

Section 95

Criminal Justice Act 1991

Race and the
Criminal Justice System:
An overview to the
complete statistics
2004–2005

March 2006

CRIMINAL JUSTICE SYSTEM



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Criminal Justice Act 1991 section 95

- (1) The Secretary of State shall in each year publish such information, as he considers expedient for the purpose of:
- (a) enabling persons engaged in the administration of justice to become aware of the financial implications of their decisions; or
 - (b) facilitating the performance of such persons of their duty to avoid discriminating against any persons on the ground of race or sex or any other improper ground.
- (2) Publication under subsection (1) above shall be effected in such a manner, as the Secretary of State considers appropriate for the purpose of bringing the information to the attention of the persons concerned.

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Foreword by Ministers

We, the Criminal Justice Ministers, are pleased to publish this update of the Overview to the Section 95 and CJS statistics. This report summarises the most recent statistics available on race and Criminal Justice and seeks to put in context what this reveals about BME groups' experiences across the CJS.

We want to build a society where there are equal opportunities for all. An essential part of this is for all those organisations responsible for delivering criminal justice to make sure they promote equality; do not discriminate against anyone because of their race; that the people who work for them are representative of the population; and that the system is effective in tackling racism and racist crime.

We have made enormous progress in recent years strengthening the legal framework against discrimination, improving diversity training and toughening up our recruitment processes to make sure racists cannot get into CJS agencies, making the CJS more representative of the communities it serves; and improving how we investigate and prosecute hate crime. However we are not complacent and realise we still have a lot to do. These statistics show people from BME communities continue to be over-represented in the criminal justice process and are less likely than White people to be confident that the CJS will treat them fairly. Chapter six of this report outlines the variety of activities we are undertaking to continue to address inequalities.

We believe the Overview Report and the Section 95 statistics are crucial measuring tools in moving towards an equitable Criminal Justice System. We will continue to encourage joint working between agencies and communities to deliver an impartial, fair and effective system to all.

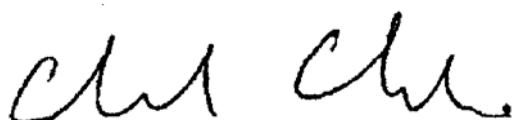
Secretary of State for Constitutional Affairs



Attorney General



Home Secretary



Summary

This report provides an overview of the key findings from the detailed publication *Statistics on Race and the Criminal Justice System – 2005*. It updates the summary of 2003/04 statistics published in February 2005¹, and looks specifically at what has changed and what has stayed the same.

The data reported show that progress continues to be made in relation to the proportion of staff from Black and Minority Ethnic (BME) groups working in the Criminal Justice System (CJS). However, other areas remain largely unchanged with BME groups continuing to be disproportionately represented in the CJS.

When interpreting the data, it is important to note that people from BME groups are often disadvantaged in social and economic terms compared to the White population. This disadvantage relates to factors such as housing, education and employment; factors that are in part predictive of offending behaviour and general involvement in the criminal justice process.

Data concerning ethnicity and crime needs to be treated with extreme caution² because the data may be inaccurate or missing altogether (as many crimes may be unreported or the ethnicity of the perpetrator unknown). However, evidence suggests that the imbalance is not simply the result of people from BME groups committing a disproportionate number of crimes.^{3,4} There is not, as yet, sufficiently robust data and evidence from which to reach definite conclusions as to the cause, or causes, of the disproportionate representation of BME groups observed in the data described. What is clear from the data is that disproportionality continues to be a key issue meriting further investigation.

Main findings:

Experience as users of the CJS

- The 2004/05 BCS shows that people from Mixed ethnic groups face significantly higher risks of crime than White people. However, there were no other statistically significant differences between people from different ethnic backgrounds.
- The 2004/05 BCS shows that people in BME groups were significantly more likely than White people to be worried about burglary, car crime and violent crime.

1 Barclay et al (2005) *Race and the Criminal Justice System: An overview to the complete statistics 2003/4*. London.

2 Bowling, B. and Phillips, C. (2002) *Racism, Crime and Justice*. Harlow: Longman.

3 Sharp C. and Budd T. (2005) *Minority ethnic groups and crime: findings from the Offending Crime and Justice Survey 2003*, Home Office Online Report 33/05 London: Home Office.

4 Aust, R. & Smith, N. (2003). *Ethnicity and drug use: key findings from the 2001/2002 British Crime Survey. Findings 209*. London: Home Office

- Racist incidents recorded by the police have continued to rise with nearly 60,000 incidents recorded in 2004/05, although the latest information from the BCS (self-reported crime) estimates that actual numbers of racist incidents fell from 206,000 in 2003/04 to 179,000 in 2004/05.
- There were 37,000 racially aggravated offences recorded in 2004/05. Just over a third of these offences were cleared up by the police – a similar proportion to previous years.
- In the three years 2002/03, 2003/04 and 2004/05, the police recorded 2,565 homicides. Wide disparities in risks exist for different ethnic groups. Black people were 4.5 times more likely and Asian people nearly twice as likely to be homicide victims as White people (excluding Shipman cases).

Experience as suspects, defendants and prisoners

- There were 838,700 stop and searches recorded by the police under section 1 of the Police and Criminal Evidence Act 1984 and other legislation in 2004/05. This is a 14% increase on the previous year.
- Black people were six times more likely to be stopped and searched under Section 1 compared to White people, Asian people were as twice as likely to be stopped and searched. These rates are similar to previous years.
- In 2004/05, 41,300 searches were recorded by the police under Section 60 of the Criminal Justice and Public Order Act 1994 in 31 police force areas.
- Black people were 14 times more likely to be stopped and searched under Section 60 compared to White people whereas Asian people were six times more likely to be searched.
- In 2004/05, 32,086 searches were recorded by the police under Section 44(1) and Section 44(2) of the Terrorism Act 2000.
- Black people were 2.5 times as likely to be stopped and searched under the Terrorism Act when compared to White people in 2004/05 (down from three times more likely in 2003/04). Asian people were twice as likely to be stopped and searched under these powers than White people; again down from three times in 2003/04.
- The police cautioned 237,323 persons for notifiable offences in 2004. National cautioning rates were similar for Asian, White and Other ethnic groups, whereas the rate for Black people was almost three times that for White people.
- BME groups were more likely than White people to be committed at magistrates' court to be tried by a jury at the Crown Court (20% for Black people, 30% for Asians and 15% for White people). BME defendants were substantially more likely to be acquitted at the Crown Court than White defendants (29% for Black people, 30% for Asians and 22% for White people).
- Black young offenders and those in the Mixed ethnic group were more likely to receive a community sentence compared to White offenders but less likely to be discharged or given a referral order.
- Black and Asian offenders accounted for 6% and 4% of persons starting court order supervision, with 2% and 1% respectively accounting for by the Mixed or 'Chinese and other' ethnicity.
- Excluding foreign nationals, the proportion of Black prisoners on 30 June 2005 relative to the population five times higher than for White people. Similarly, people from Mixed ethnic backgrounds were more than twice as likely to be in prison than their White counterparts.
- The number of deaths recorded for Black people has continued to fall from 16 people in 2002/03, 7 in 2003/04 to 4 in 2004/05.

Working in the CJS

- The representation of BME groups working for the criminal justice agency has improved in recent years. In 2004/05 the CPS, Police, Prison and Probation Services all recorded an increase in the percentage of BME staff on the previous year. Similarly, the percentage of BME staff also increased in the Crown and magistrates courts.

Confidence in the CJS

- People from an Asian or 'Other' ethnic background were the most likely to rate the criminal justice agencies as doing a good or excellent job.
- Relative to White people, people from BME groups reported higher levels of perceived discrimination within the Criminal Justice System. Thirty-one per cent of people from minority ethnic groups feel that they would be treated worse than people of other races by one or more of the five Criminal Justice System organisations. This shows no significant change from 2001 (33%) or 2003 (31%). There has, however, been a statistically significant decrease in the percentage of people from minority ethnic groups who feel they would be treated worse than other races in four of the five organisations (the Courts, CPS, the Police and the Prison Service).

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Chapter 1:

Introduction

Since 1992 the Home Office has published statistical information to meet the requirement under Section 95 of the 1991 Criminal Justice Act. The aim of these publications is to help those involved in the administration of justice to avoid discrimination on the grounds of race. An additional publication to the 2002-3 statistics was published in July 2004 to present both an overview⁵ of the statistical information and also a more general assessment of the experience of Black and Minority Ethnic (BME) groups within the criminal justice system in England and Wales. The current document aims to highlight the main national changes that have taken place between 2003-4 and 2004-5 in both the statistical indicators and also in the development of policy and practice. The companion document *Statistics on Race and the Criminal Justice System* available on the Home Office RDS website includes breakdowns by police force areas.

This report presents summary data describing the experiences of BME groups not just as victims, suspects and offenders but also as employees within the criminal justice system. For the moment, ethnic monitoring data are collected using a broad classification system.⁶ As a consequence, we lack detailed information on the experiences of specific ethnic categories, and on the particular problems, within distinct geographical areas.

The population figures used in this report were derived from the mid year 2004 population estimates produced by the Office for National Statistics and weighted using the 2001 Census.⁷ This showed the proportions of the population aged 10 years and over across England and Wales as 91.3% White; 2.8% Black; 4.7% Asian and 1.2% 'Other'.

When interpreting the data, it is worth noting that people from BME groups are often significantly disadvantaged in social and economic terms compared to the White population, although there is considerable variation between and within each ethnic group. For example, Chinese and Indian groups tend to suffer little or no economic disadvantage relative to White groups; Black Caribbean, Bangladeshi and Pakistani groups suffer a range of severe forms of disadvantage, as do Black African groups, albeit to a lesser degree.⁸ This disadvantage relates to factors such as employment, housing and education; factors that are in part predictive of offending behaviour and general involvement in the criminal justice process.

5 Hearnden, I., & Hough, M. (2004). *Race and the Criminal Justice System: An overview to the complete statistics 2002/3*. London: ICPR.

6 The Home Office has commissioned an independent review of how ethnic monitoring data are collected, which reported in 2005. The Root and Branch Review is due to be published shortly and once due consideration has been given to the report's recommendations, changes may be introduced in future years.

7 The 2001 Census was based on 16 categories (including Mixed). In order to make comparisons with the population where data was only collected for four groups (White, Black, Asian, Other) the Mixed category was divided between these categories as described in *Statistics on Race and the Criminal Justice System 2005* – see Appendix B.

8 Phillips, C. & Bowling, B. (2003) *Racism, Race and Ethnicity: developing minority perspectives in criminology*, British Journal of Criminology 43, no.2, pp 269-290.

Unemployment rates for people from BME groups are generally higher than those from White ethnic groups. There are differences within the BME group with unemployment among the economically active; rates are high for Black Caribbean, Black African, Bangladeshi, Pakistani and Mixed groups and low for Indian and Chinese groups. People from minority ethnic groups are also more likely than White people to live in low-income households. Again, there is considerable variation among the different ethnic groups. Pakistanis and Bangladeshis are much more likely to be living on low incomes. In terms of education, Chinese pupils are most likely to achieve five or more GCSE grades A*-C with Indian pupils achieving the next highest achievement levels. The lowest level of GCSE attainment is amongst Black Caribbean pupils, particularly boys. Black pupils are more likely to be excluded from schools than children from other ethnic groups.⁹

How ethnicity is monitored in the Criminal Justice System

Ethnic monitoring in criminal justice agencies relies on a variety of recording methods and classification systems. Since 1 April 2003 a standard system of recording has been introduced into all agencies based on self-classification into one of 16 categories used in the 2001 Census. This approach allows direct comparisons to be made between criminal justice data and census data. Classification is based around five main groups: White, Mixed, Black, Asian and 'Other'. The Mixed group mainly includes those of Black and White origin and Asian and White origin. The change to self-classification has been particularly difficult for the police to implement since it has involved collecting data on ethnicity directly from a suspect on the street. As a consequence, a high proportion of data on ethnicity is missing. In view of this problem, the presentation of police data continues the previous practice of using visual assessments and the four groups Asian, Black, White and Other. For other sources, e.g. household surveys (such as the British Crime Survey), prison receptions and the monitoring of those who work in criminal justice agencies, the 2001 Census categories and self-classification have already been successfully introduced. The aim is to introduce use of the 2001 categories across the entire criminal justice system over the next 2-3 years.

⁹ White, A. (2002) *Social Focus in Brief: Ethnicity 2003*, London: ONS.

Chapter 2:

The experience of people from BME groups as users of the Criminal Justice System

People seek the services of criminal justice agencies for various reasons. The most obvious is to notify the police of a crime but for many it may be as a witness, member of a jury or as a lay magistrate, prison visitor or victim support volunteer.

Experience as crime victims

The British Crime Survey (BCS) is a large face-to-face household survey asking about people's experience and perceptions of crime in the last 12 months in England and Wales. It also records whether or not a victim of crime perceived the crime to be racially motivated. In this chapter, results from the most recent BCS, that is 2004/05, are reported. Relevant findings from the analysis of earlier surveys, such as the BCS 2002/03 and 2003/04, are also reported.

The 2004/05 BCS shows that there has been a fall in BCS recorded crime in England and Wales since its peak in 1995 (Nicholas *et al*, 2005). Against this background of declining crime, there are variations in the risks of victimisation experienced by different ethnic groups, as shown in Figure 2.1. The 2004/05 BCS shows that people from Mixed ethnic groups face significantly higher risks of crime than White people. However, there were no other statistically significant differences between people from different ethnic backgrounds.¹⁰ The levels of risk for people from White, Mixed and Asian ethnic groups fell substantially between 2003/04 and 2004/05.

It should be noted that differences in the risk of victimisation between ethnic groups may be at least partly attributable to factors other than ethnicity. Previous analysis on the 2002/03 BCS showed that people from BME groups were at greater risk of total BCS crime, i.e. household crime such as burglary and theft in a dwelling, and personal crime such as common assault and robbery, than White people.¹¹ However, that was largely explained by the younger age profile of the BME population and the fact that younger people experience higher rates of victimisation. Once age was controlled for the difference in risk between BME and White groups disappeared (Salisbury and Upson, 2004). The analysis of the 2002/03 BCS also showed that people in BME groups were at greater risk of personal crime compared with White people but not of household crime.

Comparing risk across the individual groups, people from a Mixed ethnic or Asian backgrounds were at greater risk of victimisation than White people. After allowing for age the difference between Asian and White people disappeared. However, this was not the case for those of the Mixed ethnic group who continued to have higher risks of victimisation than all the other ethnic backgrounds even after controlling

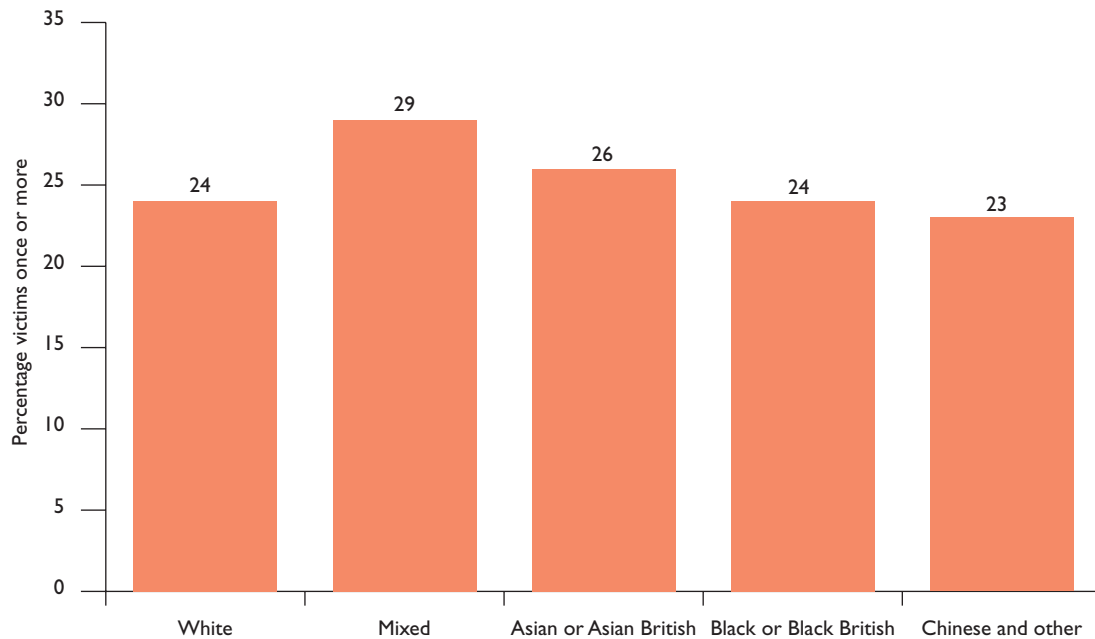
¹⁰ Statistical significance means that an observed difference between variables is unlikely to have occurred by chance.

