

# **Young Black People and the Criminal Justice System**

## **The Statistical Evidence**

### **1. INTRODUCTION**

This paper sets out the available statistical evidence concerning the involvement of young Black people<sup>1</sup> in crime, the ways in which this involvement comes to the attention of the criminal justice system and what happens at the subsequent stages in the system when it does. It highlights some of the anomalies, apparent contradictions and gaps in the data currently available; but it also identifies the scope for clarifying some of the figures and asking for additional information which is relevant to the inquiry. This additional information already exists but has not been published.

It was originally written as internal briefing for the Committee and suggested that they might usefully request this further information from a number of sources, including four police forces - the Metropolitan Police (the MPS), West Midlands, Greater Manchester and Nottinghamshire. All four subsequently provided figures which included breakdowns at sub-force level which proved very illuminating. They are reported on Memorandum 2 of the published evidence to the inquiry.

The paper looks first at the evidence on underlying levels of crime (including the largely neglected issue of victimisation), then at entry into the criminal justice system, followed by a section on the evidence with regard to each of the key decision-making points after arrest and up to the sentencing stage. Wherever possible, to illustrate differences between areas, it uses published figures for the four police forces who subsequently provided additional data to the Committee. The last-but-one section looks at what is known about offenders of different ethnic origins post-sentence, some of which may cast further light on antecedent issues. The final section consists of a summary of the paper which also highlights some of the main issues which have emerged from the evidence it presents and their possible implications for the work of the Committee, including with a view to future trends.

### **2. INVOLVEMENT IN CRIME – AS OFFENDERS AND AS VICTIMS**

#### **Offending rates**

The main evidence on different ethnic groups' involvement in offending comes from self-report surveys; and these are fraught with a number of difficulties which are writ large in the case of minorities. Sampling is a particular problem in the case of young people where parental consent may be needed or where the survey depends on schools being willing to co-operate. In either case, the resulting sample may not be representative. Even if in principle surveys could generate samples which were fully representative of the population at large, however, the number of minority ethnic

---

<sup>1</sup> In this context 'black' is taken to refer to people of Caribbean and African origin, as well as those who are of mixed heritage but one of whose parents is of Caribbean and African origin. 'Young' refers to people who are not adults in criminal justice terms but who fall into one of two categories – juveniles and young offenders – i.e. young people between the ages of 10-21.

respondents would *de facto* be too small for meaningful analysis (i.e. controlling for differences within ethnic group by age *and* gender *and* socio-economic status *and* area). So where there is a particular interest in minorities, focussed enumeration has become the established technique for boosting their numbers in population-based surveys, including the British Crime Survey. Recent evidence, though, suggests that in addition to the problem that focussed enumeration inevitably tends to produce a bias towards the areas where particular minorities are most highly concentrated, response rates from ‘booster samples’ tend to be much lower than average; so there is a higher chance that ethnic minority respondents in sample surveys may be atypical for these reasons.

Additionally, all household surveys have long experienced difficulty in getting interviews with young men – especially those living in high crime areas, typically in accommodation where no-one with any sense will open their door to strangers and where, in any case, it may be impossible to access blocks of flats without having the entry codes, keys or someone on the inside agreeing to let you in. Even where this is not a problem, young men in the age range the Committee is most interested in (from, say 15 upwards) are the section of the population which is *most* likely not to be at home at any given time and those who *are* in when the survey calls (or who are prepared to make themselves available for a call-back arranged in their absence by their Mum). So those who do respond may also be likely to be atypical for these reasons. Given that men (of any ethnic origin) account for the majority of cases in the criminal justice statistics, and that the Committee’s main interest is in a group which is disproportionately young and living in the sorts of areas where sampling is most difficult, considerable caution must be exercised in making inter-ethnic comparisons from survey data.

Finally, there is the problem that self-report surveys of offending tend to focus largely on more trivial forms of offending which may be less likely to be reported to the police in the first place<sup>2</sup> and are less likely to have serious consequences if they are (unless the individual concerned is repeatedly reported, detected and convicted). However, a further confounding factor in terms of inter-ethnic comparisons is that the extent to which respondents *complete* the self-report sections of crime surveys has also been found to vary by ethnic group.

All of these *caveats* need to be borne in mind when interpreting the following; and they may also help to explain why the results of some surveys appear to be mutually contradictory.

A good example of the limitations of self-report surveys in this context is the Youth Justice Board’s Youth Surveys which were school based and which did *not* oversample minorities. Many of the results were of interest and may be worth citing but any inferences with regard to ‘trends’ (and, in particular, significant differences from one sweep to the next) must be regarded as doubtful since the survey did not re-visit the same schools each time. With regard to the results for ethnic minorities, the total sample in the last of these surveys, in 2004, was nearly 5,000 young people aged

---

<sup>2</sup> Thus, a high proportion of the ‘violence’ young people admitted to the Home Office’s Crime and Justice Survey referred to playground fights and scraps with siblings.

11-16 in mainstream education<sup>3</sup>; but, as 4 per cent of the total, this means that the number of Black pupils in the sample was less than 200. These were, in theory, spread across 192 secondary schools in England and Wales but in practice they were probably highly concentrated within a minority of these. So to draw any meaningful inter-ethnic comparisons it might have been better to confine comparisons to the subset of schools which accounted for most minority ethnic respondents; and, if this had been done, the results might have looked quite different<sup>4</sup>.

The YJB's 2004 results confirmed those in 2003 in the finding that:

among young people in mainstream schools, a higher proportion of Black pupils have committed an offence, compared with their white or Asian peers. Almost two in five Black young people (37%) admit to committing a crime, compared with a quarter of white pupils (26%) and one in five Asian pupils (20%).

MORI/YJB 2004

In addition:

it seems that certain types of offences are more likely to be carried out by young offenders who are Black. For instance, offenders in mainstream schools who are Black are more likely than white or Asian offenders to steal (72%, compared with 61% and 54%) and handle stolen goods (43%, compared with 23% and 24%). They are also more likely to have committed more than five types of offences (56%, compared with 41% and 34%) and have the highest average number of offences committed.

With regard to weapons, white pupils were more likely than other groups to say they carried a pen knife; but Black pupils were 'more likely to admit to carrying a flick knife than white or Asian young people (15%, compared with 9% and 8% respectively)'.

