and white applicants. There is also often a drop-off between women and other applicants. If you look at the cohort in relation to private school education, that is the area which does best at every single stage. If you look at the eligible pool, then the application, then shortlisted applicants and then recommended applicants, the differential in High Court applications is significant between the pool and those who eventually get the job.

That is nothing to do with a pipeline. It is nothing to do with training. Those are people who are already in the system. I am now a non-practising barrister, but I have been qualified as a lawyer for almost 25 years. I know lots of ethnic minorities who qualified with me. They are there. They are in the system. They apply, but they drop off at each single stage. When I asked the JAC to explain that to me—I have not met the new chair, Lord Kakkar, more recently—I detected a degree of complacency, frankly, in the system, to the extent that I said that, had we stuck with the old tap on the shoulder, we would have more diversity today than the £10 million situation we set up, with a whole load of forms and a whole load of systems that still seem to weed out ethnic minority candidates.

To be absolutely clear on your question, David, if people cannot say what is happening, it is likely that what is happening is discriminatory practice and unconscious or conscious bias. That is what is happening, and that is



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what they have been unable to rule out. If it walks like a duck and quacks like a duck, it probably is a duck.

- Q37 **David Hanson:** How are the ducks doing in the magistracy? Lucy Frazer indicated to us that she wants to try to get a wider pool. I want to get a sense as to whether again, one year on, it is not just High Court judges and Crown court judges but lay magistrates. Is there an appetite? Is the figure growing and how are the Government performing?

David Lammy: The magistracy is hugely important. The overwhelming majority of cases come through the magistrates courts. I detected when I was doing my review that the magistracy was at a low ebb, underfinanced and hard-pressured. I want absolutely to emphasise that there are real issues with selecting white, working-class magistrates, never mind ethnic minority magistrates. Ethnic minority magistrates are well below the population. It is standing at about 11.5% at the moment. There are some areas, such as those from Somali, Roma and Gypsy backgrounds, where they are absolutely non-existent. That is a real problem. There is huge variation across benches and across the country. There is lack of transparency in how the system is working. There is lack of feedback. They now have leadership magistrates, but the way they found them was not transparent. It feels like the same old people.

I saw great experiments in New Zealand with paid local magistrates in high crime areas, so that you are picking up the social worker or the community activist. That was in the broader area of youth justice, and I raised real concerns about how far, how remote, our magistrates courts are from the communities of high crime. What I mean by that is this. Highbury magistrates court is three miles down the road from Tottenham, but my God it's a long way from the Broadwater Farm estate. Why can't it sit one day a month in the community centre at the Broadwater Farm estate? How is that expensive? Isn't that relevant? In every single estate across the country, people will be saying that, and they have done nothing about it.

- Q38 **Chair:** The Lord Chief Justice would raise the question, "Well, what about the security issue?"

David Lammy: Oh, come on.

- Q39 **Chair:** He has raised it with us. Shoot it down.

David Lammy: If MPs can do their surgeries in these estates with the security issues that there are for Members of Parliament, I think our magistrates can do the same.

Chair: There is the issue about prisoners in custody, but that can be dealt with, can't it?

Victoria Prentis: It is not very much in magistrates courts, no.

Chair: Is this over-egging it again?

Victoria Prentis: It is.



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David Hanson: David is in the inner city, but if you come to north Wales it is a 25-mile trip.

Q40 **Ellie Reeves:** It is a fantastic report, David. One of the things you identify is the lack of trust that many BAME people have in the criminal justice system. That has been a driver for people entering not guilty pleas and having no-comment interviews. The report rightly recommends that that needs to change. How do you think the Government can build trust in BAME communities to end that culture of not guilty pleas?

David Lammy: Trust is an issue that obviously runs earlier than the criminal justice system kicks in. It starts with things like school exclusions. It starts with being in the pupil referral unit and your experience of schooling. The area where it is most obvious in the criminal justice system is with your first or second police contact. It is why this Committee and the Home Affairs Committee are perennially on the issue of stop and search and how that is working, and why we need it to be intelligence-led.