¹¹ The respondent answers on behalf of the whole household in the offence categories of: burglary; theft in a dwelling; thefts of and from vehicles; and vandalism to household property and vehicles. For personal offences, respondents report on their experience of: assault; sexual offences; robbery and theft from the person. The BCS does not cover personal crime against those aged under 16 or against those living in institutions.

factors such as age and area of residence. This analysis is currently being updated with data from the 2003/04 and 2004/05 BCS and will be published in a forthcoming Home Office Research Findings.¹²

Figure 2.1^(1,2)

Risk of being the victim of a crime (2004/05 BCS interviews)



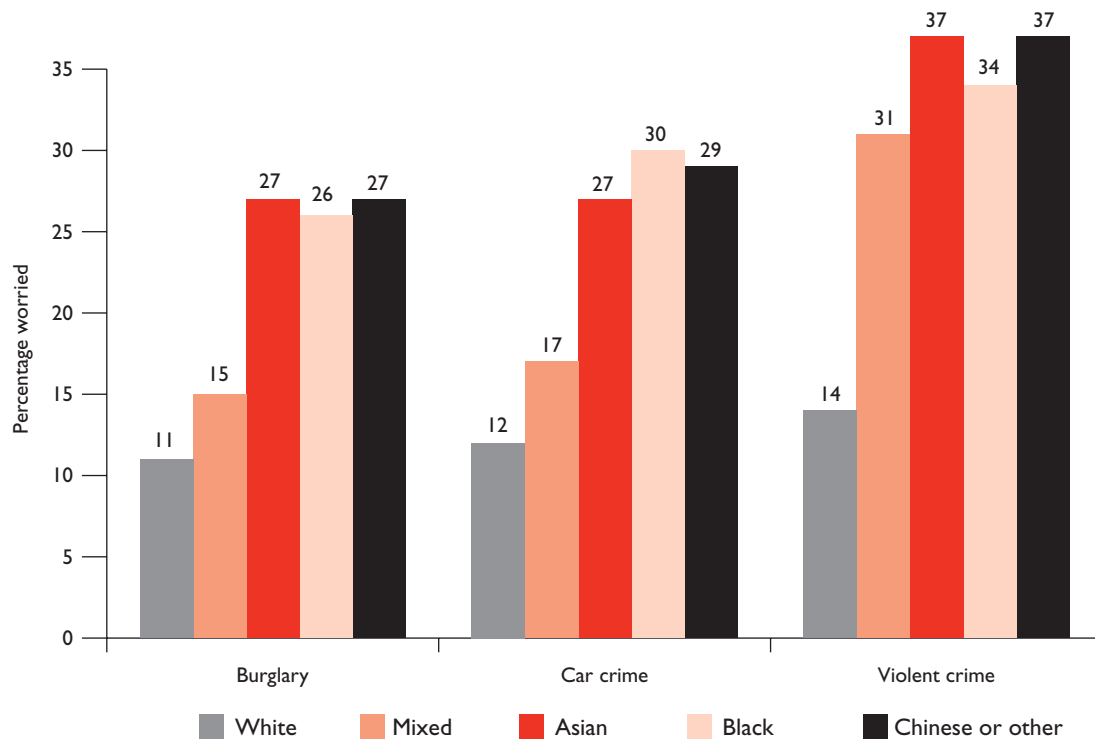
(1) For household offences reported in the BCS, all members of the household can be regarded as victims.
(2) For personal offences, the respondent reports only on his/her experience to the BCS.

Worry about crime

The 2004/05 BCS shows that people in BME groups were significantly more likely than White people to be worried about burglary, car crime and violent crime. In addition, people from Black, Asian, and 'Chinese and Other' backgrounds were more likely to worry about burglary and car crime than people from the Mixed ethnic group. Worry about car crime had decreased among White people, and the worry about violent crime had increased among the 'Chinese and Other' group between 2003/04 and 2004/05.

¹² Jansson, K (forthcoming) *Ethnicity and victimisation; findings from the 2004/05 British Crime Survey*. Home Office

Figure 2.2
Worry about crime by ethnic group (2004/05 BCS interviews)



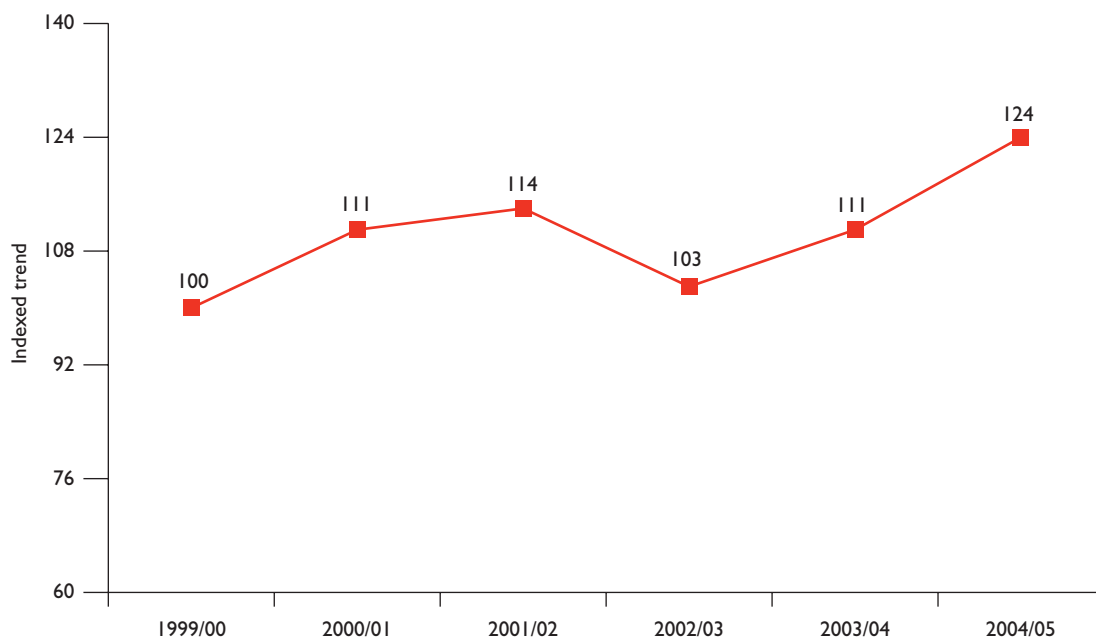
Racist crimes

The experience of crime for those in BME groups, either as a victim or a witness to a crime, will include some crimes that will have been racially motivated. The latest information from the BCS (self-reported crime) estimates that in 2004/05 there were 179,000 racially motivated incidents (including those on White people), which is lower than the 2003/04 estimate of 206,000. Such incidents include the use of racist language, criminal damage and physical assaults. The police record information on racist incidents using a similar definition to the BCS, that is “any incident which is perceived to be racist by the victim or any other person” (Macpherson, 1999). Police statistics show a different result. Racist incidents recorded by the police increased from just over 10,000 in 1996/97 to nearly 50,000 in 1999/00. As shown in Figure 2.3, the number of racist incidents has continued to rise steadily over the last five years with nearly 60,000 incidents recorded in 2004/05. The sharp rise is thought to be the result of encouragement by all agencies and community groups for better reporting by victims and better recording by the police rather than an actual rise in the number of incidents. Although White people experience the highest number of incidents they are at a comparatively lower risk of racially motivated crime.¹³

¹³ Salisbury, H. and Upson, A. (2004) *Ethnicity, Victimization and Worry about Crime: findings from the 2001/02 and 2002/3 British Crime Surveys*. London: Home Office Research Findings No 237.

Figure 2.3⁽¹⁾

Racist incidents recorded by police forces, percentage change on 1999/00 totals to 2004/05



(1) This figure shows indexed trends. The 1999/00 figure is indexed at 100. The numbers of racist incidents for each subsequent year are each expressed as a percentage of the 1999/00 figures.

The 1998 Crime and Disorder Act identified certain offences of violence, harassment and criminal damage as racially aggravated; 37,074 such offences were recorded in 2004/05, of which, 61% were harassment, 24% crimes against the person such as wounding and common assault, and 15% criminal damage. The total number of offences was above that recorded in both 2002/03 (31,034) and 2003/04 (35,022).

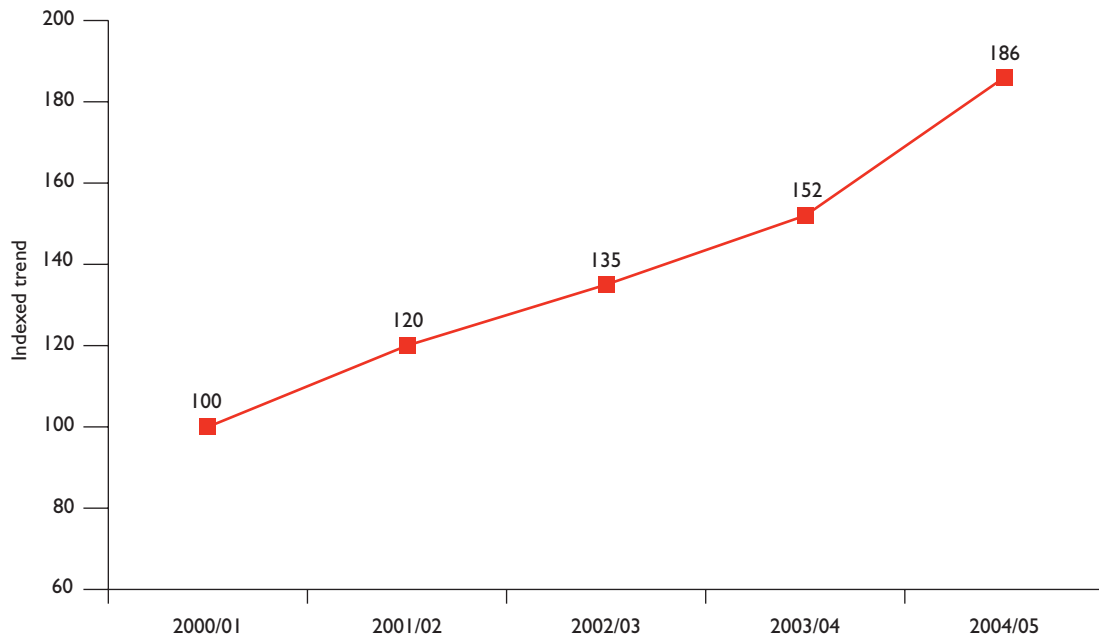
Just over a third (36%) of racially aggravated offences were cleared up by the police – a similar proportion to previous years (34% in 2003/04 and 34% in 2002/03). This is better than the 30% clear up rate for non-racially aggravated offences. However, the difference between clear-up rates is largely the result of the difference between the number of racially aggravated and non-racially aggravated criminal damage offences. Only for criminal damage offence was the clear-up rate for racially aggravated offences (20%) greater than for the *non*-aggravated equivalent (14%). For the other offences, that is, harassment, other wounding, and common assault, the reverse was true; the clear up rate was higher for *non*-aggravated offences than for aggravated offences. Only a small number (4,409 offenders) were cautioned or convicted by the courts for racially aggravated offences. This finding may reflect the difficulty of proving racial aggravation in court.¹⁴

¹⁴ Burnley, E. and Rose, G (2002) *Racist Offences – how is the Law Working?: the implementation of the legislation on racially aggravated offences in the Crime and Disorder Act 1998*, Research Study No 244. London: Home Office.

The Crown Prosecution Service (CPS) also monitors prosecution and outcomes in all cases identified by the police or CPS as arising from a racial incident.¹⁵ It identified 5,788 of the cases they dealt with in 2004/05 as being racist incidents, 22% higher than in 2003/04. The police identified 91% of these cases, whilst the CPS identified the remaining 9% (the proportions for the previous year were 90% and 10%).

Figure 2.4⁽¹⁾

Defendants received by the CPS, percentage change on 2000/01 totals to 2004/05



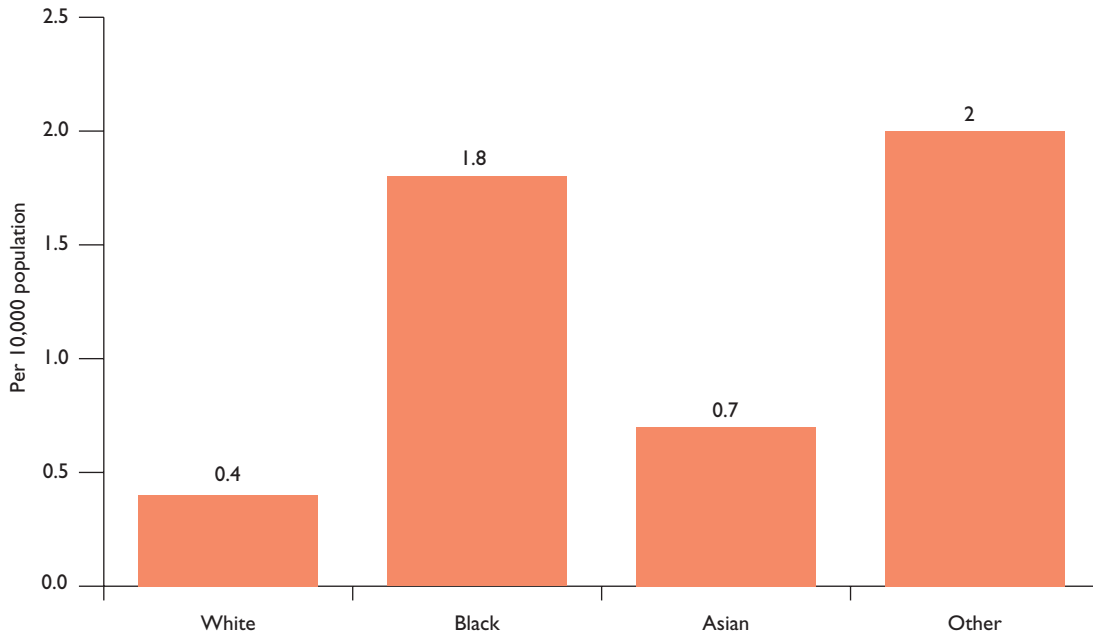
(1) This figure shows indexed trends. The 2000/01 figure is indexed at 100. The numbers of defendants for each subsequent year are each expressed as a percentage of the 2000/01 figure.

Homicides

Murder, manslaughter and infanticide (collectively referred to as homicide) are amongst the less frequent crimes in England and Wales. In the three years – 2002/03, 2003/04 and 2004/05, the police recorded 2,565 such offences. However, there are wide disparities in the risks for different ethnic groups. Excluding the 172 homicides of White people killed by Harold Shipman, Black people were 4.5 times more likely and Asian people 1.7 times as likely to be victims of a homicide as White people, the same as in the three years up to and including 2003/04.