However, no information is provided about whether there were any differences in the characteristics of the different groups on variables which the survey identified as being associated with higher rates of offending such as age, area and family composition. The results reported above are not subject to any further breakdown which might take account of these factors; and none of the findings are subjected to multi-variate analysis.

The YJB surveys have now been dropped in favour of a new major survey by the Home Office, the Offending Crime and Justice Survey (OCJS), which runs alongside

---

<sup>3</sup> An additional sample was included of 687 pupils who had been excluded from school and although black young people were over-represented among these (at 12 per cent, compared to 4 per cent in mainstream education), the number is still too small for meaningful analysis.

<sup>4</sup> In our own study of young people's involvement in street crime for the Youth Justice Board, sophisticated multivariate analyses by my colleague Chris Hale showed that, once other factors were taken into account in comparing levels of street crime in different London boroughs, the very marked ethnic differences in the headline figures for London disappeared entirely. These local effects were summed up in qualitative terms by a 15 year old boy in one of the focus groups I conducted who said: 'It's not, like, it's *right* Miss: it's just *everyone* round here does it.' (FitzGerald, Stockdale and Hale, 2003)

the British Crime Survey (and sometimes produces rather different findings) but which, unlike the BCS, samples young people aged under 16. This includes a section on self-reported offending and the survey oversamples certain minority groups. Overall, the 2003 survey found that offending by white and 'mixed' respondents was much higher than for other groups and that whites were likely to be more frequent offenders. There were, however, some ethnic differences in patterns of offending, as reflected in Table 1 below. The base numbers are small for minorities, though, especially when they are broken down by age. Despite the fact that the OCJS oversamples minorities, the numbers in the younger age range are actually smaller than that in the YJB sample; and the younger age range in the OCJS (10 to 25) actually covers a *very* much wider age span than the YJB surveys. Several further considerations need to be borne in mind with regard to the pattern of ethnic differences in offending reported by the OCJS, in addition to the pitfalls which attend any results which rely on 'booster' samples. In particular, the 'Black' group comprises people of both African and Caribbean origin<sup>5</sup>, and both this and the 'Mixed' group also appear to have a significant gender imbalance in favour of females (see commentary on Table 4 below). As Table 1 shows, there were only 88 Black males aged between 10-25 in the sample and no indication is given of whether their distribution across this 15 year span was similar to or different from that of males in other ethnic groups.

---

<sup>5</sup> Similarly, the 'Asian' group comprises Indians, Pakistanis and Bangladeshis and the first of these (which differs very significantly from the others in socio-economic terms) outnumber the rest such that the responses of the Indians will skew the 'Asian' average. Yet one of the tables in the appendix which provides further, within-group, breakdowns of offending shows Pakistanis were 50 per cent more likely to have admitted to offending within the last year than Asians. In the case of the Black groups, the contrast was far more stark, with Black Caribbeans *five* times as likely to say they had offended as Black Africans.

Table 1  
**Self-reported offending by different ethnic groups within the last year**  
 by age and gender  
 Offending Crime and Justice Survey (OJCS) 2003

Percentages	White	Mixed	Asian/Asian British	Black/Black British	Other
<i>Property crime</i>					
Males 10-25	15	13	**6	**6	**2
Males 26-65	5	4	**1	**2	3
Females 10-25	8	7	**3	13	**2
Females 26-65	2	3	**1	2	2
<i>Violence</i>					
Males 10-25	18	12	**7	11	**8
Males 26-65	3	<0.5	**1	3	4
Females 10-25	10	14	**6	9	7
Females 26-65	2	2	**<0.5	1	4
<i>Selling drugs</i>					
Males 10-25	4	3	-	-	2
Males 26-65	4	2	-	**1	1
Females 10-25	-	-	-	-	-
Females 26-65	-	1	-	<0.5	1
<i>Any offence</i>					
Males 10-25	28	**19	**13	**15	**12
Males 26-65	8	4	**2	6	10
Females 10-25	16	19	**9	13	10
Females 26-65	4	4	**1	4	5
<i>Any serious offence</i>					
Males 10-25	14	10	**6	**7	**2
Males 26-65	2	4	1	1	5
Females 10-25	7	7	**3	8	4
Females 26-65	1	2	-	1	-
<i>Base n</i>					
Males 10-25	2,017	106	206	89	60
Males 26-65	2,290	78	357	227	91
Females 10-25	1,957	118	231	10	45
Females 26-65	2,710	106	270	287	130
<i>Frequent offender</i>					
Males 10-25	9	10	**4	**4	-
Males 26-65	1.5	4	1	3	-
Females 10-25	4	4	2	4	3
Females 26-65	1	2	-	-	1
<i>Base n</i>					
Males 10-25	1,963	107	201	88	60
Males 26-65	2,280	77	355	226	91
Females 10-25	1,920	114	230	107	45
Females 26-65	2,705	108	270	287	130

\*\* significantly different from the White group at the five per cent level

The important *caveats* about small numbers glow red with regard to findings which relate to less than 5 per cent of groups in the 10-25 age range (where no gender breakdown is provided) as in Table 2. However, irrespective of whether the rates of offending by this sample accurately reflect ethnic differences in the population at large, three of the findings of the 2003 OCJS may nonetheless be especially relevant to the inquiry. One is that, when multivariate analysis was applied to the rates of self-reported offending *none* of the headline ‘ethnic’ differences remained.

... ethnic group was not independently predictive of offending once these factors had been taken into account. The factors that were predictive were...: being male; being aged from 17 to 25; having been a victim of violence; using drugs; being frequently drunk; having friends in trouble with the police; and having a low score on certain personality factors.

(Sharp and Budd, 2005)

The second is that, despite the fact that the Black group had apparently lower rates of offending, both Black and 'Mixed' respondents were *more* likely to have come into contact with the criminal justice system as suspects and offenders. This seems especially to be true in the younger age ranges although (see Table 2) the difference in the case of the 'Mixed' group is confined to 10-15 year olds. It should be borne in mind, here though that the numbers are very small, especially in the case of the minority samples and none of the differences shown were statistically significant.