I was concerned at the number of no-comment interviews. I had some worries that I was unable to drill down as far into that as this Committee might feel it wanted to, but some legal aid changes have not made it easy. What do I mean by that? There was some evidence—it will be resisted by barristers and solicitors—that some of the legal aid changes drive an incentive to pitch for a jury trial. Liberal barristers do not like me saying that, but I am worried that a bit of that is going on. It starts with a no-comment interview. It starts with your desire to have a jury trial because you do not trust the individual magistrate. You may not know the solicitor who has turned up to defend you. Of course you are going to go with the 12, and if you are then found guilty you get a longer sentence.

There are ways in which other bits of the system are problematic. I raised concerns about the gangs matrix. The Mayor of London has reviewed the gangs matrix and made some serious recommendations for change. It is also the case that the Information Commissioner was very concerned about the lack of transparency in how you end up on the gangs matrix in London. That is something I ask the Committee to keep an eye on. In terms of trust in the system, and the things we create that cause barriers to trust, there remain issues around diversity. You have to see diversity in the judiciary and the others who are making decisions.

I was pleased by the deferred prosecutions pilot, which is a system that allows the first or second-time offender to be treated for the problem that they are presenting. Is it a drug problem? Is it an anger management problem? Are there profound issues at school that require extra work for the first or second-time offender? If we can get to them, the system can be really responsive, rather than driving them down the guilty/not guilty pipeline. Don't forget that the minute you plead not guilty, you do not get any support in our system.



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There was a lot of evidence from other jurisdictions. In New Zealand, they have a category of "Not contested," where there is good practice for the first or second-time offender, so that they do not end up in the prison system. The deferred pilots are important.

I made some recommendations in relation to how the youth courts work. Can I say in the strongest terms to this Committee that that was the area where I had most concern about the youth justice system? The architecture we have in youth justice was largely set up 20 years ago. As you have heard from others, and it is repeated a lot, it was set up to reduce the number of young people in the prison system. Broadly speaking, it has done that, but the system is now in need of serious review, for two reasons. First, the nature of crimes being committed by some of our young people was never envisaged. It was not envisaged that young people, as young as 12 or 13, would be trafficking large amounts of cocaine across the country. It was never envisaged that we would have a serious violence problem, with minors committing murder. There is a lot of evidence that the arsenal of tools the youth justice system has is simply not fit for purpose. That affects ethnic minority defendants in particular.

One other area that we have touched on in relation to that is, of course, that the most junior lawyers are the ones representing young people. There is a piece of work for the Law Society and the Criminal Bar Association about how we equip lawyers for what should almost be the area of law that commands the most experience, not the least.

Q41 Chair: We have had some powerful evidence on the quality of lawyers and remuneration in the youth court, and the greater gravity of the offences that the youth court has to deal with.

David Lammy: And the consequences.

Chair: Exactly. It was almost an add-on to the old juvenile court that you and I remember. That is your point about the architecture.

Q42 Ellie Reeves: Picking up on the points you made about early intervention, you said you went to other jurisdictions, in New Zealand and Australia. I know that in New Zealand communities are very engaged with the youth justice system, and there is a lot of early intervention. How receptive do you think the Government here are to that kind of model of engagement and early intervention?

David Lammy: Recommendation 18 was in relation to local youth justice panels and referral orders. That is where you have gone to the magistrates court and it has been referred to a local youth justice panel. Effectively, a panel takes place somewhere in the local authority in a building not open to the public. The public have never seen it. It is in a back room somewhere. The magistrates are not even aware of what is going on with the local people on the panel. That is the extent of community engagement in the youth justice area in our country. We have some serious problems as a result.



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Ellie, you have a lot of experience, sadly, of knife crime in your constituency.

Ellie Reeves: Yes, another fatal stabbing yesterday.

David Lammy: You know that a lot of the emphasis is on policing. There is far too little emphasis on what happens when the young person who has committed the crime is arrested. What I saw in New Zealand—I also saw evidence of it in Sydney in Australia—was that, when that person comes to court, he is in the local community centre with his mum. There are local people on the panel, respected people such as a community elder or a head teacher. You are not going to get anything past them. No one is going to suggest that they are liberally minded. They are there looking at mum and looking at that young man who has committed a first knife crime. They say, “We will do everything to support you. We are not going to give you a custodial sentence on this occasion.” The victim is there as well. But, boy oh boy, they expect him back in three weeks: “What’s happening? What’s happening?”