¹⁵ CPS (2005) *Racist incident monitoring: Annual Report 2004/5* London: Crown Prosecution Service.

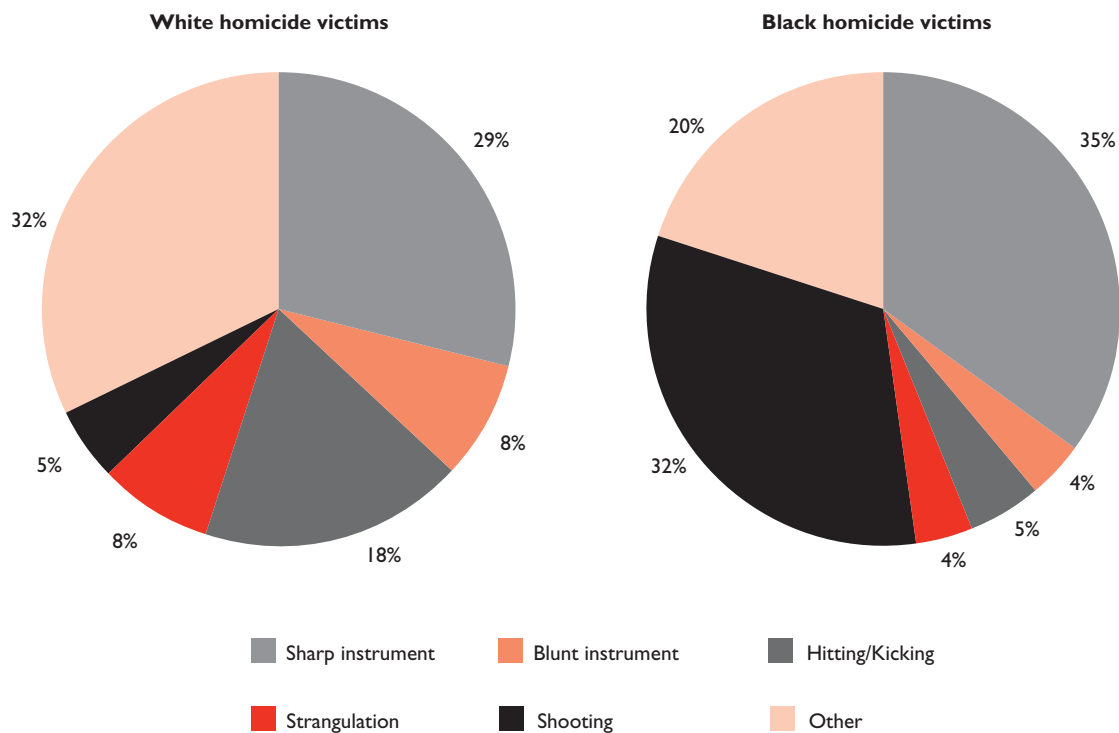
Figure 2.5⁽¹⁾
Homicides per 10,000 population, combined data for 2002/3 to 2004/5



(1) Number of victims: White 1,750; Black 242; Asian 153; Other 108 (excluding Shipman cases)

While the risk for White people was similar for males and females and all age groups, Black victims were predominately young men and a third were the victims of firearms.¹⁶

Figure 2.6^(1,2)
Apparent method of killing of currently recorded homicide victims by percentage, combined data for 2002/03, 2003/04, 2004/05



(1) Those recorded as homicide as at 28 November 2005
 (2) Other category includes the 172 individuals killed by Harold Shipman.

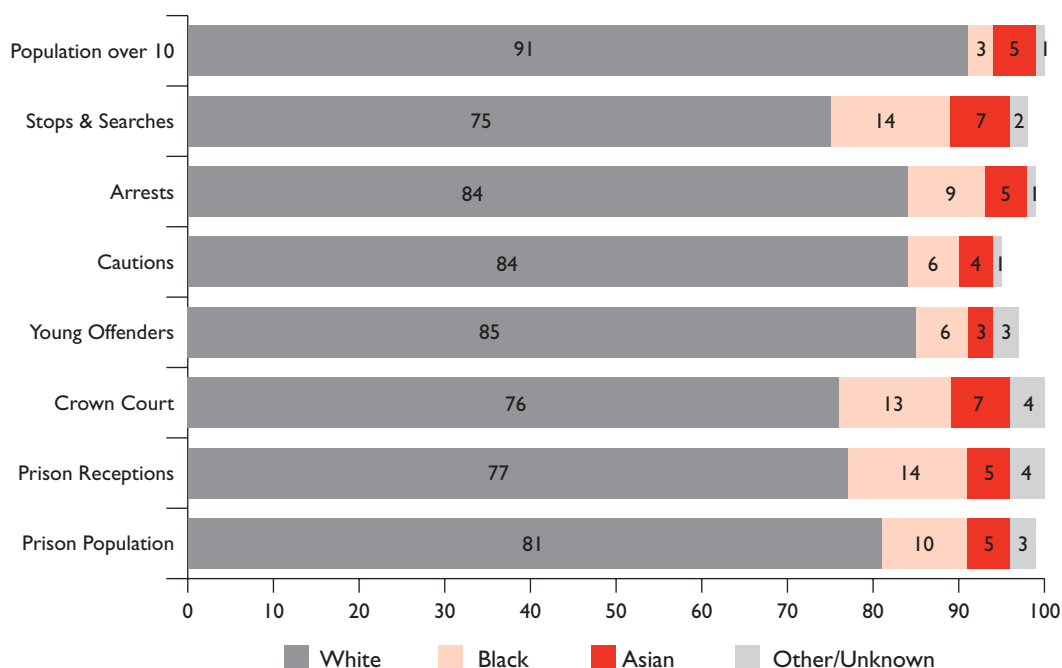
¹⁶ Bullock, K. and Tilley, N. (2002) *Shootings, Gangs and Violent Incidents in Manchester: developing a crime reduction strategy*. Crime Reduction Research Series Paper 13. London: Home Office.

Chapter 3:

The experience of people from BME groups as suspects, defendants and prisoners

Evidence reviewed in this chapter shows quite clearly that people from BME groups are over-represented at each stage of the criminal justice process from initial contact to sentencing. Evidence also suggests that it is not to be because people from BME groups are more likely to offend.^{17,18} BME groups' over-representation in the CJS is not unique to England and Wales. International reviews suggest specific minority ethnic groups are more likely to have contact with the system than majority groups.¹⁹

Figure 3.1
Proportion (%) of ethnic groups at different stages of the criminal justice process 2004/05



Criminologists have suggested several factors that might lie at the root of this observed disproportionality, including discrimination on the part of the police²⁰, socio-demographic factors²¹, the suggestion that Black people spend more time on the streets than their White counterparts²², or police recording practices.²³ Another possibility is that those in BME groups committing offences are detected to a greater extent by

17 Sharp C. and Budd T. (2005) *Minority ethnic groups and crime: findings from the Offending Crime and Justice Survey 2003*, Home Office Online Report 33/05 London: Home Office.

18 Aust, R. & Smith, N. (2003). *Ethnicity and drug use: key findings from the 2001/2002 British Crime Survey. Findings 209*. London: Home Office

19 Junger-Tas, J. & Marshall, I. H. (1999). The self-report methodology in crime research. In M. Tonry (Ed.), *Crime and Justice. A Review of Research*. Vol 25. (pp. 291-367). Chicago: The University of Chicago.

20 Smith, D.J., & Gray, J. (1985). *Police and the Public*. London: Gower.

21 FitzGerald, M. (1993). *Ethnic Minorities and the Criminal Justice System*. Royal Commission on Criminal Justice Research Study 20. London: HMSO.

22 FitzGerald, M. and Sibbitt, R. (1997) *Ethnic Monitoring in Police Forces: A beginning*. Home Office Research Study 173. London: Home Office.

23 FitzGerald, M. and Sibbitt, R. (1997) *Ethnic Monitoring in Police Forces: A beginning*. Home Office Research Study 173. London: Home Office.

the criminal justice system as proportionally more of those BME groups are likely to be known to the police.²⁴ Other authors have suggested that methodological and conceptual issues make it impossible to conclude that people from BME groups commit any more or less crime than White people.²⁵

The current lack of robust ethnic monitoring data across the CJS, combined with the lack of unequivocal empirical evidence, make it impossible to provide a conclusive answer to the question of the root causes for this disproportionality. However, it is clear from the data that disproportionality continues to be a key issue meriting further investigation.

Offending behaviour

There is no consistent picture of whether there are differences in offending behaviour between ethnic groups that could explain the over-representation of BME groups. The BCS has asked victims to give their description of the ethnicity of 'their' offender. These results show a slight under-representation of Asian offenders, and a slight over-representation of Black offenders. The exception was victims of personal robbery where a Black person was said to be responsible for the attack in about a third of cases.²⁶

Alternative methods of measurement based on self-reported criminal behaviour have their own methodological limitations, so results have to be treated with caution. However, findings from a self-report survey published in 2005 suggested that Black respondents had rates of self-reported offending that were either similar to or substantially lower than White respondents. It found that Black and Black British males in the general population aged 10 to 25 were no more or less likely to have committed an offence *in their lifetime* than White males of the same age. Moreover, the figures for offending *in the last year* suggested that Black male respondents in this age group were significantly less likely than White respondents to have committed an offence during this time period. The pattern for older male respondents aged 26 and above differs slightly – the *lifetime* offending rate was significantly lower in Black respondents compared with White, whilst the *last year offending* rate was similar across the two groups.²⁷

Stop and searches

Section 1 PACE

An important 'gateway' for some offenders into the Criminal Justice System are the 'stop and search' powers granted under the terms of the Police and Criminal Evidence Act (1984) and other legislation. The disproportionate use of these powers on BME groups has been shown both by household surveys such as the British Crime Survey and also police statistics. Although police statistics provide a measure of the risk of being searched, they only record the total number of searches carried out each year and not the number of persons searched. Searches are carried out on only a small minority of the population, but one person may be searched many times in one year.

There were 838,700 stop and searches recorded by the police under section 1 of the Police and Criminal Evidence Act 1984 and other legislation in 2004/05. This is a 14% increase on the previous year. This increase is apparent across all ethnic groups. Compared with 2003/04, there was a 15% increase in the number of searches on White people; a 9% increase for Black people, 12% increase for Asian people and 20% increase for people in the 'Other' ethnic group. This contrasts with the 2003/04 figures which recorded the first fall in the use of these stop and search powers since 2000/01. The trends in Figure 3.2

24 Sharp C. and Budd T. (2005) Minority ethnic groups and crime: findings from the Offending Crime and Justice Survey 2003, Home Office Online Report 33/05 London: Home Office.

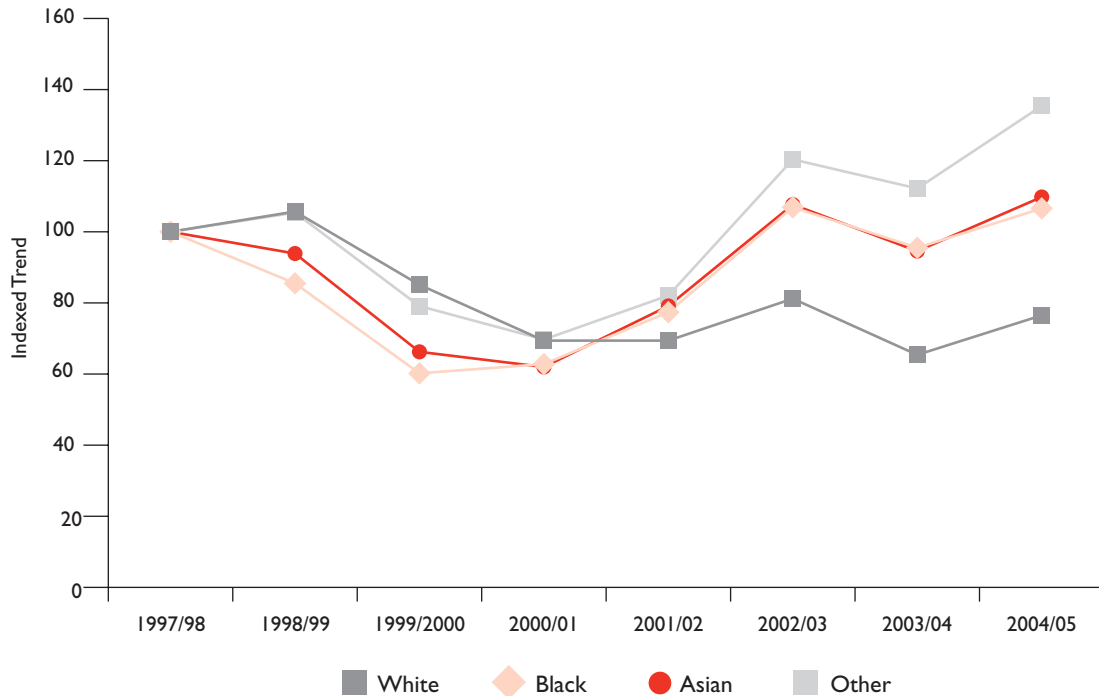
25 Bowling, B. and Phillips, C. (2002) Racism, Crime and Justice. Harlow: Longman.

26 Kershaw, C., Budd, T., Kinshott, G., Mattinson, J., Mayhew, P. and Myhill, A. (2000) The 2000 British Crime Survey England and Wales. Home Office Statistical Bulletin 18/00. London: Home Office.

27 Sharp C. and Budd T. (2005) Minority ethnic groups and crime: findings from the Offending Crime and Justice Survey 2003, Home Office Online Report 33/05

show that overall there has been a gradual decline in the number of White people stopped and searched since 1997/98. Whereas, for Black and Asian people the numbers of stop and searches are broadly similar to levels recorded in 1997/98.

Figure 3.2⁽¹⁾
Persons stopped and searched under s1 Police & Criminal Evidence Act 1984, and other legislation, by ethnic group, percentage change on 1997/98 totals to 2004/05

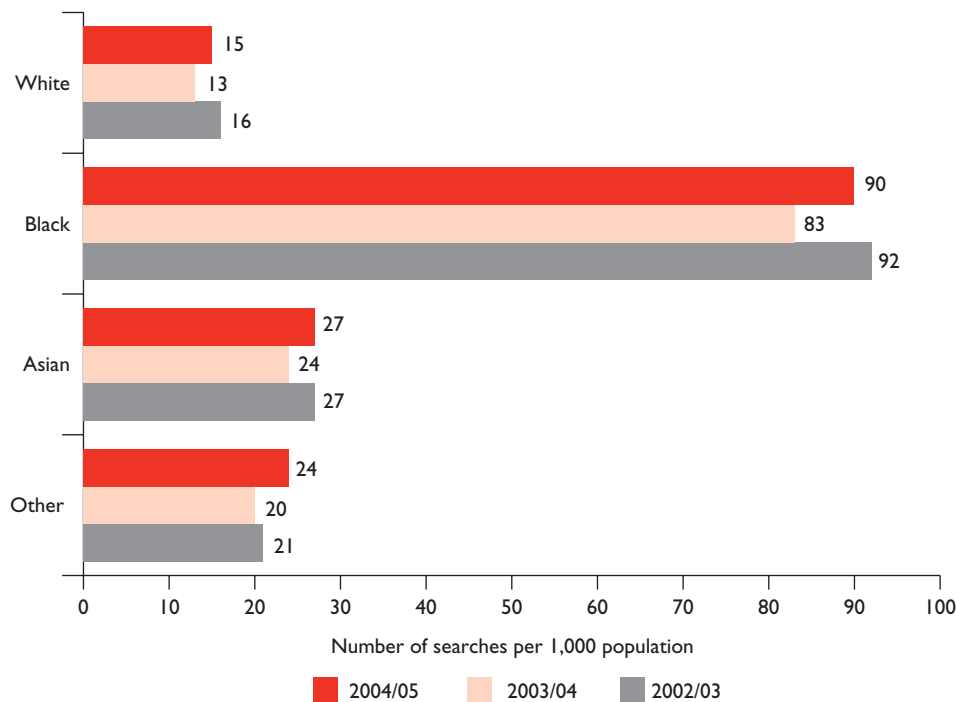


(1) This figure shows indexed trends. The 1997/98 figure is indexed at 100. The numbers for each subsequent year are each expressed as a percentage of the 1997/98 figures.