Table 2  
**Proportion of different groups  
 in contact with the criminal justice system in the previous year**  
 OCJS 2003

Percentages	White	Mixed	Asian/Asian British	Black/Black British
<i>Arrested in last year</i>				
10-15	1	5	<0.5	3
16-25	4	3	3	9
26-65	1	3	1	2
<i>Convicted in last year*</i>				
10-15	<0.5	-	<0.5	-
16-25	2	1	1	4
26-65	1	1	1	<0.5
<i>Base n</i>				
10-15	1,845	95	166	61
16-25	2,278	140	296	144
26-65	5,116	191	647	530

\* Those who have received a fine, supervision or custodial sentence from court

This does not *de facto* mean that young Black people and those of 'Mixed' heritage are being targeted by the police on entirely spurious grounds. For a commonplace in discussing the limitations of police and other criminal justice statistics is the problem of attrition – that is, the significant drop in the number of cases from the commission of a crime to the point of conviction at each of the intervening stages in this process. One of the largest gaps is in the number of crimes committed which ever come to the attention of the system in the first place. This is well illustrated by the fact that 24 per cent of the white sample aged 10-15 in the OCJS admitted to having offended in the last year but only 1 per cent of the sample had been arrested. However, this gap was much smaller for the 'Mixed' group where offenders comprised 20 per cent of the sample but 5 per cent had been arrested; and the contrast is particularly stark in the case of the 'Black' group, 12 per cent of whom admitted to offending and a quarter of that number (3 per cent) had been arrested.

The hypothesis that Black people, *once they have offended*, are more likely to be brought into the criminal justice process tends to be supported by two further findings of the OCJS. One is that there were *no* significant ethnic differences in the extent to which respondents who were treated as 'non-offenders' by the survey had been

arrested<sup>6</sup>. The other is that, by contrast, Black respondents who *admitted* to having ‘ever’ offended were significantly more likely to have been arrested and to have been to court than their white counterparts<sup>7</sup>.

Table 3  
**Contact with the criminal justice system  
 by respondents admitting ‘ever’ offending**  
 By ethnic group  
 OCJS 2003

Percentages	White	Mixed	Asian/Asian British	Black/Black British	Other
Ever arrested	25	32	**14	**35	**8
Ever been to court	19	23	**11	**29	**8
Ever fined	16	17	**8	22	**8
Supervision ever	4	5	1	8	3
Custody ever	2	2	1	**8	2
Convicted ever	17	18	**8	22	**8
Base n (ever offenders)	3,932	190	236	220	82

\*\* significantly different from the White group at the five per cent level

Importantly, the survey sheds some light on the possible reasons why Black people (and also those of ‘Mixed’ origins) are more likely to be arrested if they offend. It recognises the limitation that most of the offences it covers are minor but notes that there may be variations in seriousness within each category and this may be one of the factors which affect the rate at which different ethnic groups come to the attention of the criminal justice system in the first place. Other factors will be:

- whether anyone becomes aware of the incident
- whether the incident is reported to the police and
- how easy it is to identify the perpetrator (which may depend heavily on the information available from victims and witnesses and these are more likely, in any case, to be able to give the police a description in the case of contact crimes, such as robberies and assaults than in ‘stealth’ forms of property crimes such as burglary or theft).

The OCJS cannot shed any light on the extent to which the factors listed above are at work in making it more likely that Black offenders will be arrested than whites; but it *is* able to identify eight social and demographic factors which are highly associated with the likelihood of arrest; and on four of these, the Black sample is significantly more at risk than the white sample. Unfortunately, the results in table 4 relate only to respondents aged over 17 and no further breakdown is provided by age within this. However, it does suggest that, regardless of any offence-specific factors, Black offenders are much less likely than whites to escape arrest due to: their association with others who are also ‘known’ to the police; higher rates of school exclusion; living in rented accommodation or being homeless. These factors appear to override

<sup>6</sup> These were people who hadn’t committed any of the offences the survey asked about, although they might still (legitimately) have been arrested for other reasons.

<sup>7</sup> Although the proportion is also higher for the ‘Mixed’ group, the difference is not statistically significant (possibly due to small numbers) whereas it is noticeable that ‘Asians’ who say they have offended are significantly *less* likely to have come to the attention of the system.

the fact that the Black respondents in the OCJS sample were less likely than white respondents to admit to having committed an offence in the last year; nor were they offset by the fact that Black respondents were less likely to get drunk on a regular basis.

Rented accommodation emerges as a risk factor for the 'Mixed' group as well; and it might be inferred from this that tenure is a proxy measure for area. According to the ACORN types used in Home Office Surveys to classify area, 44 and 45 per cent respectively of all 'Mixed' and 'Black' respondents lived in 'council estates and low income areas' compared to 18 per cent of whites. A separate report on the 2003 OCJS which focussed exclusively on offending and anti-social behaviour among young people specifically notes that:

Young people living in urban areas and areas characterised by a high proportion of council housing were far more likely to admit to racial harassment, graffiti and causing neighbour complaints than young people in other areas. Looking at ACORN areas in more detail, those living in 'council estates and low income areas' had the highest levels of neighbour complaints, graffiti, racial harassment and carrying weapons. These areas were also characterised by a high level of perceived disorder.

(Hayward and Sharp 2005)

It is therefore likely that such areas will *de facto* attract more police resources and this may help explain why living in such areas makes it more likely that if young people offend they will come to the attention of the police.

In the case of the 'Mixed' group, though, the risk factors for arrest were slightly different from the Black group. They scored much higher than any other group in terms of their experience of violence<sup>8</sup>.

---

<sup>8</sup> The fact that the black and 'Mixed' groups score lower on the 'Male' risk factor simply reflects the extent to which the samples comprised a much higher proportion of females. However, while the results confirm that women offenders in all groups are less likely to be arrested than men, secondary analyses of the data suggest that the gap is not quite as large in the case of the black group.

