

TO	Justice Select Committee
FROM	EQUAL
DATE	30 June 2020
REGARDING	Submission on disproportionality in the Youth Justice System

The impact of Covid-19 on the youth justice system

Over policing of black communities

1.1 As a result of the Coronavirus Act 2020 the police have been given the power to stop people outside of their usual remit which includes the introduction of fines for lockdown breaches and an increased use of stop and account. It is not clear from the evidence available how this has specifically impacted upon the Youth Justice System (YJS) however the statistics available (across all age groups) may assist in understanding the implications for the YJS.

- Over 25% of fines for lockdown violations (253) have been handed to black people in London
- 23% of fines for lockdown violations (220) were given to Asian people in London
- Black, Asian and minority ethnic people (BAME) are 54% more likely to be fined
- Almost 1/3 of those arrested under the Health Protection Regulations and Coronavirus Act in London were black
- The Metropolitan Police carried out 30,608 searches in London in April, an increase of 26% since March 2020 and the highest rate for at least 2 years
- The rate of searches for black people increased from 7.2 per 1000 people in March 2020 to 9.3 per 1000 in April 2020]

1.2 The figures highlight disproportionality in the way police powers are being used during the Coronavirus pandemic which will undoubtedly have a wider impact on the YJS and the ongoing ethnic disproportionality in first time entrants into the YJS.

Prisons

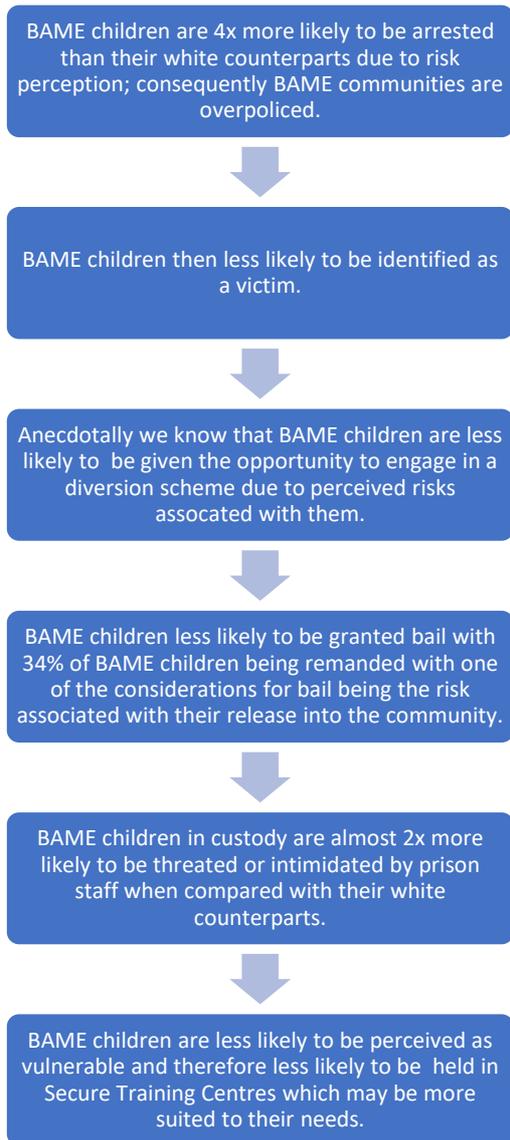
1.3 At the beginning of lockdown, the government announced their plans to release low level offenders and those offenders who were nearing their release date. However, children were not considered under this scheme, despite the complex needs of some of the children currently in the YJS.

- 1.4 This is concerning, as evidence shows that children are spending more time in their cells and very little time outside. Although not specifically in reference to the Youth Estate it is useful to note that in April 2020 Her Majesty's Inspectorate of Probation (HMIP) found that time out of cells since the pandemic has been just 40 minutes per day in some prisons and around one hour in others.
- 1.5 Although this data is more reflective of the adult estate it is important to consider how the unavoidable increase in time in cells is likely to impact upon children in the YJS. There are risks around the safeguarding of children, mental health and the increased risk specifically to BAME children of becoming seriously ill from Covid-19.