That was an example from a Rangatahi court in New Zealand. That is what is going on, and it is not going on in our jurisdiction. It builds confidence because the community see justice happening. It is hidden at the moment from the system. My recommendation was quite mild. It was to try to illustrate that we needed to refresh how our justice panels are working. We certainly need magistrates to follow the system through, but again it is an area of work. If the Committee wanted to go to New Zealand and see that work, I would encourage you. Their youth justice system is probably one of the strongest in the common law family. It is worth going to see. They have significant problems with the over-representation of indigenous people in their justice system.

Q43 **Ellie Reeves:** You make a very powerful point about all of that, David, but, going back to whether you think the Government have much interest in adopting that sort of model, what is your view on that? What is your take on that?

David Lammy: One of the challenges is that where the best practice is happening with Aboriginal or native people in Australia—not in every state, because there are profound issues with the treatment of native people in the Australian system, but in some areas like Sydney—and in New Zealand and in Canada, there is an identifiable First People group.

When we talk about our country, we are talking about multiple diversity across the range, so there is a sense in which an ethnic-specific justice system is a much greater challenge. However, in New York, in places like Redhook, and in Texas, they are also doing that work to great effect. We could be doing a lot more with our multiple diversity. I do not think it is just in relation to ethnic minorities. It is as relevant in north Wales or in Salford. It is about how close the justice system is to that housing estate or that community. The direction of travel in this country is in the



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opposite direction, which is why I do not think the Government have been as responsive to those recommendations.

Q44 Ms Marie Rimmer: Many of our prisons and courts-related inquiries recommend the use of technology and modernisation as solutions to inefficiency and injustice. What role do you see for technology in tackling racial disparities in the criminal justice system?

David Lammy: I heard the evidence about facial recognition that came up before, which I am very nervous about. From the evidence about that, I think it needs a lot of scrutiny and a lot of careful handling. I looked at algorithms and the ways some jurisdictions are predicting a tendency towards committing crimes. I decided to rule that out of my review because I could not guarantee that those systems had the efficacy I would want.

There are some areas that I want to remind the Committee about. It comes back to the use of data. There were lots of recommendations around data in my review, and the use of data. I am pleased that the Government adopted and understood those recommendations, particularly in relation to Gypsies and Travellers.

Recommendations 13 and 14 pertain particularly to the court modernisation programme, sentencing remarks in the Crown court and online feedback about how judges have conducted their cases. I believe that is important. What I set out squarely in my review is that where there is transparency, openness and greater accountability in the criminal justice system, the system is working well; for example, I found that the jury system is working well. There were lots of comments made to me that the jury system was not working well. I had some very strong representations about the jury system, particularly from Muslim communities. I did not find evidence of bias. Why? It was open and transparent. You had to test your views. I think it is working well.

I found that in the Crown Prosecution Service lawyers are working with a lot of peer review and challenge in the system. Diversity is good. Ethnic minority lawyers are very present in the CPS. Again, relative to other parts of the criminal justice system, I found that it was working well.

Where I found judges making single remarks, you could not even get their sentencing remarks. If Hansard can record what we are saying, I cannot understand why you cannot get the sentencing remarks of judges, and why academics, journalists and others are not able to scrutinise the remarks that have been made over a consistent period by a particular judge. I cannot understand why you cannot get the ethnic minority breakdown of defendants who have appeared before that judge and why you cannot make comparisons across courts, and across judges. The only judgment I can come to is that it is because the judiciary do not want it.

Q45 Chair: Or is it that they are not funded for it?

David Lammy: Or they are not funded for it, perhaps.



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Q46 **Chair:** You have to pay for a person to record it.

David Lammy: But given that there has been a lot of modernisation, you would want to believe that that was part of the system. I draw your attention to recommendations 13 and 14. That is an area where technology can make a big difference going forward.

Q47 **Ms Marie Rimmer:** The Prison Governors Association told us that prison governors were “disinvested in equalities management.” The chief inspector of prisons, Peter Clarke, was only able to give us one example where he had seen good practice in tackling racial disproportionality. How should the Government drive good practice in that area?