Table 4  
**Proportion of sample with risk factors associated with likelihood of arrest**  
 By ethnic group  
 (17 to 65 year olds only)  
 OCJS 2003

Percentages	White	Mixed	Asian/Asian British	Black/Black British	Other
Friends in trouble with the police	9	11	10	**13	**4
Expelled/suspended from school	6	8	6	**13	6
Rented accommodation	25	**51	28	**58	**52
Males	49	**35	**55	**42	**42
Homeless	3	6	3	**11	4
Offended in the last year	8	7	**3	**6	7
Being drunk once a month/more	17	16	**5	**7	**9
Victim of violence	16	**23	15	16	17
Base n	6,664	264	747	577	265
% with 4+ risk factors	3	5	**1	4	2
Base n	7,114	303	907	671	311

\*\* significantly different from the White group at the five per cent level

One further source of possible evidence with regard to underlying rates of offending comes from victim surveys - but subject to the important limitation that information on the ethnicity of offenders is effectively restricted to incidents where the victim had sight of the suspect. This inevitably biases reports towards crimes where victims are more likely to have had direct contact with the offender which - as noted in a different context above - are more likely to be contact crimes, such as robberies and assaults than 'stealth' forms of property crimes such as burglary or theft. According to the major analysis of ethnic minorities in the 2000 British Crime Survey (see further below) victims were able to say something about the perpetrator in less than half the incidents they reported to the survey. The report states that 'visible minorities (*sic*) are clearly over-represented amongst offenders' in victim reports, based on a comparison with their presence in the population at large<sup>9</sup>. In fact, this over-representation was apparent only in the case of Black people, who accounted for 5 per cent of the offenders described by victims compared to a presence in the population *overall* of 2 per cent, whereas 3 per cent of perpetrators were described as Asian, compared to 4 per cent of the population enumerated in the 2001 Census. However, the report also found that the level of representation varied according to the type of offence (see Table 5).

<sup>9</sup> However, the fact that victims also described 56 per cent as being of school age or under 24 suggests that this comparison will overstate the level of minority involvement since it fails to control for the fact that minorities account for a much larger proportion of this age group.

Table 5  
**Victims' description of ethnicity of offender\* by type of crime**  
 BCS 2000

<b>Ethnicity of offender</b>	<b>Assault %</b>	<b>Mugging %</b>	<b>Threats %</b>	<b>Wounding %</b>	<b>Vehicle theft %</b>	<b>Burglary %</b>
White	87	55	85	82	89	89
Black	5	31	6	6	5	3
Asian	2	3	4	5	3	1
Other	2	4	2	3	1	3
Mixed <sup>?</sup>	4	7	4	4	3	4
Unweighted n	845	203	1,051	285	305	438

\* Based on incidents where the victim could say something about the offender

? That is, respondent identified offenders from more than one ethnic group

(Clancy, Hough, Aust and Kershaw, 2001)

In the course of writing this paper, an updated version of these analyses was published, based on the 2004/5 BCS (Jansson 2006). The survey now uses a different form of ethnic classification, based on the categories in the 2001 Census and includes a 'Mixed' group, as well as separate 'Black' and 'Asian' groups. However, the 'Mixed' group is small (496) compared to the Black sample (1,994) so the loss of continuity may not be great as at first appears<sup>10</sup>. The 2006 report does not replicate the analysis in Table 5 above; but this time it found that Black people were identified as offenders in 10 per cent of the cases where victims could say something about the perpetrator and the figure for Asians had now risen to 5 per cent<sup>11</sup>. This apparent doubling of the proportion of offenders identified as Black and the significant increase in the proportion of Asians, however, may say more about the volatility of aspects of the BCS than it does about any underlying trends.

*Victimisation (survey data)*

Despite the conventional dichotomisation into perpetrators of crime and victims, there is plentiful evidence that the risk of falling into either category is highly correlated with very similar sets of variables. Importantly also, there is evidence that the early experience of victimisation may itself be a factor in subsequent offending (for an overview see FitzGerald, Stevens and Hale 2004). So the issue of ethnic differences in victimisation should also be of particular interest to the Committee.

---

<sup>10</sup> Again, females predominate over males in both samples (at 56 and 54 per cent) to a greater extent than for whites, though even here the figure is 52 per cent; and this bias further underlines the greater difficulty of sampling men in the first place.

<sup>11</sup> These differences may say more about the volatility of any 'ethnic' trends in the BCS than they do about real change over time. My own analyses with Chris Hale of the BCS with regard to ethnic minority victimisation and on stop and search were very illuminating in this regard. In particular, given the very uneven geographical spread of minority populations and related variations in the ethnic mix of different areas, changes in sampling points from one sweep to the next may produce apparently large differences, especially in the case of smaller groups or subgroups within a given sample.

However, evidence on this score is scant – whether from survey data or police statistics. The main source of information on underlying rates of victimisation comes from the British Crime Survey which, in addition to the problems associated with the oversampling of minorities (see above) only surveys people aged over 16. The detailed analyses of the results for ethnic minorities from the 2000 survey cited above, asked about respondents’ experiences of crime in 1999; and its findings are broadly similar to those of the 1988 and 1992 surveys (FitzGerald and Hale 1996). They show that, overall, Black respondents were at higher than average risk of personal crimes but not of household crimes – although a larger proportion experienced some *types* of household crime than whites (including burglary).

Table 6  
**Victimisation by ethnic group in 1999**  
 BCS 2000

	White	Indian	Pakistani/ Bangladeshi	Black
<b>All personal crimes</b>	<b>8</b>	<b>7</b>	<b>7</b>	<b>10</b>
Threats	3	3	3	3
Assault	3	2	2	3
Robbery/theft from the person	2	3	2	4
<b>All household crime</b>	<b>25</b>	<b>27</b>	<b>29</b>	<b>25</b>
Bicycle theft (owners)	3	4	10	6
All vehicle theft (owners)	13	14	16	17
Burglary	4	6	5	6

The results from the 2004/5 BCS not only include a new ‘Mixed’ group (see earlier), they now conflate the Indian and Pakistani/Bangladeshi groups into a composite ‘Asian’ category; and they use a somewhat different set of offence categories to those in the previous study (see Table 7).