Figure 3.3 shows the number of searches carried out under section 1 PACE for the different ethnic groups expressed as a rate per 1,000 population. In 2004/05 Black people were six times more likely to be searched than White people. This is a similar rate to 2002/03 and 2003/04. Asian people, as in 2003/04 and 2002/03, were twice as likely to be searched as White people. The pattern and level of disproportionality has historically remained fairly constant although, as shown in Figure 3.2, the number of searches carried out by police forces has varied over time.

Figure 3.3⁽¹⁾

Persons stopped and searched under s1 Police & Criminal Evidence Act 1984, and other legislation, by ethnic group, per 1,000 population, 2002/03 to 2004/05



(1) Number of stop and searches under s1 in 2004/05: White 626,853; Black 118,187; Asian 59,995; Other 12,901
 Number of stop and searches under s1 in 2003/04: White 547,369; Black 108,208 Asian 53,794; Other 10,796
 Number of stop and searches under s1 in 2002/03: White 665,232; Black 118,548; Asian 58,831; Other 11,468

Figure 3.4 represents section I statistics by individual police force areas. The grouping of areas adopts a similar approach to that used in Hearnden & Hough (2004). The areas have been grouped together into four bands on the basis of the total BME population in each police force area. For example, the City of London and Metropolitan Police have the greatest number of BME residents (over 1.8 million) and is the first police force area in Band 1. In contrast, Cumbria has the lowest number of BME residents (just over three thousand) and is the last area in Band 4. The bands are:

- Band 1 – The six areas with the highest number of BME population
- Band 2 – The next 12 forces with highest number of BME population
- Band 3 – The next 12 forces
- Band 4 – The 12 forces with the lowest BME population.

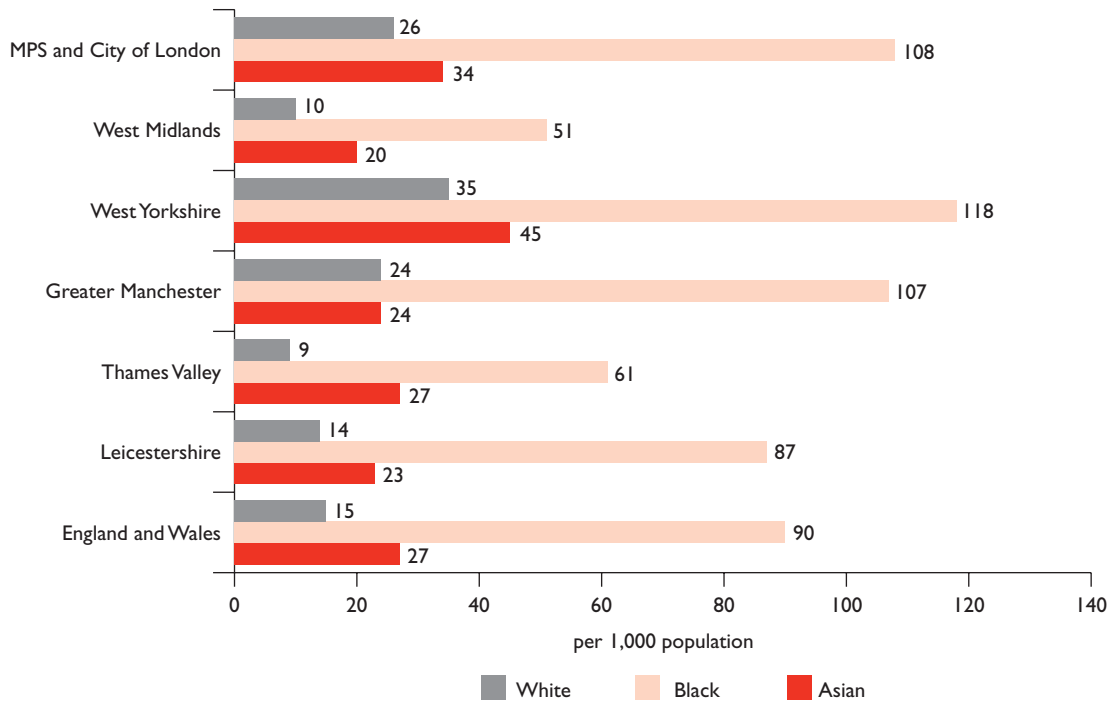
Patterns broken down by individual forces are important, as they provide local knowledge of patterns of disparity, but also illustrate more general patterns of what might be called ‘justice by geography’, whereby the system treats similar people differently in different places.²⁸ For example, within Band 1 the disproportionality in the West Midlands between search rates for Black and White people is higher than the disproportionality seen in London. However, the overall volume of searches for both groups in the West Midlands stand at around half of the London levels. Outside of London, West Yorkshire conducted the highest number of searches in Band 1, however, the disproportionality amongst Black and White people is the lowest amongst these areas. Amongst all the police force areas Northumbria has the least disproportionality between the different ethnic groups, with Black and White people almost equally as likely to be stopped and searched by police. Variations in recording practices in different forces may also play a part in these differences.

28 Hearnden, I. and Hough, M. (2004) *Race and the Criminal Justice System: An overview to the complete statistics 2002-2003*, London: Home Office

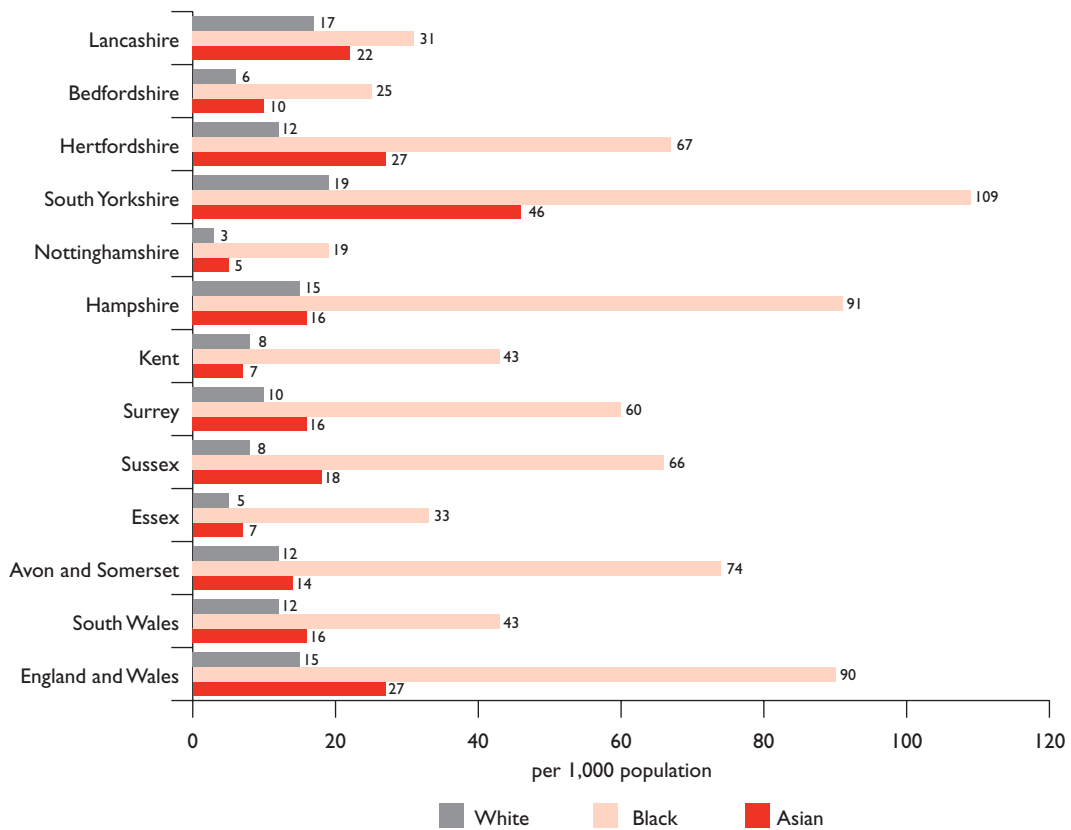
Figure 3.4

Persons stopped and searched under s1 Police & Criminal Evidence Act 1984, and other legislation, by ethnic group, per 1,000 population, for Band areas 1 to 4, 2004/05

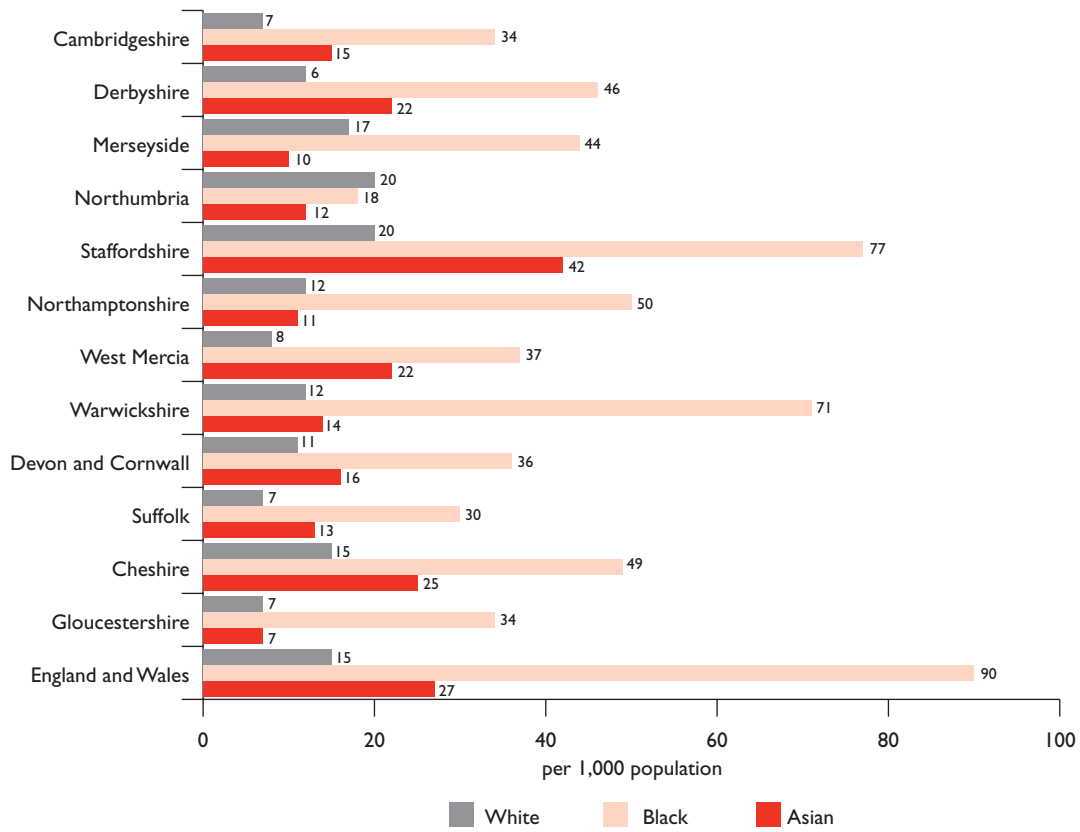
Band 1



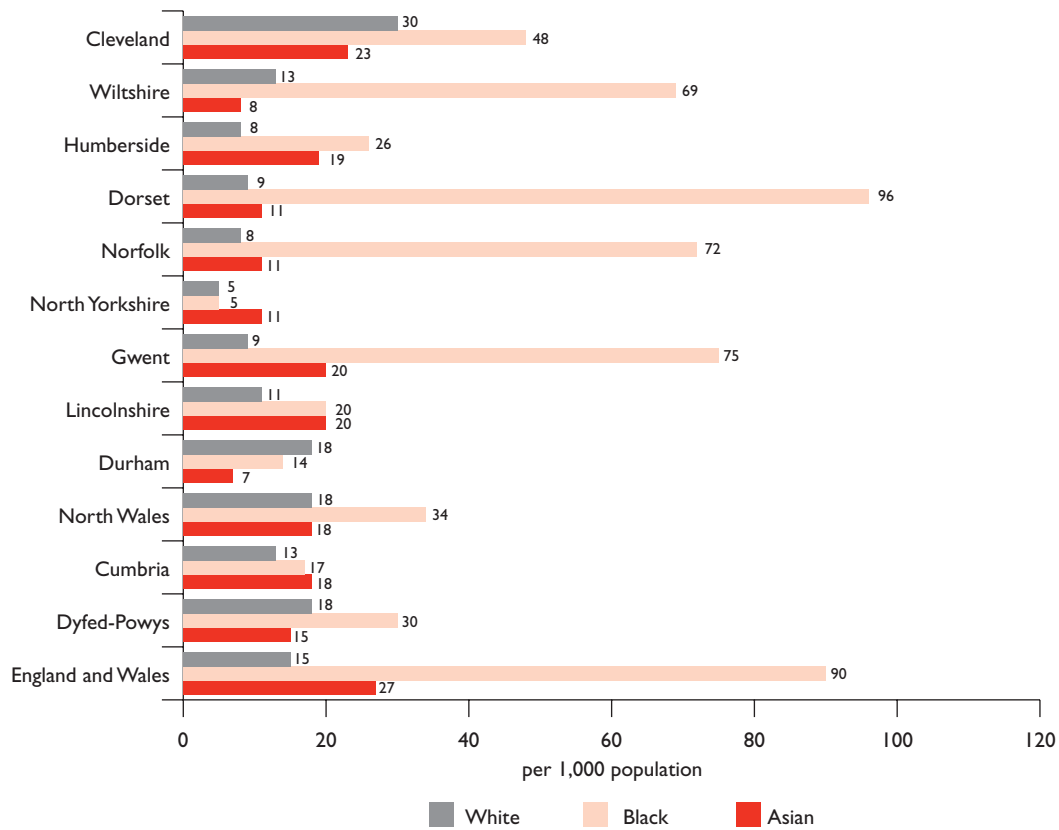
Band 2



Band 3



Band 4



There are also wide variations in the reason why such searches are made. Nationally 41% of all searches were for drugs, although in some forces, for example Greater Manchester and Lancashire, the main reason given was for stolen property. Few searches resulted in an arrest, with similar proportions recorded across all ethnic groups. Nationally 11% of searches lead to an arrest for the White and Black groups, 10% for the Asian group and 15% for the 'Other' ethnic group. In 2004/05, compared with 2003/04, searches resulting in an arrest decreased by 2% for both the Black and White groups and decreased by 1% for both the Asian and 'Other' ethnic groups.