David Lammy: In my review, I was not asked to take evidence and come to a judgment about whether there had been institutional racism in the criminal justice system. Some said, “Why did you not say that there was institutional racism in the criminal justice system?”

I was asked to review the papers and the evidence and to come up with outcomes that I thought could make things better. The one area where I found discriminatory practice, and I made that clear, was in the prison system. There were too many prisons where it was clear to me that there is institutional racism and very poor practice. That is why I made recommendations about IEPs and conflict management. Who gets access to education? Who gets access to employment? Who gets out on day release and ROTL?

I am really concerned. I am pleased that the Government accepted the target in this area for prison officers, but note that they did not accept the target for judges. In recent recruitment exercises, they have made progress, but the real proof of the pudding is, where are our senior governing governors? Being governor of a prison is a great job. We have seen some gender diversity coming into the system over the last period. We see in some of our secondary schools strong black head teachers. We need to see strong black governing governors. It is not just about the pipeline or training; it is about the senior cadre of people. They are deputy governors. They are just below and they need to be encouraged and brought through. The system needs to pick them up. Given the variance across the country, there is a real challenge.

The challenge with the prison estate is that here in London, where there are big ethnic minority populations, you can probably make progress at Brixton or Pentonville in a way that in Durham will be significantly harder. Nevertheless, it is an area of tremendous challenge that needs hard effort.

Q48 **David Hanson:** Are they going to make the target of 14% by 2020?

David Lammy: I don’t think so. I would be very surprised. There is going to have to be a tremendous effort over the next year to make that target, I suspect. It is sitting at 11% at the moment, I think.



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Q49 David Hanson: Recently, the HMI prison report said that 50% of children in the youth estate are of BAME origin, and it is rising. What do you think the Youth Justice Board and the Ministry should be doing now to bring the number down?

David Lammy: My feeling is that that figure is going to get worse. I want to be absolutely clear that that means the UK is sitting at the extreme end of the developed world in relation to disproportionality. I repeat that while there are documentaries and is a lot said about the number of African American men in the US criminal justice system, the proportion for Britain is greater per capita.

I met Charlie Taylor of the Youth Justice Board and had a good meeting. Their toolkit is important. There are strands of work that are really important. They are doing some work on stop and search that is of value, because it is always of value, but I made the point to them that it is not a new issue. It has been going on for a long time. I am far more concerned that they reprioritise disproportionality as their mission.

There is some resistance in the Youth Justice Board to doing that. Their mission is very much to keep young people out of the system, but, as you have heard from others who have given evidence, their real challenge now is with disproportionality. I would be very surprised if the figure does not get worse over the next period. The nature of violent crime will drive that. By the way, I think that joint enterprise, which this Committee will be familiar with, is also having an effect. That greatly concerns me because children on the fringes are going to jail for significant periods.

I am very worried about IPP prisoners. The Committee has looked at that historically. They really should not be there and we should do something about it.

Q50 David Hanson: In terms of prison safety, is there any monitoring in the estate, or do you have concerns about disproportionality in prison safety for BAME prisoners?

David Lammy: That goes back to how prisoners are dealing with conflict management. I will give you an anecdote to deal with this. As you know, prisons take the risk of self-harm very seriously. When I spoke to prison psychiatrists, they presented evidence and statistics to me that suggested that white offenders had a higher preponderance towards self-harm than some ethnic minority groups. I can only repeat what they said to me. They said that some communities internalise trauma and some communities externalise trauma. I was speaking to a young black offender about that. He said to me, "But, Mr Lammy, it's interesting. When Joey, who is white, attempts to cut his wrists, he gets therapy and support to stop him doing that. When I punch the wall, I get put in solitary. Why is that not self-harm?"



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This is a whole big area that is certainly beyond my area of expertise. It is an indication of how one is dealing with stereotypes, with culture and with traumatised young people, however they behave and however they manifest. Particularly in the context of gangs coming into the youth custodial estate, how violent young people are being managed is a real issue.

Q51 **Chair:** David, thank you very much for what has been a very comprehensive session of evidence. We are grateful for your time, as always, and for the work you have done.

David Lammy: Thank you so much.

Chair: It is much appreciated. The session is concluded.