Table 7  
**Victimisation by ethnic group in 2004**  
 BCS 2004-5

	White	Mixed	Asian	Black
<b>All personal crimes</b>	<b>6</b>	<b>11</b>	<b>6</b>	<b>7</b>
Common assault	2	4	2	2
Wounding	1	3	1	1
Robbery	1	1	0	1
<b>All household crime</b>	<b>18</b>	<b>21</b>	<b>23</b>	<b>17</b>
Vandalism	7	8	8	4
Vehicle theft (owners)	8	17	10	15
Burglary	3	4	3	3

(Jansson 2006)

Multivariate analyses in both the 2001 and the 1996 report showed that, even in cases where Black people were disproportionately victimised, ethnicity *per se* was not an explanatory factor. Age, their disadvantaged socio-economic position and the areas they live in account for Black people's higher rates of victimisation. Similarly, despite the apparent over-representation of victims of 'Mixed' origins in offences of violence, the 2004/5 report notes:

Multivariate analysis identified that for BCS violence and personal crime overall, ethnicity was not independently associated with victimisation when other factors were taken into account. Instead, the risk of becoming a victim of a violent crime as well as overall personal crime was associated with:

- being a young male, in particular between 16 and 24 years old;
- living in an area with high levels of perceived anti-social behaviour;
- visiting pubs, in particular three times a week or more often;
- marital status, in particular being separated or divorced.

(Jansson, op. cit.)

Similarly, in the case of household crime (with the partial exception of burglary), the report concludes:

ethnicity was not independently associated with victimisation when other factors were taken into account. The only exception to this was burglary. For burglary, ethnic group was independently associated with risk of victimisation. Overall the following characteristics were found to be associated with the risk of burglary.

- Having no home security measures.
- Living in an area with high levels of perceived anti-social behaviour
- Age and sex: households with a young male Household Reference Person [HRP – or, in plain language, the person interviewed from that household] (between 16 and 24 years of age) were at the highest risk.
- Ethnicity: households with an HRP from Asian or Mixed ethnic groups in particular.

Ethnic group was not independently associated with the risk of becoming a victim of vehicle related thefts, vehicle vandalism or vandalism to the home. Instead, the following characteristics were found to be independently associated with the risk of victimisation (for all three crime types):

- age, in particular an HRP being between 16 and 34 years of age;
- living in an area with high levels of perceived anti-social behaviour.

None of these analyses provides a breakdown of victimisation by age; and the main sources of survey data with regard to younger people are the YJB and the OCJ surveys referred to above. The last of the YJB surveys found that

Black young people are more likely to be the victim of theft of something other than a mobile phone (19%, compared with 15% of white pupils and 11% of Asian pupils).

The OJCS special report on ‘Minority Ethnic Groups and Crime’ (cited above), though, focuses *exclusively* on offending by minority ethnic groups; yet its separate report on the victimisation of young people refers only cursorily to the victimisation of minorities (Wood 2005). This could be because the numbers of minority respondents in the relevant age band are too small to show results separately for different ethnic groups, despite oversampling although (see above) this might equally well have precluded any attempt to analyse their offending. The report does, though, include multivariate analysis of young people’s victimisation and this shows *no* overall ethnic differences in terms of personal crime; but while white young people were significantly more at risk than minorities of being victims of assault, Black young people appeared to be more at risk of mugging (at 6 per cent compared with 3 per cent for whites).

The only additional sources of information on ethnicity and victimisation are unpublished police statistics and the homicide figures.

Working with in-house data from the Metropolitan Police in the context of several research projects in recent years has repeatedly confirmed that – again, by contrast with offenders – ethnic information is *not* consistently kept on victims of crime<sup>12</sup>; so any pattern of ethnic differences in the cases where this information *is* available may be misleading. Even if the data were complete, it would still need to be borne in mind that not all crimes are reported to the police in the first place; and the BCS has consistently shown that the rate at which victims report crime varies not only by type of crime but also by ethnic group within this. As Table 8 illustrates, though, there again seems to be considerable volatility in this picture in terms of the size of the ethnic differences in reporting; and, in the case of vehicle theft, the *direction* of the difference varies quite significantly between the two sweeps. Nonetheless, both the 2000 and the 2004/5 BCS suggest that Black victims are less likely than whites to report burglary but more likely to report violent crime.

---

<sup>12</sup> Ethnic data tend to be kept more consistently in cases which are alleged by any party to have been ‘racially motivated’. However, not only is this definition highly subjective, it relates only to a relatively small minority of crimes against any ethnic group; so, on both counts, it is not useful as an indicator of their overall experience of victimisation.

Table 8  
**Proportion of White and Black victims reporting crime to the police**  
**By offence type**  
 2000 and 2004/5 BCS

	White		Black	
	2000	2004/5	2000	2004/5
Burglary	56	61	53	48
Vehicle-theft	43	50	30	59
Vandalism	26	(not given)	18	(not given)
Violent crime	27	43	39	57

Before turning to the evidence with regard to suspects and offenders, it is worth re-emphasising the extent to which multivariate analysis of victimisation data reported in this section of the paper show that *non*-ethnic factors largely explain ethnic differences in the headline figures. For this strongly suggests that apparent ethnic differences in offending might similarly be explained by *non*-ethnic factors if this information was available and used in analysing the data. The fact that any differences may be accounted for in this way, though, does not, however, alter the fact that the collective experience of any given group is qualitatively different from that of other groups. In the case of certain minorities (including the Black group) this collective experience is often worse than that of whites, taken as a whole. However, it is an important reminder that Black people's experience may be more similar to that of *sub*groups within the 'white' population who share those socio-economic and demographic characteristics which place them at higher risk of both victimisation and of offending.

*Victimisation: homicide statistics*

Finally, the only published criminal statistics for victimisation by ethnic group are the homicide figures. These have consistently shown an over-representation of Black people, as well as ethnic differences in the pattern of homicide, including in terms of method of killing and the relationship between the victim and the suspected perpetrator.