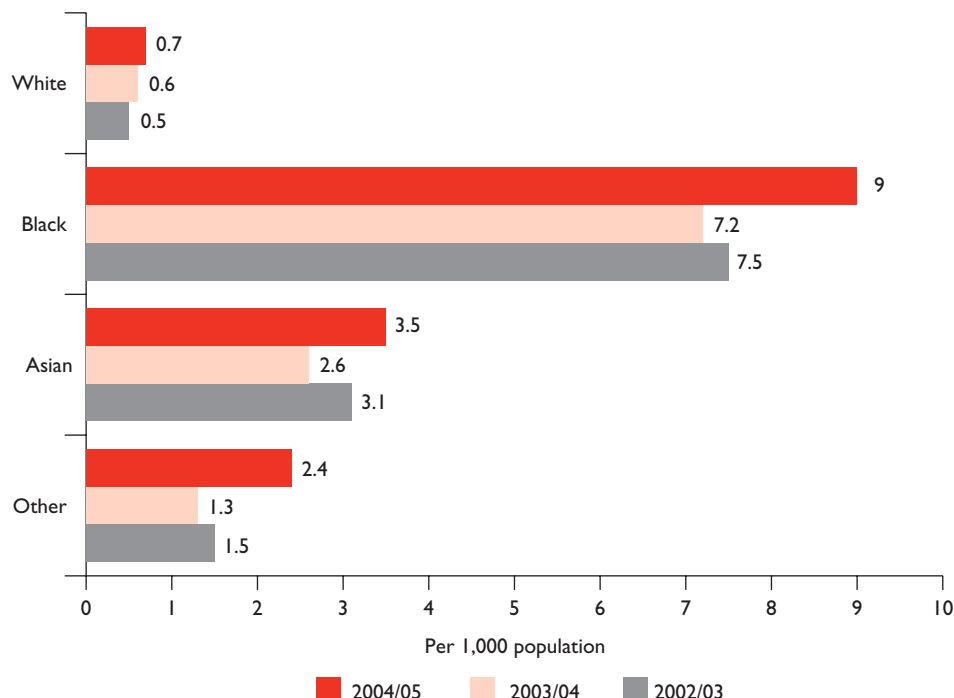
Section 60 searches

Searches may also be made under section 60 of the Criminal Justice and Public Order Act 1994. This legislation provides the police with additional powers to search persons and vehicles where it is believed that to do so would help prevent incidents involving violence or that persons are carrying dangerous instruments or offensive weapons. In 2004/05, a total of 41,302 searches were carried out under these powers in 31 police force areas, 1,109 more than in 2003/04. The largest increases were in the Black and Minority Ethnic (BME) groups (up 22% for Asian, 17% for 'Other' and 5% for Black people) compared with a 3% fall for White people.

Figure 3.3 shows the number of searches carried out under section 60 of the Criminal Justice and Public Order Act 1994 in 2004/05 for different ethnic groups expressed as a rate per 1,000 population. The rate for Black people is 14 times the rate for White people whilst for Asian people the rate is six times higher.²⁹ This may be due to the large numbers of s60 searches in areas with high BME populations, such as the West Midlands,³⁰ London and Greater Manchester.

Figure 3.5 ^(1,2)

Persons stopped and searched under s60 of the Criminal Justice and Public Order Act 1994 per 1,000 population, 2002/03 to 2004/05



(1) Number of stop and searches under s60 in 2004/05: White 23,246; Black 9,833; Asian 6,844; Other 808
 Number of stop and searches under s60 in 2003/04: White 23,868; Black 9,385; Asian 5,627; Other 688
 Number of stop and searches under s60 in 2002/03: White 24,179; Black 11,204; Asian 6,979; Other 1,095
 (2) Figures exclude vehicle only searches (see Ayres and Murray, 2004/05)

²⁹ Calculations based on figures taken to two decimal places
³⁰ Section 60 has been used extensively within the West Midlands under Operation Safer Streets.

The proportion of stop and searches resulting in an arrest under section 60 powers varied across forces; overall 3% led to an arrest in 2004/05 compared with 4% in 2003/04, and 6% in 2002/03 (see Ayres and Murray 2004/05).

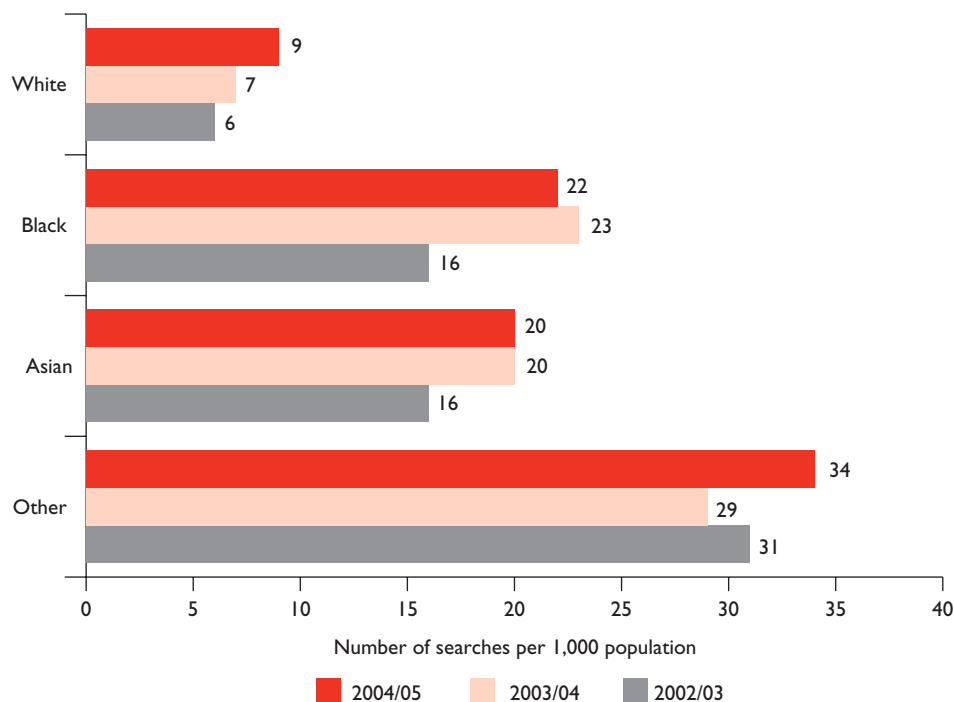
Section 44 searches

The Terrorism Act 2000 provides the police with further powers to carry out searches. These powers (under section 44(1) for vehicle searches and section 44(2) for pedestrians) were used to carry out about 32,086 searches in 2004/05, a 9% increase since 2003/04 in 21 police force areas. It should be noted that these figures cover the financial year 2004/05 and therefore predate events in July 2005. Of these searches 23,400 were of White people, 2,511 of Black people, 3,494 of Asian people and 1,481 of 'Other' ethnic groups. Two fifths (40%) of all searches were in the Metropolitan Police District and 20% in the City of London. The use of the powers in London reflects the high level of police security as the powers help to deter and disrupt potential terrorist attacks.

Figure 3.6 shows Black people were 2.5 times more likely to be stopped and searched under the Terrorism Act when compared to White people in 2004/05 (down from three times more likely in 2003/04). Asian people were twice as likely to be stopped and searched under these powers than White people; again down from three times in 2003/04, whilst the 'Other' group were almost four times as likely, similar to 2003/04.

Figure 3.6^(1,2,3)

Persons stopped and searched under s44⁽¹⁾ or s44⁽²⁾ of the Terrorism Act 2000, per 10,000 population, 2002/03 to 2004/05



- (1) Number of stop and searches under s44(1) or s44(2) in 2004/05: White 23,400; Black 2,511; Asian 3,494; Other 1,481.
 Number of stop and searches under s44(1) or s44(2) in 2003/04: White 20,637; Black 2,704; Asian 3,668; Other 1,322.
 Number of stop and searches under s44(1) or s44(2) in 2002/03: White 14,429; Black 1,744; Asian 2,989; Other 1,259.
- (2) Rates expressed as per 10,000 to accommodate the relative infrequency of the use of powers under s44.
- (3) Analysis calculated using the population estimates for only those police force areas where powers were used.

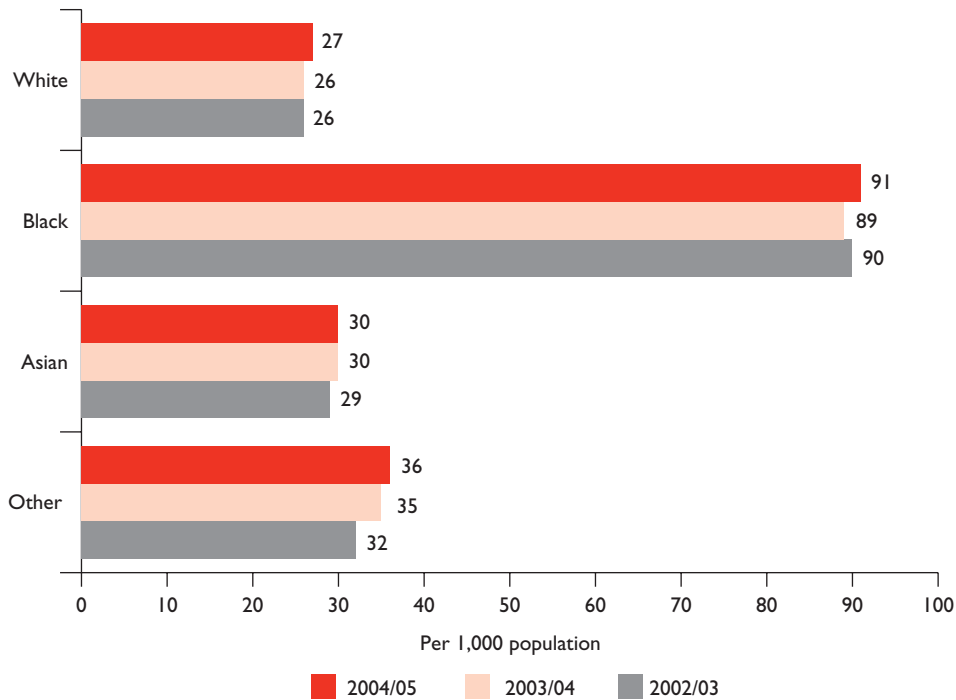
Arrests

Seven per cent of all arrests for notifiable offences in 2004/05 resulted from a 'stop and search', the same proportion as 2003/04. Figure 3.7 shows the incidence of arrests per 1,000 population for 2002/03 to

2004/05.³¹ A similar pattern is apparent in terms of disproportionality as is shown above for searches. However, the differences between ethnic groups are not as distinct. Black people, for example, were six times more likely to be searched under section 1 than White people whereas the arrest rate for Black people is three times the rate for White people. Figure 3.7 also shows that arrest rates for different ethnic groups have changed little over the three years. Unlike stop and searches the level of total arrests has remained relatively constant for all BME groups over this time. The difference between the two trends can be explained by the recent fall in arrests for offences, for example drugs offences, that could follow a stop and search in contrast to a rise in arrests for other types of offences.

Figure 3.7^(1,2)

Persons arrested for notifiable offences per 1,000 population, by ethnic group 2002/03 to 2004/05



(1) Number of arrests 2002/03: White 1,102,900; Black 116,722; Asian 64,276; Other 17,250
 Number of arrests 2003/04: White 1,122,135; Black 116,427; Asian 63,458; Other 19,092
 Number of arrests 2004/05: White 1,142,266; Black 118,579; Asian 65,905 Other 19,508
 (2) Figures for Merseyside estimated.

The type of offences that led to an arrest has changed little over recent years. In 2004/05, Black people remained over-represented for robbery offences (29% of all arrests for robbery) and Black and Asian people for fraud and forgery (18% and 11% respectively of those arrested for this offence).

Cautions

Once arrested, suspects may be charged, given a formal caution, written warning or have no further action taken. For those aged under 17, a caution is in the form of a reprimand or final warning.

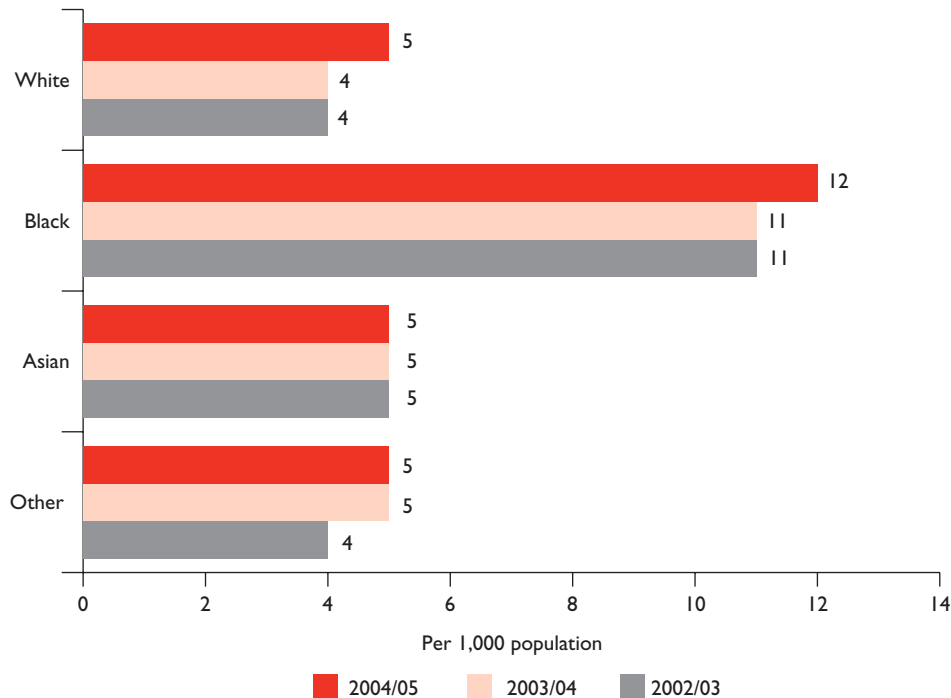
Relative to population (Figure 3.8), the cautioning rates per 1,000 population were similar for Asian, White and Other groups, whereas the rate for Black people was almost three times that for White people in 2004. There has been little change in cautioning rates and differences between groups since 2002. Looking at the percentage of arrests resulting in a caution, Black people remained slightly less likely to be cautioned than other ethnic groups – only 13% of arrests resulting in a cautioned compared with 16% for Asian and

³¹ Incidence describes the number of incidents in an area.

17% for White people. When compared with arrests Black people were shown to be consistently more reluctant to be cautioned than White people. A caution or reprimand can be given only where an offender admits the offence, and this partly explains the lower rates of cautioning for ethnic minorities.³²

Figure 3.8⁽¹⁾

Persons cautioned for notifiable offences, per 1,000 population, by ethnic group, 2002 to 2004



(1) Number of cautions 2002/03: White 173,273; Black 13,901; Asian 9,918; Other 2,313
 Number of cautions 2003/04: White 1,85,082; Black 14,720; Asian 10,256; Other 2,703
 Number of cautions 2004/05: White 198,847; Black 15,266; Asian 10,511; Other 2,740

Court proceedings

Increasingly the police seek charging advice from the CPS. This is under the provision of the new statutory charging scheme through which the CPS prosecutor decides the charge in the majority of cases, with a few minor exceptions. Statutory charging is currently being rolled out across the country and will be fully implemented in all parts of England and Wales by 2007. An initial race and gender impact assessment of charging decisions was undertaken in two parts of London in early 2004 and found no ethnic differential. The CPS is currently undertaking an Equality and Diversity Impact Assessment on the impact of statutory charging to discover if charging decisions vary with the gender and ethnicity of the suspect. The report on this work is due to be published in the first quarter of the financial year 2006/07.

At present there are no comprehensive ethnic data on proceedings at either magistrates' courts or the Crown Court. For magistrates' courts, ethnic data is only available for six police force areas where the level of missing data is below 20%. The Crown Court has recently introduced an ethnic monitoring system enabling the collection of the ethnicity of 78% of all suspects tried in 2004 (up from 65% in 2003).³³ Each year figures are published for only those police force areas with the most complete data, i.e. where the proportion unknown was 15% or less. In 2004, there were 16 such areas. This is an improvement on 2003 when figures were published for only five police force areas. At both courts, court staff extract the

³² Phillips and Brown (1998) *Entry into the Criminal Justice System: a Survey of Police Arrests and Their Outcomes*, Home Office Research Study No. 185, London: Home Office.