2. BAME disproportionality in the YJS

Risk perception

- 2.1 There was a question raised during the committee session; why is it that race disproportionality continues to increase despite the Lammy review? This is a complex question and there are a range of factors affecting the success of the Lammy recommendations, however, EQUAL believe that risk perception of BAME people is one of the key drivers of disproportionality in the CJS and the YJS more specifically.
- 2.2 'Risk perception' is the notion that BAME people are 'riskier' and therefore need to be risk assessed and managed accordingly despite the lack of evidence that they pose a risk. This is perpetuated through the media and intelligence tools used by the police like the Gangs Violence Matrix where many of those on the list are not proven offenders. This perception directly impacts on your treatment as a young person throughout the YJS and can have huge consequences for your life beyond the YJS.
- 2.3 The image below sets out some of the potential ways in which negative 'risk perceptions' of BAME children may impact on their YJS experience.



2.4 It is evident from the data available that BAME children are more likely to be treated as dangerous or risky. Once categorised as risky they will be treated accordingly which is manifests itself through harsher/longer sentences, increased remand rates, lack of diversion scheme uptake and reoffending rates.

2.5 These perceptions feed themselves into what are seen as objective strategic tools, for example risk assessments completed by probation officers. These tools may effectively feed into the narrative that BAME children are riskier. This notion of risk is particularly problematic because whilst it still exists the Lammy recommendations are unlikely to have the direct impact on disproportionality that we would expect. It is the responsibility of the YJS and wider CJS to assess their own biases towards risk and the way in which it interplays with the treatment of BAME children.

2.6 For the YJS to be more effective in reducing disproportionality we would recommend that regular training is undertaken to address unconscious biases and to provide staff with an understanding of cultural competency. It is our view that a lack of cultural competency also plays a significant role in

disproportionality in the wider CJS and urgent work needs to be done to address this.

Cultural competency

- 2.7 Although not specific to the YJS it is important to understand the different ways in which culture can impact on treatment in the CJS. For example, sentencing guidelines produced by the Sentencing Council to assist Judges on sentencing decisions provide a list of mitigating factors which include 'remorse'. This is a subjective factor and is often displayed differently depending on the individual's cultural norms, but this is not considered in the courts. A young black boy who has been involved in gang/street culture may find it difficult to display remorse in a legal setting as public displays of emotion may be viewed negatively by their peers.
- 2.8 This is just one example where cultural norms may have an effect on the outcomes experienced by BAME children. With such grave consequences for the child it is pertinent that the judiciary and wider court system acknowledge the differences in cultural norms.

Explain or reform

- 2.9 The Lammy Review made it clear that if the CJS could not explain racial disparities they must reform in order to rectify them (explain or reform). However, there are a number of departments that have failed to do so. The Judiciary for example failed to accept a number of recommendations despite damning evidence of disproportionality in the court system. Although this is not one of EQUAL's priority areas it is concerning that those responsible for sentencing fail to acknowledge the obvious disparities. This lack of willingness to embrace the principle of explain or reform is evident in the lack of positive data two years on from the Lammy review.
- 2.10 Part of the explain or reform principle requires all CJS departments to gather more detailed data to help understand any disparities. The lack of data recorded in the courts for example, around ethnicity and sentencing outcomes makes it difficult to assess what needs to change and at what stage. Data needs to be broken down to reflect the range of different ethnicities at different stages throughout the system. This will allow for further analysis as to why the representation of BAME children is increasing and how things can be reformed to address it. Without the relevant data it is difficult for organisations working in this space to challenge, scrutinise, advise and support the different CJS departments.

Diversion

- 2.11 Disproportionality in diversion remains a persistent challenge and without sufficient ethnicity data it is difficult to identify how successful diversion schemes are for BAME children. What we do know, is that diversion schemes are limited at the local level for BAME children and may not be fit for purpose in steering them away from custody. We would encourage greater collaboration between the

police, courts, youth offending teams and BAME led youth organisations offering practical support and guidance to help support a decrease in disproportionality at a local level.

Conclusion

2.12 There are a wealth of reasons why disproportionality continues to increase in the YJS and this is likely why the Lammy Review highlighted the YJS as one of the greatest concerns. We believe that cultural competency training and the undermining of negative risk perceptions of BAME people with a shift towards the needs of the individual are just two ways in which the YJS can impact upon disproportionality, although there are a number of other ways.

2.13 EQUAL continue to work with all the relevant government departments to support the implementation and embedding of the Lammy recommendations.