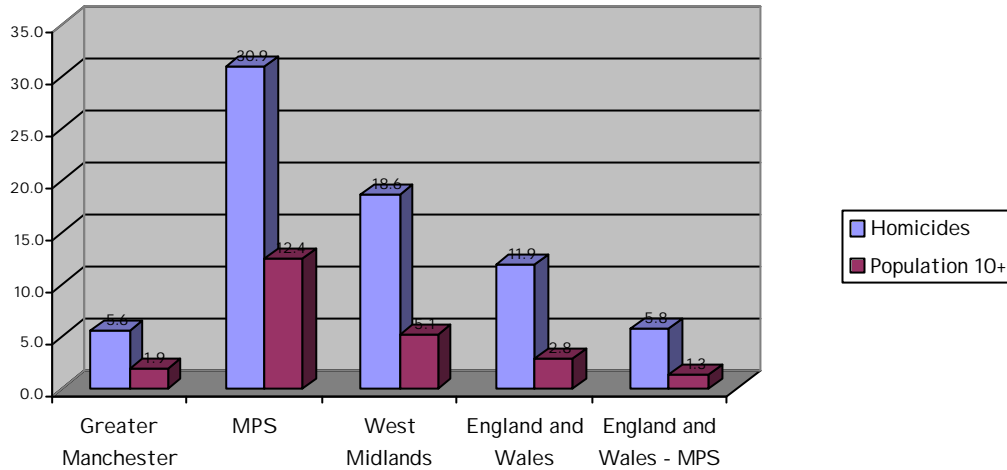
In considering these patterns, though, it is always important to bear in mind that homicide is a relatively rare event. So the numbers – particularly in the case of relatively small minorities – may give an exaggerated impression of differences, whether between groups or from one year to the next. Figure 1 uses combined data for three years given in the most recent s95 publication but omits from the total the 172 victims of Harold Shipman and the 20 cockle pickers killed in Morecombe Bay since these atypical cases are sufficient to have a distorting effect on the total and, in particular, on inter-ethnic comparisons within this. For this reason, both sets of figures have also been excluded from the calculations on which the remaining analyses in this section are based.

Figure 1 shows an over-representation of Black people as victims of homicide; and London again dominates the picture. However, in London homicides run at 2.5 times the rate which might be expected from the presence of Black people in the population;

but the figure is slightly higher for Greater Manchester (2.9) and higher still for the West Midlands (3.6).

Figure 1

Black victims of homicide  
compared to the population, by area  
2002/3 to 2004/5



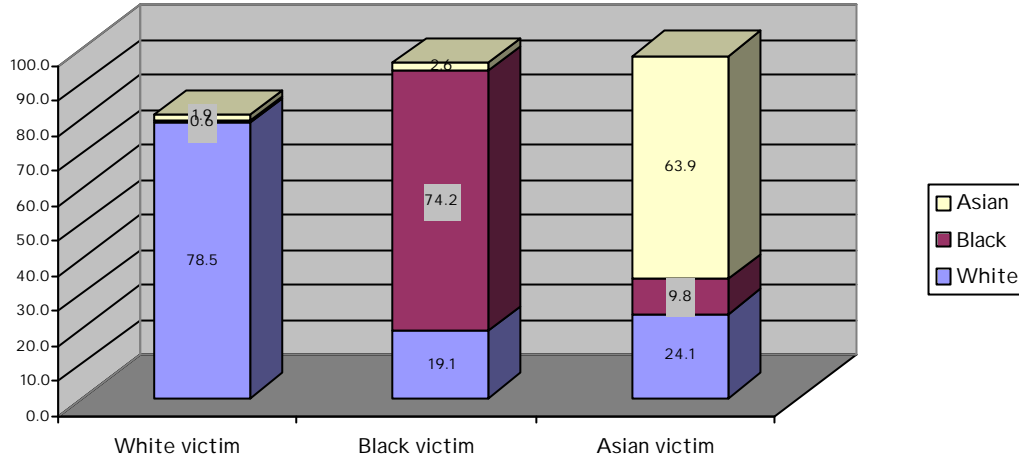
(Source: Home Office s95 publication)

These population comparisons, though, are based on the figures for the estimated population aged 10+ in 2004 given in the s95 publication. Yet at least one Black victim of homicide during the period in question (Toni Ann Byfield) was a child. Also, analyses of the general homicide figures published by the Home Office show different rates and patterns of homicides by gender.

As Figure 2 shows, most homicides tend to occur within the same ethnic group; but Black people made up 8.5 per cent of suspects in *all* cases of homicides in which there was a victim over this three year period.

Figure 2

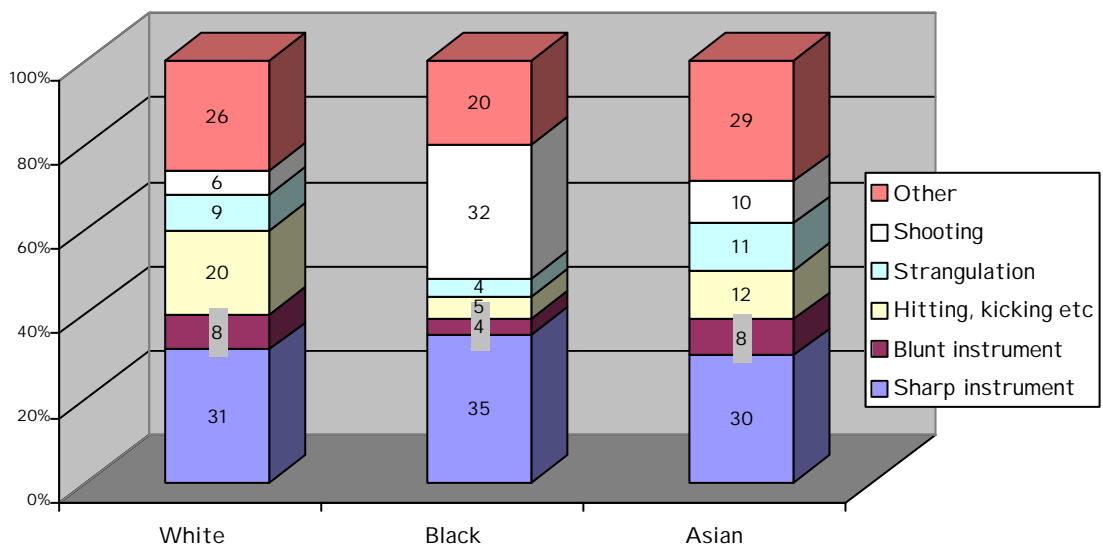
**Ethnic origin of suspects  
in homicide cases with a suspect  
2002/3 to 2004/5**



It is important to note, however, that the proportion of homicide cases where *no* suspect had been identified was also much higher in the case of Black victims – at 20 per cent compared to 10 per cent in the case of white victims – and shooting was a much more common method of homicide in the case of Black victims (Figure 3). It seems possible that these shootings are not random but associated primarily with inter-group killings in the context of organised crime.