³³ For complete breakdown of ethnicity data provided by the magistrates and Crown Court refer to *Statistics on Race and the Criminal Justice System – 2005*. London: Home Office.

ethnicity of a suspect from the charge sheet supplied by the police. The incompleteness of data means that the results must be treated with caution. However the mix of ethnic groups found for Crown Court trials is very similar to that for arrests, suggesting that the data is representative of the population as a whole.

Combined information for the magistrates' courts in the six police force areas is consistent with earlier research³⁴ and the HM Crown Prosecution Service Inspectorate Report,³⁵ which suggests that in 2004 BME groups were more likely than White people to be committed at magistrates' court to be tried by a jury at the Crown Court (20% for Black people, 30% for Asians and 15% for White people). Earlier research³⁶ suggests that this may reflect the wish of BME defendants to be tried by a jury at the Crown Court.

For the Crown Court: combining all available information for 2004 indicates that BME defendants were substantially more likely to be acquitted at the Crown Court than White defendants (29% for Black people, 30% for Asians and 22% for White people). Research by the Crown Prosecution Service³⁷ suggests a tendency for the police to bring charges against Black and Asian defendants with weaker evidence.

Sentencing

Defendants convicted at either magistrates' courts or the Crown Court will be sentenced after taking into account information from the pre-sentence report. A small number of defendants will be sent from the magistrates' court to the Crown Court where magistrates feel their powers are insufficient.

The sentencing decision is probably the most complex of all those that are made in the criminal process. Sentences have to take into account the nature of the offence, the plea, the offender's previous criminal history and other mitigating or aggravating circumstances relating to the offence and the offender. In these circumstances it is difficult to separate differences due to ethnicity against other factors. A major study conducted by Hood (1992) attempted to differentiate ethnicity from such factors and covered decisions made in five Crown Court Centres in the West Midlands in 1989.³⁸ The study concluded that adult male Black defendants were slightly more likely to be sentenced to custody than White defendants, and Asian defendants slightly less likely. It also showed that substantially longer sentences were given to both Black and Asian offenders than White offenders.

A more recent study of young offenders (aged from 12 to 17) showed no evidence of significant differences in the likelihood of Black, Mixed race or White male youths receiving a custodial sentence. Asian males, however, were more likely to receive a custodial sentence. Black males, if sentenced to custody, were more likely to get a longer sentence than their White counterparts.³⁹

The data currently available from magistrates' courts and the Crown Court partly supports the conclusions from this survey although as with the data on court proceedings the results must be treated with caution. It cannot, however, allow for the factors that the Hood study⁴⁰ was able to take into account since this would require a similar new study.

34 Barclay, G. and Mhlanga, B. (2000) *Ethnic differences in decisions on young defendants dealt with by the Crown Prosecution Service*. Home Office Section 95 Findings No 1. London: Home Office.

35 HM Crown Prosecution Inspectorate (2002) *Report on the Thematic Review of Casework having a Minority Ethnic Dimension*. London: HMCPSI.

36 FitzGerald, M. (1993). *Ethnic Minorities and the Criminal Justice System*. Royal Commission on Criminal Justice Research Study 20. London: HMSO.

37 John, G. (2003) *Race for Justice. A review of CPS decision making for possible racial bias at each stage of the prosecution process*. London: CPS.

38 Hood, R. (1992) *Race and Sentencing*. Oxford: Clarendon Press.

39 Feilzer, M. & Hood, R. (2004). *Differences or Discrimination – Minority Ethnic Young People in the Youth Justice System*, London: Youth Justice Board.

40 Hood, R. (1992) *Race and Sentencing*. Oxford: Clarendon Press

At the magistrates' court (for six areas) there was no difference in the use of custody between those from BME groups and White people. However, Black offenders were more likely to be fined and less likely to be discharged compared with White offenders, although the overall use of community sentences was the same. In contrast Asian offenders were less likely to be given community sentences compared with White offenders and more likely to be fined. Community service orders mainly include community rehabilitation orders and community punishment orders.

At the Crown Court (for 16 areas) there was a distinct difference in the custody figures for fraud and forgery offences. Forty nine per cent of White offenders were sentenced to custody compared to 70% for 'Other' and 61% for Black groups. In contrast there was no marked difference in the use of custody for BME groups and White people for violence, sex offences and burglary or robbery. However, overall Black offenders were more likely to be sentenced to custody than both Asian and White offenders with the highest differences found for drug offences. Eighty per cent of Black offenders were sentenced to custody for drug offences, 74% of Asian and 62% of White offenders.

Young Offenders

Youth Offending Teams (YOTs), produce the pre and post trial interventions for offenders under the age of 17. Research⁴¹ has been carried out on the experiences of BME young people dealt with in this way. This showed that there were higher proportions of young Black people committing some offences and receiving certain disposals than in the general population.

In 2004/05, 287,013 offenders were dealt with in this way, of which, 85% were White, 6% Black, 3% Asian, 2% Mixed and 1% 'Other'. The number of offences has risen by 1% since 2003/04 with the proportion of young offenders in the different ethnic groups remaining largely unchanged. Young Black people were substantially over-represented compared with White people for robbery offences.

BME suspects were more likely to be remanded in custody. This could reflect differences between groups in the severity of the charges faced or other factors such as the suspect's accommodation, previous convictions, failure to appear, inference with a witness, mental health etc. The use of remand has fallen slightly for all ethnic groups since 2003/04 apart from the 'Other' ethnic group which showed an increase from 7% to 8%. Black offenders and those of Mixed origin were more likely to receive a community sentence compared to White offenders but less likely to be discharged or given a referral order. Ten per cent of Black and Mixed offenders were sentenced to custody, compared with 8% for Asian and 6% for White offenders.

Probation

Following the introduction of the 2001 Census categories, information on the ethnicity of persons supervised by the National Probation Service became available. The data reveals that as with other parts of the criminal justice process there is an over-representation of Black offenders. For example, 6% of persons starting court order supervision in the last quarter of 2004 were Black compared to 4% for Asians, 2% for Mixed and 1% for 'Chinese and Other' ethnic group.

41 Feilzer, M. & Hood, R. (2004). *Differences or Discrimination – Minority Ethnic Young People in the Youth Justice System*. London: Youth Justice Board

Prison Population

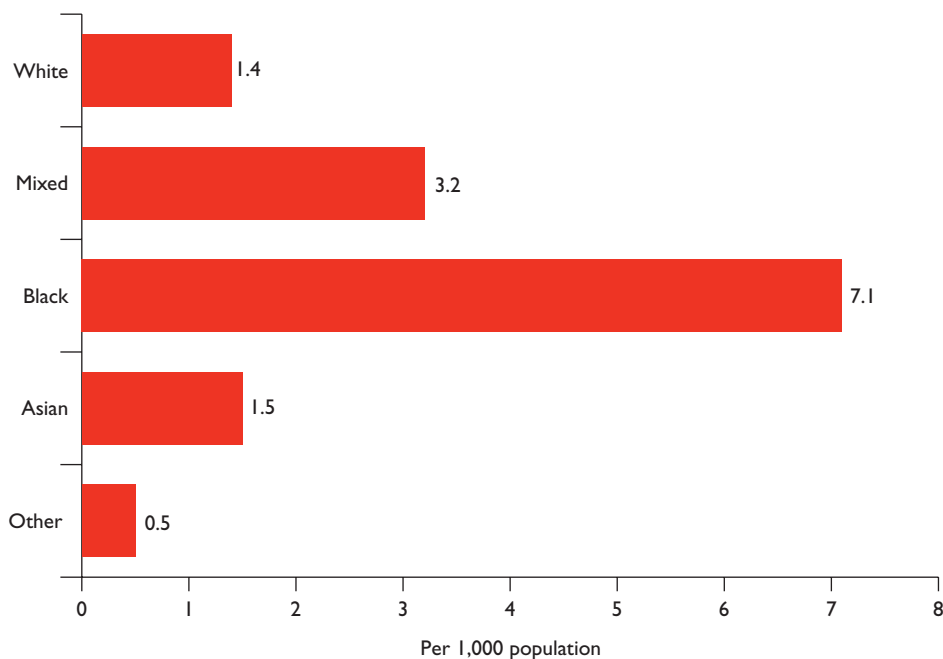
On 30 June 2005, there were 76,190 people in prison establishments, of which 18,752 (24.6%) were from BME groups⁴². Nearly two-fifths (38%) of BME prisoners were foreign nationals.

Figure 3.9 presents the prison population per 1,000 population for 2004/05. In March 2003 the Prison Service began to introduce new ethnic categories based on the 2001 Census. Due to these changes, comparisons between the figures presented here and those of previous years are not possible. Figure 3.9 shows that, excluding foreign nationals, the proportion of Black prisoners on 30 June 2005 relative to the population was five times higher than for White people. Similarly, people from Mixed ethnic backgrounds were more than twice as likely to be in prison than their White counterparts. In contrast people from 'Chinese and Other' ethnic backgrounds were least likely to be in prison, 0.5 compared to 1.4 and 1.5 per 1,000 population for White and Asian groups respectively.

The disproportionate number of Black people in prison was, therefore, higher than for arrests although this could be expected from the higher use of custody and the longer sentence lengths referred to in the Hood (1992) study, as well as higher remand rates.

Figure 3.9^(1,2,3)

Prison population per 1,000 population by ethnic group 2004/05



(1) Based on data for UK nationals only.

(2) Prison population on 30th June 2005: White 53,645; Mixed 1,746; Black 6,749; Asian 2,929; Other 168.

(3) Proportion calculations based on 2004 Census data for over 15 population.

No evidence has been found for any differential treatment of people from the BME group on release from prison. The rate at which prisoners were released on Home Detention Curfew in 2002 have been found to be very similar for White, Black, and Asian prisoners while the rate for 'Chinese and Other' prisoners was higher.⁴³ Research on the decisions of the Parole Board⁴⁴ found no evidence of differential treatment of BME prisoners other than those accounted for by other characteristics associated with release, such as the number of adjudications received during sentence and being housed in an open prison.

42 This figure includes foreign nationals; of the 76,190 in prison establishments on 30 of June 2005, 10,520 were not UK Nationals.

43 Home Office (2003) *Prison statistics England and Wales 2002*. London: Home Office.

44 Moorthy, U., Cahalin, K. and Howard, P. (2004) *Ethnicity and Parole*. Home Office Research Findings No 222. London: Home Office.

Reconviction

A study of those released from prison in 2001⁴⁵ and reconvicted within two years showed lower reconviction rates for BME offenders. For example, for those discharged in 2001, 62% of prisoners classified as White were reconvicted within two years of release. For Black, South Asian and 'Other' ethnic group, the proportions were 56%, 46% and 46% respectively. However, this analysis included foreign nationals, who record a lower reconviction rate than British nationals as many leave the country after completing their sentence. Restricting the analysis to British nationals reduces the differences found in reconviction rates – White (63%), Black (61%), South Asian (48%) and 'Other' (55%).

Deaths in police custody

In 2004/05 there were 106 deaths in police custody, an increase from the 100 recorded in 2003/04 (Table 11.1). Ninety-six deaths involved White people compared to 90 in 2003/04. For minority ethnic groups the overall number (10) of deaths remained the same as the previous year. In 2004/05, there were three deaths recorded for Asian people and three from the 'Other' group. In 2003/04, there were two deaths recorded for Asian people and one in the 'Other' ethnic group. In contrast, the number of deaths recorded for Black people has continued to fall from 16 people in 2002/03, 7 in 2003/04, and 4 in 2004/05.

⁴⁵ Home Office (2005) *Offender Management Caseload Statistics 2004*. London: Home Office.

Chapter 4:

The experience of people from BME groups working in the Criminal Justice System

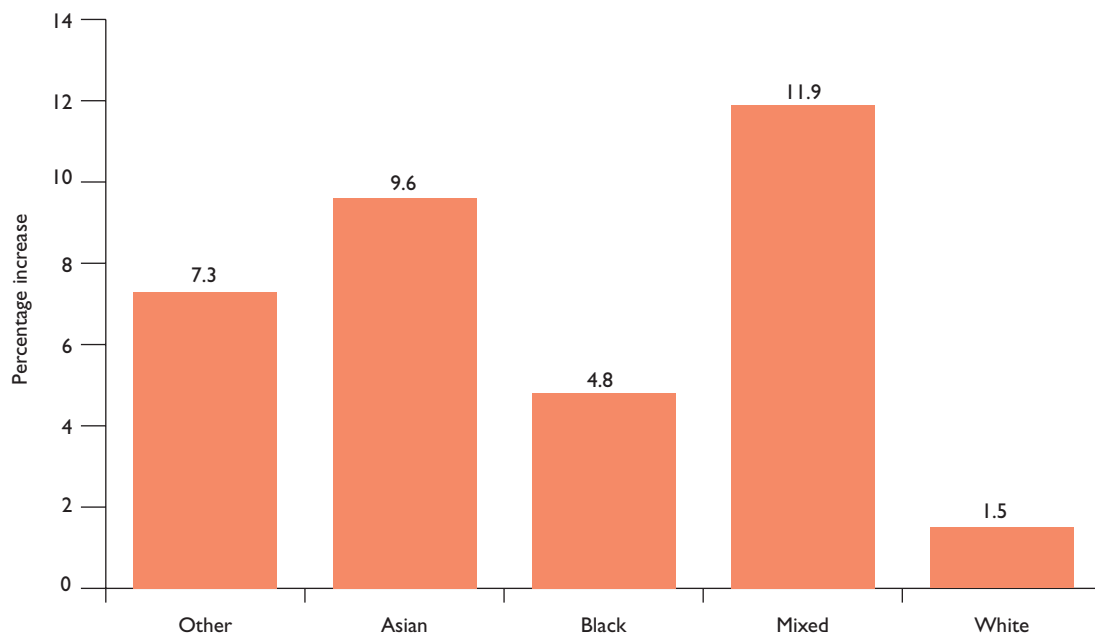
This chapter provides information on the representation of Black and Minority Ethnic (BME) groups working for the Criminal Justice System. The number of BME staff working in criminal justice agencies has traditionally been very low. There has, however, in recent years been a marked improvement in representation at all grades in line with targets set for each agency.⁴⁶ Targets have been set for agencies to reach full representation in relation to the proportion of their staff belonging to BME groups by 2009.

Police Service

In 2004/05, 3.5% of police officers were from BME groups, compared with 3.3% in 2003/04. This figure is below the representation of BME groups in the population (8.2%).⁴⁷ In total 6% of police constables with less than one year's service in 2004/05 were from the BME groups. Asian people formed the largest group making up 37% of all BME officers compared with 26% for Black officers, 25% for those of Mixed origin and 12% from 'Other' BME groups. As Figure 4.1 shows the highest increase in 2004/05 compared with 2003/04 has been in Asian (9.6%) and Mixed (11.9%) ethnic groups.

Figure 4.1⁽¹⁾

Percentage increase in Police officers by ethnic group 2003/04 to 2004/05



(1) Figures as at 31 March 2004 and 31 March 2005.

⁴⁶ Home Office (2005) *Race Equality: Home Secretary's Employment Targets*, London: Home Office.

⁴⁷ The Home Secretary's Employment Targets were laid down in 1999 and therefore used the Labour Force Survey as their basis as this was best measure available at the time. In this report, the 2001 Census figures on the percentage of the population in England and Wales economically active and from BME groups are used as a comparison point for representation.

Among those ranked Superintendent and above the proportion from BME groups has increased in recent years – from 0.8% in 1999 to 2.2% in 2003/4 and to 2.3% in 2004/05. For those BME police constables leaving the force during 2004/05 the proportion resigning voluntarily was 54% (this was 8% less than 2003/04) however, it remains higher than the 28% of voluntary resignations by White police constables. These differences may reflect the varied lengths of time some officers have been in post.

