



## **Lammy Review update – October 2018**

A Local Criminal Justice Board (LCJB) Lammy Review Sub Group has been formed with agreed terms of reference which relate to analysing all areas of practice where the use of decision making or discretion apply – to look for cases of disparity and actions to ‘explain’ or ‘reform’. The subgroup commenced 30<sup>th</sup> April 2018, meets bi-monthly and is made up of the following agencies:

Office of the Police and Crime Commissioner  
LCJB Business Manager  
Police  
Crown Prosecution Service (CPS)  
Prisons  
Youth Offender Service (YOS)  
National Probation Service (NPS)  
Community Rehabilitation Company (CRC)  
Her Majesty’s Court and Tribunal Service (HMCTS)  
Witnesses and Victims service provider – Citizens Advice Bureau (CAB)  
Resident Judge  
Bristol City Council  
Stand Against Racism and Inequality (SARI) – voluntary sector organisation  
Commission On Race Equality (CORE).

## **Sub group activity and outcomes to end September 2018**

The following are examples of the outcomes to date, following data collection and initial analysis of issues to ‘explain’ or ‘reform’:

- **HMCTS:** looking at “triable either way” (cases that could be heard in either the Magistrates court or the crown court) and whether defendants self-elect to go to the crown court; given Lammy’s finding that BAME defendants mistrust the system and prefer juries as they are perceived to be fairer.

Outcome: There were 107 triable either way cases that went to crown court from 3<sup>rd</sup> March to 5<sup>th</sup> May 2018. HMCTS only required to report on offender nationality however, were able to access ethnicity data in 95 cases (88.7%). 91 people said they were British, 78 were court directed and 13 elected to go to crown. Of those court directed, 15 out of 78 were Black (19.23%), 2 Asian (2.56%), 1 Mixed race (1.28%), 54 White (69.2%) and 6 Not known (7.69%).

Of the other nationalities, 13 out of 16 self-elected to go to crown court.

New guidelines are being issued to say that cases should remain in the magistrates court where possible in triable either way cases, unless a very long sentence is expected (more than 18 months).

HMCTS will escalate, nationally, the issue of recording ethnicity in an attempt to influence a system change enabling an ethnicity field to be added to their case management system, highlighting the limitations of just recording nationality.

Next area for HMCTS to analyse, explain or reform – HMCTS will look at the same period to analyse those cases that didn't go to crown court (but could have) as a comparator and also look at people not represented at first hearing to analyse any disparity from a race perspective.

- **Witnesses and Victims**: hate crime victims not coming forward - analysis to understand why and any disparity;

Outcome: CAB witness service provider analysed hate crime quarter 1 data (April to June 2018). There were 230 convictions in this period however CAB only supported 11 hate crime victims. CAB feel that this is a consistent pattern and not a blip and will work with SARI and Lighthouse to look at why referrals to support hate crime victims are so low and whether or not a more proactive process is required to encourage hate crime victims to get the support.

Next area for CAB - to analyse the ethnicity breakdown of hate crime victims and the volume supported/not.

- **NPS**: scrutinising concordance data – pre-sentence report type and proposals V actual sentence made;

Outcome: Snapshot taken in August for Bristol courts and identified that there was a low level of congruence across the piece for community order proposals – meaning that sentencers did not follow the proposal made by NPS probation report writers. The analysis showed that suspended sentences were made instead. Courts and Probation feel the data could be skewed because, due to staff shortages in August, NPS were only writing reports on more serious cases, courts had fewer slots and were told to only order reports on those cases that will get suspended sentences or prison.

NPS are ensuring the equalities form data is being recorded properly and in the right way and developing a new gatekeeping form – to use on BAME, women and 18-25 year olds when writing reports. The purpose of the gatekeeping form is to have a second person double check the report for fairness, equality, proportionality and legality.

Next area for NPS – another analysis but in June/July 2018 instead (given the August data may be skewed).

- **CRC**: looking at order and programme completions for issues of disparity;

Outcome: Engagement of people, motivation to attend and completion rates showed no disparity. However, the offender survey undertaken twice yearly, showed that there were very small returns from BAME offenders. The next survey is due in November 2018 and the CRC will target BAME offenders to make sure they complete the survey and will use a university student to get the form completed.

In addition the CRC have realised that the survey returns are not required to be proportionate to ethnicity and will therefore raise this nationally to HMPPS. If the returns were proportionate to ethnicity then all probation areas would have a more reflective and accurate view of the offender experience.

Next area for CRC to analyse - looking at attrition - failures to attend programmes and ethnicity breakdown.