Figure 3

**Method of killing  
by ethnicity of victim**

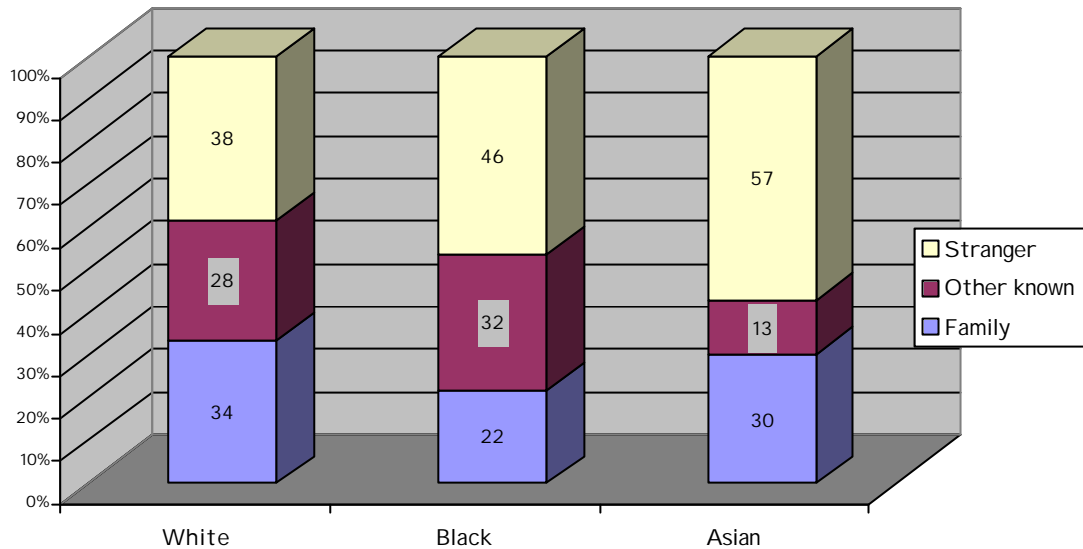


In cases where there was a suspect, Figure 4 shows that Black victims of homicide were the *least* likely of the main ethnic groups to have died at the hands of people

within their own family group (including spouses and partners). But they were more likely than either whites or Asians to be killed by people they knew.

Figure 4

**Relationship of homicide victim to suspect**  
(excluding cases with no suspect)



### 3. ENTRY INTO THE CRIMINAL JUSTICE SYSTEM

The two main influences on entry to the criminal justice system are:

- reports of crime to the police and
- proactive policing.

Neither will mirror exactly any underlying patterns of crime; nor will they necessarily result in a crime being detected or lead to an arrest.

#### Crime reports to the police

The previous section has highlighted the fact that not all crimes are reported, that this varies by crime type and that the likelihood of any crime being detected (i.e. a suspect coming into the system as the result of an arrest) will also depend on a number of factors. These include (as noted above) the extent to which the victim can provide information which will facilitate detection, including a description of the offender - meaning that contact crimes are, in principle, easier to detect<sup>13</sup>. A further important consideration, though, is the amount of effort the police put into detecting the crime

<sup>13</sup> Analysing local police statistics in a study in the mid-90s, this was brought home to me when I noticed that the ratio of robbery arrests to reports of robberies was very significantly better than the figure for burglaries.

and what their policy is with regard to arrests. These will often reflect police priorities - as determined locally but, in particular, centrally – and on the resources available locally to pursue these.

To the extent that different groups are involved in different types of crime, therefore, this may of itself increase or reduce their chances of coming into the criminal justice system – even if there is no underlying difference in their rates of offending overall. Thus, it is well established that the ‘war on drugs’ in the United States directly resulted in a significant increase in Black incarceration. Less attention, though, has been given to the question of if, when victims consider whether or not to report a crime, they are more inclined to do so where they believe the perpetrator was of minority ethnic origin.

## **Proactive policing**

### *General considerations*

Many of the same factors which determine the level of police response to crime reports will also strongly influence proactive policing. The capacity for being proactive will depend on the resources available locally and these are likely to be greater in high crime areas. They are also likely to be targeted on:

- crimes which are designated priorities (especially those to which targets are attached)
- crime hotspots and/or neighbourhoods which are disproportionately the source of offenders who operate in crime hotspots (which will include shopping centres and other, non-residential sites)
- individuals already known to the police (who commonly become *de facto* objects of suspicion, as do their associates).

That is, inasmuch as Black people disproportionately fall into any of these categories, they will be at greater risk of being brought into the criminal justice system through proactive policing; and this seems to be borne out by the findings reported above about the socio-economic and demographic factors associated with higher arrest rates.

The published figures, however, do not systematically lend themselves to exploring the impact of proactive policing in general terms on different groups. Relevant data are confined almost exclusively to police searches of members of the public in public space which have long been a major source of tension between the police and ethnic minorities, as was highlighted in the Scarman report of 1981 and more recently the Macpherson Report of 1999.

However, it is important to stress that *searches are relatively unimportant as a route in to the criminal justice system* inasmuch as well under 10 per cent of all arrests for notifiable offences<sup>14</sup> are arrests resulting from s1 searches (see below). This is in part a reason why searches are such a source of tension; for police searches are a blunt instrument and the majority do not result in an arrest at all. An important corollary of

---

<sup>14</sup> The s95 publication only provides information on arrests for ‘notifiable’ offences; so the number of any other arrests is unknown.

this is that a very high proportion of searches are on law-abiding citizens going about their everyday business; so inasmuch as they fall unevenly on different sections of the population, law abiding members of those groups who are most likely to be searched will disproportionately be affected.

In view of their wider significance, the extent to which police searches have come to stand as a proxy measure for discrimination across the whole of the criminal justice system and the fact that (not least for these reasons) statistics are uniquely available for this form of proactive policing, the paper now sets out some of the available evidence on the two forms of public searches by the police<sup>15</sup> which have the most impact on Black people.