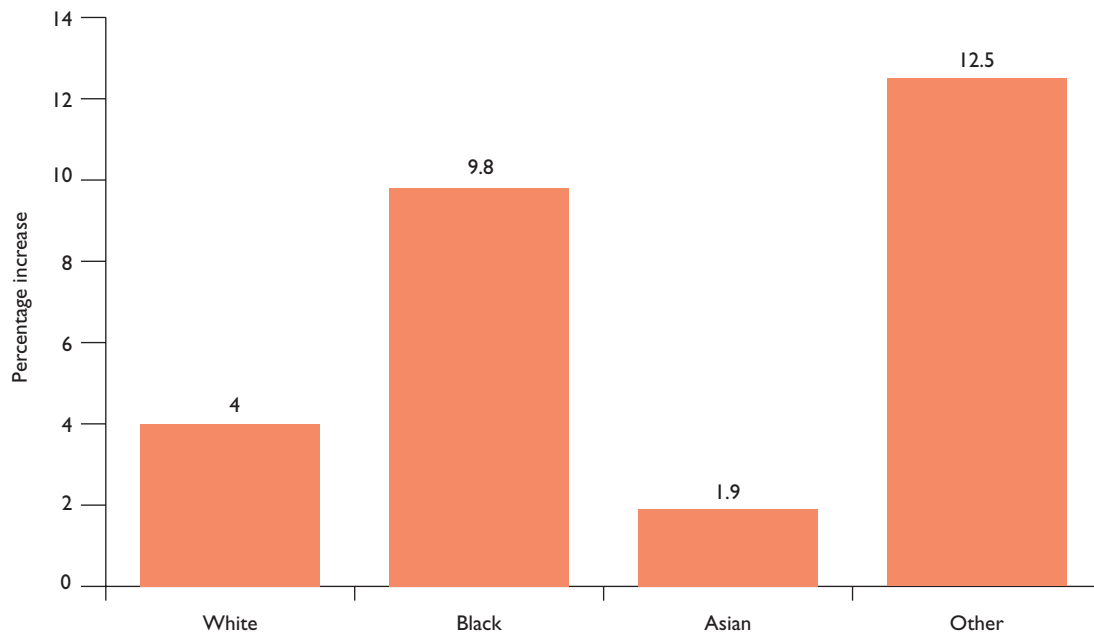
In 2004/05, 6,214 Community Support Officers were in post 14% of whom were from BME groups. This compares to 3,418 in 2003/4 of whom 17% were BME officers. These proportions would have been affected by the large numbers of these officers recruited in 2004/05. There was a numerical increase in the number of BME Community Support Officers from 591 in 2003/04 to 889 in 2004/05.

Prison Service

The overall figure for BME prison officers in the Prison Service was 4.4% in 2004/05 compared with 4.1% in 2003/04. This is below the 8.2% representation of BME groups in the population as a whole. For Governor grades, the equivalent figures are 3.0% and 3.2%. Black people accounted for nearly one half (47%) of BME prison officers. Eight percent of recruits in 2004/05 were from BME groups.

Figure 4.2⁽¹⁾

Percentage increase in Prison officers by ethnic group 2003/04 to 2004/05



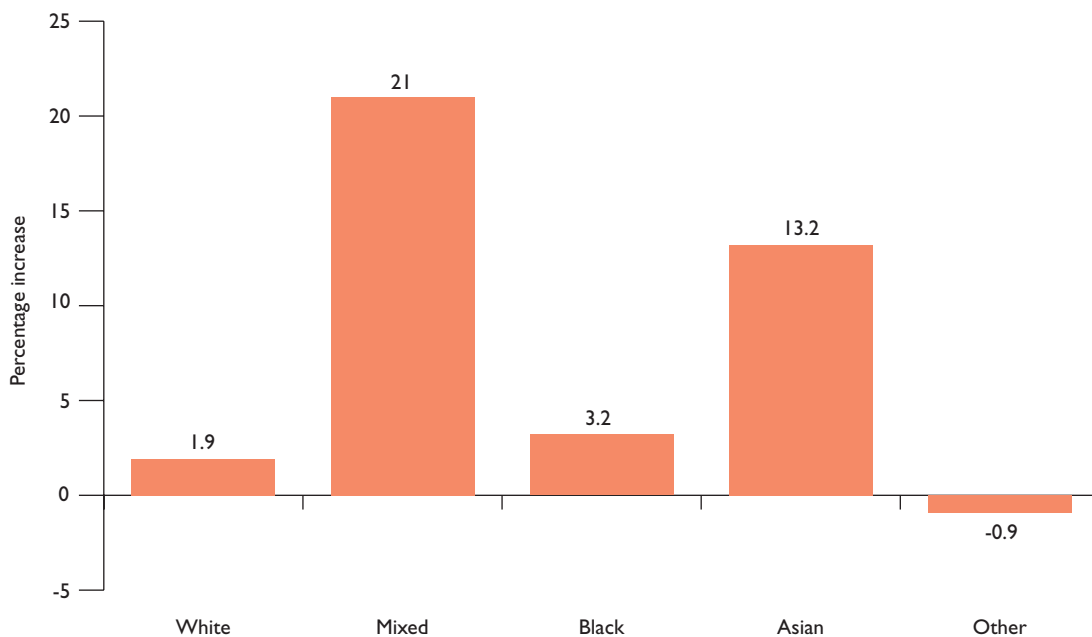
(1) Figures as at 31st March 2004 and 31st March 2005

Probation Service

The Probation Service continues to have representation from BME groups above the 8.2% in the general population. The overall proportion of BME officers was 10.9% in 2004/05, up from 10.5% in 2003/04. This change may have been affected by the decrease in the number of Probation Service Staff where the ethnicity was unknown (the ethnicity of 5.8% of Probation Service staff in 2004/05 remained unknown). The largest percentage increase in the number of staff was found in the Mixed and Asian groups (13.2% and 21% respectively). Overall there was 3.3% increase in the number of Probation Service staff from 2003/04 to 2004/05. This increase is largely contributed to by a 4.9% increase in the White group compared to a 0.4% increase in BME groups.

Figure 4.3

Percentage change in Probation staff by ethnic group 2003/04 to 2004/05



Crown Prosecution Service

Levels of employment in the Crown Prosecution Service (CPS) are also above the 8.2% BME representation in the population. The proportion of BME staff in the CPS was 11.7% in 2004/05, up from 11.3% in 2003/04. Overall there was 3% increase in the number of CPS staff from 2003/04 to 2004/05. The largest percentage increase in the number of staff was found in the Black and Mixed groups (5.9% and 20.7% respectively). The Other group was the only group to experience a decrease (the groups small sample size means that a fall in the number of Chinese/Other staff from 45 in 2003/04 to 42 in 2004/05 resulted in a decrease of 5.7%).⁴⁸

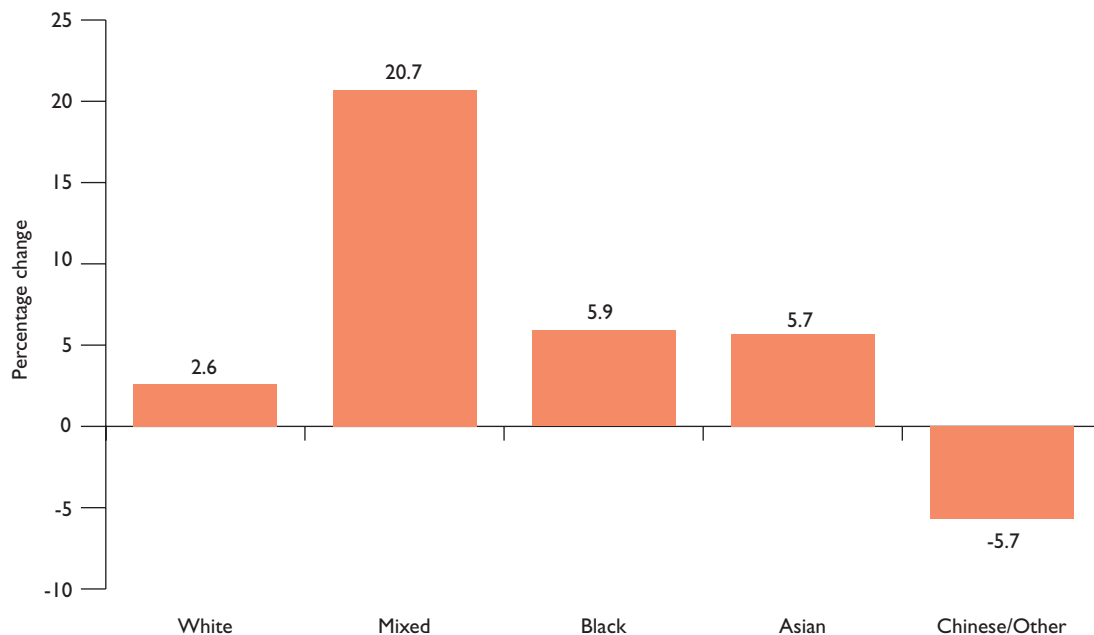
The CPS Annual Equalities in Employment Report 2004-2005 states that there is continued progress in improving BME representation at all levels in the CPS. For example, 13% of Chief Crown Prosecutors are from BME groups. Furthermore, 27% of scholars on the CPS Law Scholarship Scheme are from BME groups (a 7% increase from the previous year).⁴⁹

⁴⁸ These figures are based on calculations including the Unknown category.

⁴⁹ CPS (2005) *Annual Equalities in Employment Report 2004-2005*. London: Crown Prosecution Service

Figure 4.4

Percentage change in CPS staff by ethnic group 2003/04 to 2004/05



Other Criminal Justice agencies

The proportion of BME staff in the Department of Constitutional Affairs was 11.6% in 2004/05. Mixed and BME groups continue to be underrepresented at the most senior levels. For example, for DCA staff at Span 8 or above only 3.8% were from minority ethnic groups. In contrast 14.2% of Span 7 and below were from BME groups. The proportion of Black and Minority Ethnic staff in the magistrates' court was 9.8% in 2004/05, up from 6.8% in 2003/04. The proportion of BME staff in the Crown Court was 7% – below the BME representation in the population as a whole.

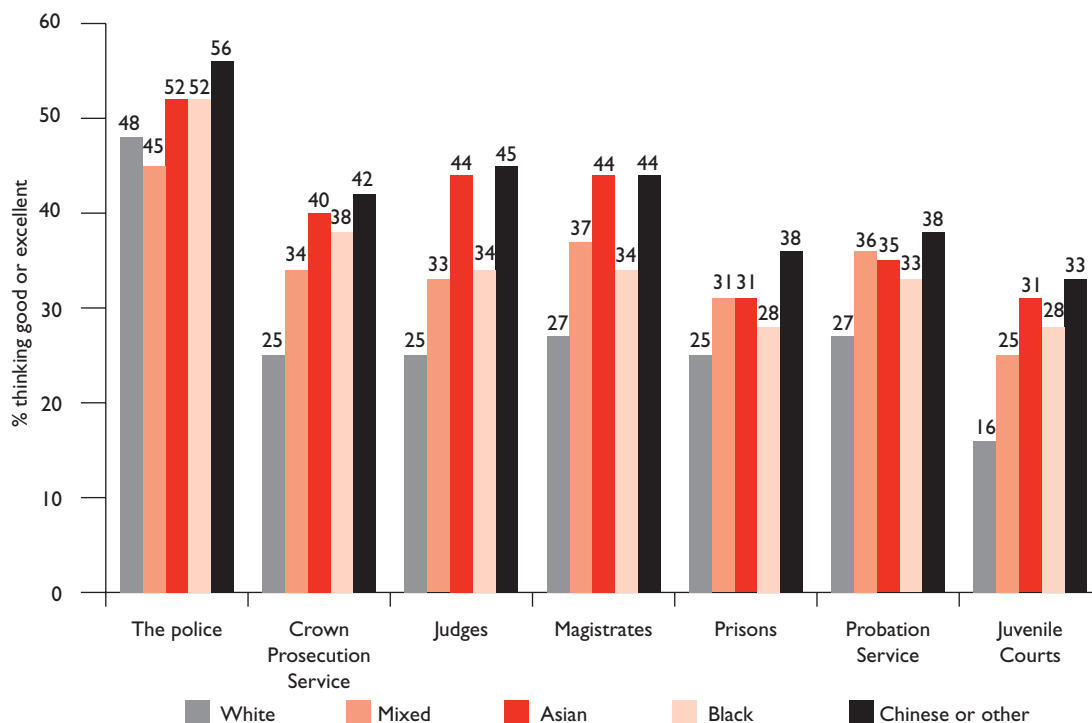
Chapter 5:

Confidence in the Criminal Justice System among people from BME groups

This chapter summarises information about the confidence of BME groups in the Criminal Justice System. It draws on findings from two surveys: the British Crime Survey and the Home Office Citizenship Survey (HOCS).⁵⁰ There is limited evidence on drivers of BME confidence in the CJS. Therefore, findings from recent smaller scale studies commissioned by the Office for Criminal Justice Reform (OJCR) and the Department for Constitutional Affairs (DCA) are also reported here.⁵¹

The BCS asks respondents their views on how good a job individual agencies in the CJS are doing. Figure 5.1 shows the results from the most recent BCS (2004/05).⁵² It found that, in general, Asian people and those from 'Other' ethnic groups were the most likely to rate the criminal justice agencies as doing a good or excellent job. For all ethnic groups levels of satisfaction were considerably higher for the Police Services and comparatively lower for the Juvenile courts.

Figure 5.1
Perception that the CJS agencies are doing a good or excellent job, by ethnic group 2004/05



⁵⁰ HOCS is a biennial survey, asking a representative sample of 10,000 in England and Wales for their views and experiences in relation to a range of issues, including racial prejudice. There is a minority ethnic boost sample of 5,000 to ensure that the views of this group are robustly represented.

⁵¹ These studies are small scale and findings should not therefore be treated as representative.

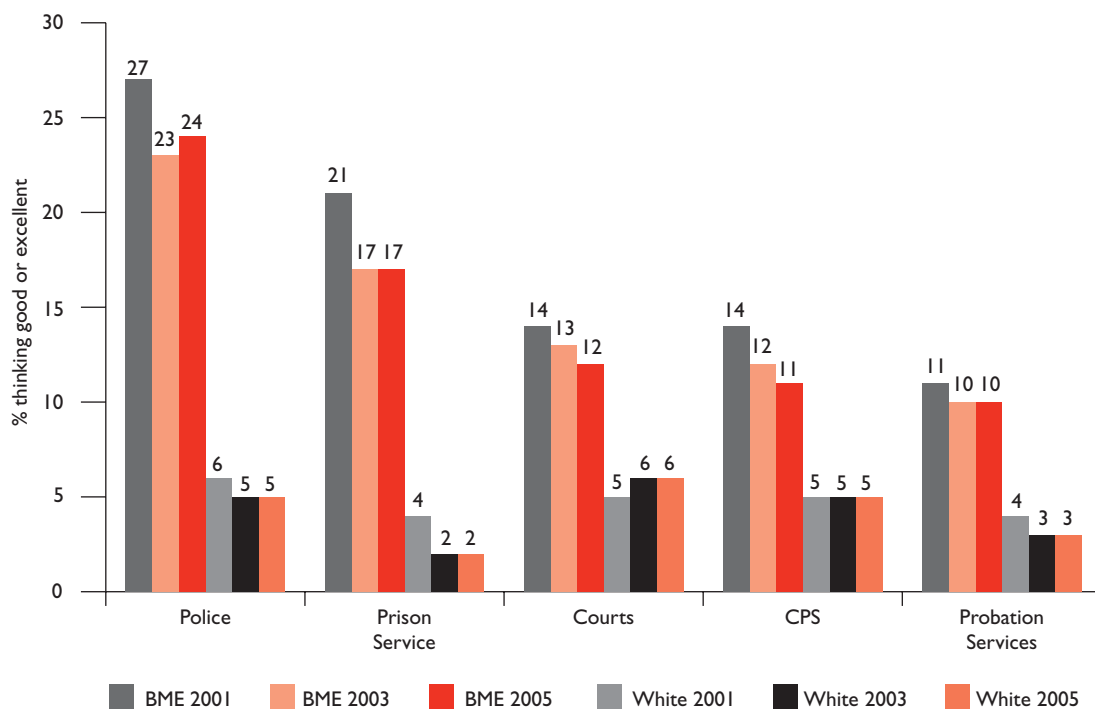
⁵² Jansson, K. (forthcoming) *Ethnicity and victimisation: findings from the 2004/05 British Crime Survey*, London: Home Office

However, the most recent HOCS (2005)⁵³ reported that BME groups have much higher levels of perceived discrimination when it comes to CJS agencies compared to the White population. In 2005, 33% of the Black population, 29% of the Mixed and 21% of the Asian group felt that the police would discriminate against them, compared to just 5% of the White population. Similar views were held of the Prison service, the Courts, Crown Prosecution Service and the Probation Service although to a lesser extent.