- **YOS:** BAME numbers in prison;

Outcome: YOS have discovered that there are issues of recording ethnicity, even though the system is set up to record ethnicity. YOS will be reinforcing that Somerset need to improve. With regard to prison cases, BAME numbers are over represented but the numbers are small. 6 out of 14 BAME offenders went to prison in 2017 (42%) which is disproportionate. YOS are putting together a paper to take to their board to address this.

Next area for YOS to analyse – prevention and early help service and analysing ethnicity breakdown of offenders who “choose” to engage in the early intervention service, are getting referred/not. Another area for YOS to look at is how often young people on their caseload come into contact with the police, or are stopped and searched and the ethnicity breakdown.

- **CPS:** Pre-charge decisions – high volume of cases where ethnicity is not recorded so working on understanding why this is the case and putting in strategies to improve ethnicity recording;

Outcome: There is an ethnicity field on Form MG3 but the information is not always provided and CPS have realised they do not consistently go back to request the ethnicity code. MG6 Form also requires an ethnicity field. CPS will work with the Police to get this IT change made and CPS have reinforced the need to consistently complete the field. This will then enable them to begin analysing data accurately.

Next area for CPS to analyse, explain or reform – proceed cases data.

- **Bristol Prison:** Use of Force and using a scrutiny panel to look at disparity;

Outcome: use of force scrutiny is undertaken monthly with body worn footage analysed. Some cases show disproportionate use of force and feedback and further training is provided to those officers. 3 cases analysed in June 2018, 2 of which were BAME –one of the BAME offenders was on suicide watch and officers wanted to move him to segregation so that he could be watched more closely – the reasoning was correct but the method was disproportionate as the offender did not want to go. Given he was suicidal, a more sensitive approach was needed, they could have asked him a little while later or ask a governor to encourage him, instead use of force was applied immediately to take him to segregation, putting him in a headlock and forcibly taking him.

Feedback to officers included the need to have a more sensitive approach to such cases, not using too many officers as this is intimidating and disproportionate, not having officers standing around/observing the scene and using conversation and language that may encourage offenders rather than immediate use of force.

Next area for HMP Bristol to analyse – outcomes of complaints to analyse any disparity from a BAME perspective.

- **Police:** Stop and Search and Out of Court Disposals (OOCd). Regular stop and search scrutiny is undertaken and there is disproportionality in the numbers of stop and searches.

Outcome: Stop and search scrutiny panel feedback is given to officers for learning and further development, Police have reinforced that stopping someone is not to be based on the ethnicity of people but because there is genuine concern/suspicion of criminality. Police are engaging with communities and reaching out to the community to help them with the challenge of mistrust of Police amongst BAME communities.

With regard to OOCd a new process was implemented for OOCd from June 2018 and the police have taken the opportunity to proactively and consciously give OOCds to minority groups, including BAME, travellers, women and all marginalised groups. Guidance and training for police undertaken so the opportunity had been taken to build this pro-active action into the training.

Next area for the police to analyse – arrest rates and the volume that became No Further Action – to look for any ethnicity disparity.

### **Incumbent Chair's closing comments**

It has been a real pleasure leading this group and members have been proactively engaging with the agenda. The commitment and passion to probe all areas where decision making and use of discretion apply has been a real asset and it has become a way of working – probing, analysing and challenging bias (which can be bias for or against, unconscious/conscious) in an attempt to “explain” or “reform” disparity - and then finding solutions to address the problem area, and/or escalating the issue, before moving on to analyse another area.

In addition, the probing, analysing and challenging needs to become an established and embedded way of working, within each agency, when implementing new processes, procedures and initiatives with proactive action taken, from the outset, to minimise racial disparity. It is at the planning stage of new activity/initiatives that the opportunity to reverse the problem of racial disparity will have the most positive impact and each agency should use the Lammy Sub group to assist with their impact assessments.

It is crucial that momentum is not lost with the retrospective analysis and that all agencies continue to build on the work to date and maintain focus, pending the recruitment of a new Chair. Bi-monthly meetings for the calendar year 2019 have already been arranged in an attempt to keep the meetings going, and the LCJB Business Manager will act as Temporary Chair.

I foresee an ongoing, lengthy period of work for the Lammy Sub Group in an attempt to begin to address disparity issues of several decades and believe that success will come in small milestones, bolstered by the significant commitment and passion shown by the members to date.

Criminal Justice Senior Responsible Officer  
Office of the Police and Crime Commissioner  
10<sup>th</sup> October 2018