HOCS is used to measure the Public Service Agreement target (PSA2(e)), that is to reduce the percentage of people from BME communities who believe they would be treated worse by one or more CJS agency. Respondents are asked whether they think they would be treated differently than people of other races by the Police, the Prison Service, the Courts, the CPS and the Probation Service. Their responses for each organisation are then brought together into the composite measure, looking at discrimination by any of the five. The baseline for the target is 2001.

On the composite measure, 31% of people from minority ethnic groups feel that they would be treated worse than people of other races by one or more of the five criminal justice system organisations.⁵⁴ This shows no significant change from 2001 (33%) or 2003 (31%).⁵⁵ There has, however, been a statistically significant decrease in the percentage of people from minority ethnic groups who feel they would be treated worse than other races in four of the five organisations (the Courts, CPS, the Police and the Prison Service) between 2001 and 2005. Change between the perceptions of BME and White people in 2003 and 2005 are illustrated in Figure 5.2.

Figure 5.2
Percentage of BME and White people expecting CJS agencies to treat them worse than people of other races, Home Office Citizenship Survey 2001, 2003 and 2005.



53 Murphy, R. Wedlock, E. and King, J. (2005) *Early findings from the 2005 Home Office Citizenship Survey*, Home Office online Report 49/05.

54 The CJS agencies are the Police, the Prison Service, the Courts, the CPS and the Probation Service.

55 Recent analysis has shown that the percentage change from 2003 to 2005 is too small to be statistically significant.

Knowledge about the workings of the CJS is one of the factors which may affect BME confidence in the CJS organisations.⁵⁶ Findings from recent research commissioned by the DCA⁵⁷ suggest that awareness of the CJS activities is generally lower among ethnic minorities, particularly Asians, than among the White population (based on self assessment of knowledge levels). Similarly a recent MORI study found awareness of the CJS agencies was low across BME groups.⁵⁸ However, the DCA research also found that Black people were more likely than White and Asian groups to show a strong interest in CJS activities and were also more willing to get involved. Similarly, Asians were more willing than White people to get involved with victim and witness support schemes. In general, BME groups were less likely to have reported a crime to the police and less likely to have any experience of court.

56 Page, B., Wake, R. & Hill, R. (in press) *Confidence in the Criminal Justice System: explaining area variation in public confidence*. Home Office Findings 251.

57 Department for Constitutional Affairs (2005) *Consumer Experience of the Criminal Justice System, Volume A: Consumer Engagement*.

58 *BME Communities' Expectations of Fair Treatment by the Criminal Justice System (2005)*

Chapter 6:

What is being done?

Earlier chapters of this Overview report highlighted that BME groups have different experiences and requirements of the Criminal Justice System both as offenders, defendants and victims of crime.

The Government is committed to building a society with opportunities for all. A key part of that is a CJS which treats all communities equally, is fair, representative and effective in tackling racist crime. This chapter describes the steps CJS agencies have undertaken to address the needs of BME communities and increase their confidence in the CJS.

Criminal Justice System Race Unit

BME Trust and Confidence

The Government's public service agreements to *'Re-assure the public, reduce the fear of crime and anti-social behaviour, and build confidence in the criminal justice system (CJS) without compromising fairness'* demonstrates its commitment to having a CJS that is fair and can demonstrate that it is fair to all communities. One of the targets contributing to this objective is *'to reduce the % of people from BME Communities who believe they would be treated worse by one or more CJS agencies.'* This target requires individual CJS agencies to work collectively to improve BME perception of the CJS by 2007/08.

The CJS Race Unit is responsible for guiding and monitoring the work of CJS agencies at both national and local level to deliver this target. Although the target deals with perceptions it will only be achieved if BME people's experience of the CJS is improved. The work outlined by the CJS agencies in this chapter form part of the delivery strategy which concentrates on improving service delivery, providing information to BME communities and engaging with them to improve their experience of the CJS.

Working with LCJBs

Local Criminal Justice Boards are at the heart of delivering improved services that will impact on BME people's trust in the CJS. In December 2005, the CJS Race Unit issued the *Fairness and Equality in the CJS* toolkit to provide LCJBs with a framework to identify and prioritise actions to deliver the target. This is being followed up by a series of regional seminars to help LCJBs review their current activities to improve delivery. Throughout the coming year the Unit will continue to support and assist LCJBs in working with BME communities and will identify and promulgate good practice.

Stop and Search

The Stop and Search Action Team (SSAT) was created to provide a joined up response to the problem of disproportionality in the use of stop and search by the Police. As a result of the Team's work in a number of pilot sites around the country, a guidance manual was issued in January 2005.

The manual provides forces with a template to understand the causes of disproportionality and provides guidance and good practice to remove inappropriate disproportionality. This manual is being developed into Practice Guidance by the National Centre for Policing Excellence (NCPE) with a view to publication in June 2006. In addition Her Majesty's Inspectorate of Constabulary (HMIC) are now using the key points from the manual to inform inspections. The ultimate outcome of this work is a reduction in the levels of inappropriate, disproportionate stops and searches as well as increased BME community confidence in the use of the stop and search powers.

It is disappointing that the activity to date has not generated a decrease in disproportionality however a number of new initiatives will be launched in 2006 including a publicity campaign and a Community Manual to accelerate progress.

Developing statistics that drive change

If Local Criminal Justice Boards are to deliver a fair and effective system to BME service communities they need to understand BME groups' experiences of the CJS in their area. The statistics presented in this report are one of the main sources of information available on BME perceptions across the CJS and are a potentially powerful tool in driving performance and race equality.

The CJS Race Unit is currently taking forward a major programme of work to improve the collection and dissemination of these statistics. As part of this programme the Unit distributed Race Information Packs to all LCJBs in November 2005. The packs presented a selection of race-related management information taken from Section 95 and were intended to provide Boards with an idea of the range and types of information that is available to inform policy making and delivery.

The Unit will use the feedback received from Boards to inform the content of future information packs. In addition to improving dissemination they will also be taking forward work to improve data collection. A key element of this will be developing a minimum dataset mapping out the race related information that needs to be collected across the CJS. This work will be undertaken in consultation with principal stakeholders including policy makers, practitioners and academics.

Home Office

Police

The report of the Stephen Lawrence Inquiry highlighted that BME communities feel unfairly targeted by Police Stop and Search Powers. In April 2005, the Police and Criminal Evidence Act was amended to include the recording of all stops (previously only searches were recorded). The implementation of this recommendation was supported by guidance produced by the Home Office, the Association of Chief Police Officers and the Association of Police Authorities.

A further recommendation of the report of the Stephen Lawrence Inquiry was to improve services to victims. The police last year introduced a Code of Practice for the reporting and recording of the racist incidents. A Home Office evaluation of the Code was produced in October 2005. The response to its recommendations will be overseen by a Racist Incidents Group set up by the Home Secretary.

The National Community Safety Plan 2006-09 (incorporating the National Policing Plan) was published in November 2005 and confirms the continuation of a priority focus on delivering a citizen focused police service. The police are introducing dedicated, visible, accessible and responsive neighbourhood policing teams in all areas in England and Wales by 2008. These teams will forge a new relationship with local people

based on active cooperation and engagement. Forces are also implementing a set of minimum service standards that every member of every community can expect from the police service.

The Police and Home Office have continued to focus efforts on improving BME representation in police officers, police staff and the Special Constabulary.

Prison Service

The Prison Service remains committed to providing equal opportunity, promoting diversity and eliminating racism and other forms of discrimination. Good progress has been made with taking forward the action plan, *Implementing Race Equality in Prisons – A Shared Agenda for Change*. The plan was agreed with the CRE in 2003, and sets out the work that the Prison Service will undertake to ensure full compliance with the Race Relations (Amendment) Act 2000 and embed the lessons learned from the CRE Formal Investigation. This work now forms part of the Prison Service Race Equality Scheme, which was revised during 2004/05. The scheme, which sets out how the service will meet its general statutory duty under the Race Relations (Amendment) Act 2000 duty, was published in May 2005 and may be viewed at www.prisonsservice.gov.uk/abouttheservice/racediversity

Improvements in the IT programs have enabled greater use of ethnic monitoring data by the Race Relations Management Team, who have developed race relations key performance targets for both staff and prisoners. Race relations audits include: racist incident reporting; ethnic monitoring data; prisoner survey (measuring the quality of prison life); visitor survey; staff race equality audit; staff racial grievances and complaints; percentage of BME staff and percentage of BME staff in contact roles.

Since the introduction of the Employment Targets in 1999, increasing BME representation remains critical to the Prison Service. The information, data and analysis produced by the Quarterly Ethnicity Review the Human Resources Planning Team helps to highlight and pinpoint the areas where the Service still has to work harder. It allows for the continuous tracking of progress and efforts made towards meeting the targets set.

Representation at senior officer level is not progressing as well, therefore the Service has recently developed a senior operational managers' programme, which encouraged applications into the management grades direct. The Service is currently developing a positive action programme for its current BME managers and it continues to support BME staff through the RESPECT network.

Implementation of the Quarterly Ethnicity Review by the Human Resources Planning Team has enabled continuous tracking of progress and highlighted areas of need for BME focused activities. Quarterly questionnaires on race equality are cross checked against Her Majesty's Chief Inspector of Prisons (HMCIP) and Independent Monitoring Board (IMB) reports, as well as Prison and Probation Ombudsman reports.

Probation

The National Probation Service (NPS) has exceeded the Home Secretary's employment targets for BME staff and has a workforce where 10.9% of the staff is from BME communities. However, minority ethnic groups are still under represented at the senior management level.

To address the issue of the low representation of BME staff at senior management level, the NPS has invested in a positive action leadership programme called ACCELERATE which targets BME managers and provides a two-year personal development programme. The first cohort of this programme commenced in September 2004 with 12 participants and is due to be completed in 2007, 25% of this cohort has

already been successfully promoted to more senior roles within the criminal justice sector. The ACCELERATE programme was short listed for the Personnel Today award (2005) for excellence in career development.

A high priority for the National Probation Directorate (NPD) has been to improve probation monitoring statistics on the ethnicity of staff and offenders. Consequently, meaningful comparisons can now be made between ethnic groups to inform policy and determine the quality of service delivery to BME groups. A target of 95% monitoring for all offenders and staff was set in 2005/06 and was almost achieved with an average total of 94% across the two groups. NPD have incorporated ethnic monitoring into a weighted score card performance monitoring management system to ensure continuous improvement in ethnic monitoring statistics.

To ensure that probation responds to the needs of BME offenders the NPD has supported the NPS in developing 'pathfinder programmes' for BME offenders. These are currently being evaluated.

Crown Prosecution Service

The Crown Prosecution Service adopted a new equality and diversity policy and strategy in May 2005. As part of this strategy the CPS has introduced key equalities measures into its Area Performance Review System. These key measures focus on hate crime prosecutions and community engagement. Alongside this a number of equalities themed reviews are being undertaken as part of its performance review systems, including one on workforce representation.

A Community Engagement Strategy was agreed in May 2005. As part of implementing this strategy the Service is running 3 community engagement pilots in West Yorkshire, Durham, and Thames Valley. These pilots will be independently evaluated and the findings profiled at a national conference in the autumn of 2006. Good Practice Guidance will also be developed from these. Alongside these initiatives the CPS is also deepening engagement with a range of communities through a series of forthcoming regional information, reassurance and listening events with Muslim Communities.

A number of initiatives are underway to further equalities in employment including active implementation of a departmental Diversity Delivery Plan to help achieve Senior Civil Service (SCS) workforce diversity targets by 2008. The CPS is also committed to a programme of impact assessments of key employment processes including a recent impact assessment of Performance Appraisal Box marks rating system.

An improved electronic recording project for hate crime data will be launched in 2006/07 and in due course this will be developed further to produce more accessible public reports on hate crime prosecutions.

A comprehensive impact assessment of the ethnic and gender distribution of changing decisions is currently being undertaken and the CPS aims to publish this assessment in 2006/07. This involves an assessment of 225,000 prosecutors changing decisions, and will be the largest scale assessment of prosecutor decision-making undertaken to date.

The CPS intends to review and update its Racist and Religious Crimes Policy in 2006/07 in line with planned developments on incitement to religious hatred. Alongside this the CPS will keep its training programme for prosecutors on racist and religious crimes under review.

Department for Constitutional Affairs

The DCA is examining whether and to what extent, the courts system deals fairly and justly with the needs of a diverse and multi-cultural society, and whether it is regarded as fair. Two projects already completed are ethnic minority magistrates' experience of their role and of the court environment, and ethnic diversity and the jury system.

A targeted research project to examine the satisfaction of BME users has also been undertaken. The aim is to understand whether the causes of dissatisfaction are related to the service received or determined by other factors and influences such as their age, gender or the capacity in which they were using the court.

The DCA is working to increase the diversity of the judiciary through two key work streams: the Magistrates National Recruitment Strategy (MNRS) and the programme of work that came from the consultation paper "*Increasing Diversity in the Judiciary*" which was published in October 2004. The Judicial Diversity Programme focuses on three main areas; encouraging applications and raising awareness; removing barriers to appointment, and ensuring that the way the judicial office operates encourages and supports a more diverse judiciary.

In addition, the Diversity Programme contains four projects of which three have now been delivered. For example, the Developing Policy Project has been developed and is now implementing the DCA's Diversity Impact Assessment Tool. The purpose of the tool is to ensure that diversity impact assessments and race equality impact assessments are carried out on all policies to check whether the policy could have an adverse impact on different groups of people. Diversity Impact Assessments (DIAs) are carried out on both internal and external policies.

Youth Justice Board

In the light of the research by the University of Oxford⁵⁹ a priority of the Youth Justice Board (YJB) has been to reduce the over-representation of young Black offenders. To this end it has set itself the target of ensuring the all Youth Offending Teams have action plans in place:

- to achieve equal treatment at local level for comparable offences by different ethnic groups; and
- to deliver targeted prevention activity that substantially reduces local differences by ethnicity in recorded conviction rates by March 2008.

To achieve this the YJB launched, in November 2004, an audit and planning process to address the continued over-representation of BME groups in the youth justice system. This required YOTs' and their partner agencies to assess the local pattern of BME disproportionality in pre-court and post-court disposals with data on the local BME population.

In summer 2005 action plans were submitted from all YOTs, and YJB regional teams will monitor progress against their stated objectives. In addition, for YOTs that are struggling to make progress, support will be available from YJB performance improvement consultants. Regional workshops will also take place to showcase and disseminate emerging practice.

The YJB has also established a Diversity Board that will be chaired by the Chief Executive Officer and will co-ordinate cross directorate activity to ensure effective co-ordination.

⁵⁹ Felizer, M. & Hood, R. (2004). *Differences or Discrimination – Minority Ethnic Young People in the Youth Justice System*. Youth Justice Board.

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