### *S1 searches*

The most commonly used search power is that provided by s1 of the 1984 Police and Criminal Evidence Act (PACE). This requires officers to have ‘reasonable grounds for suspicion’ that the person searched is carrying illegal or prohibited goods before they can search an individual. Bearing in mind the consideration above about the tensions arising from low arrest rates, it is worth pointing out that the arrest rate tends to fall as the number of s1 searches increases. Thus, in 2004-5 (the last year for which figures have been published), the total number of s1 searches rose by 14 per cent on the previous year to 839,977; but the proportion which resulted in an arrest (the arrest rate) dropped from 13 per cent to 11 per cent and this actually equates to a *fall* of 4 per cent in the number of arrests produced by searches.

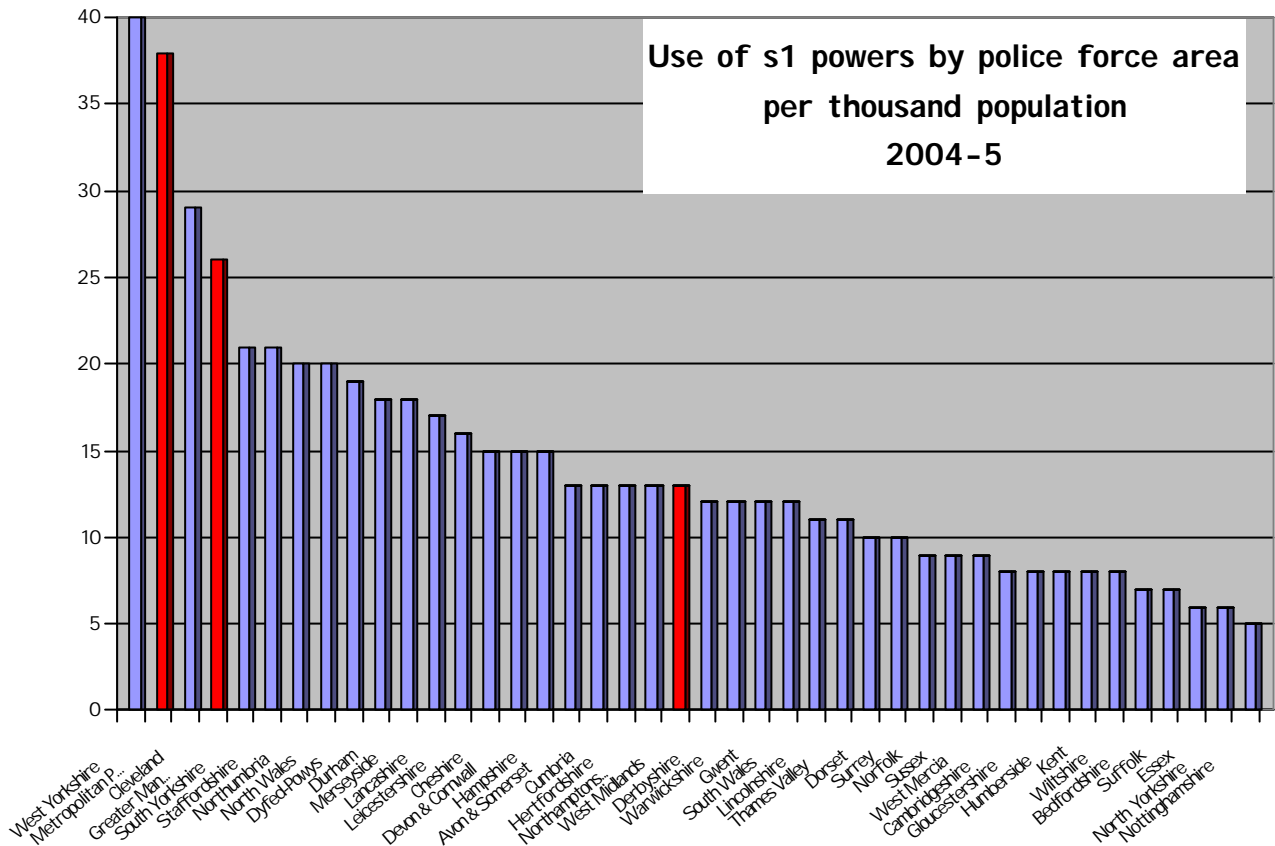
The use of the s1 power has always fallen disproportionately on Black people who accounted for just under 3 per cent of the population of England and Wales in 2001<sup>16</sup> and the disproportionality has progressively increased in recent years. In 2004-5 Black people accounted for 14 per cent of all searches in England and Wales, compared with 12 per cent in 2001-2 and 11 per cent in 1997-8. However, it is important to remember that the three large urban forces referred to already (i.e. the MPS, the West Midlands and Greater Manchester) will have a major impact on any supposed ‘national’ figures for Black people and to bear in mind that their impact will be intensified inasmuch as two of the forces in question (the MPS and Greater Manchester) are among the forces which make a much higher than average use of their s1 powers, regardless of ethnicity (see Figure 5).

---

<sup>15</sup> That is, we can say nothing about police searches of or within premises or in the context of custody.

<sup>16</sup> This is the figure given by the Home Office in the s95 publications for the population aged 10+.

Figure 5



Between them, these three forces accounted for more than 80 per cent of all s1 searches on Black people in 2004-5, compared to 30 per cent of searches on white people. So it is particularly important to look at the figures for these three forces separately rather than simply drawing conclusions from any supposedly ‘national’ average. As Table 8 shows, Black people have also accounted for an increasing proportion of *recorded*<sup>17</sup> s1 searches in each of these force areas in recent years; but their level of ‘over-representation’ compared to the population figures varies somewhat. In 2004-5, Black people accounted for four times the proportion of searches in Greater Manchester and the West Midlands as they did in the local population, whereas in London the figure was only three times higher. However, such is the impact of these three forces on the total figure for all forces combined that the supposed ‘national’ average appears to be nearly five times as high.

<sup>17</sup> Anecdotally, a surprising variety of sources have spontaneously raised with me recently that officers are still not consistently recording searches but are more than ever likely to do so in cases involving minorities and/or people they fear may complain. If this is true it would not only inflate the level of disproportionality but could in some measure account for the apparent increase in disproportionality since searches came under more intensive scrutiny during and after the Macpherson Inquiry.

Table 8  
**Black people as % all s1 searches**

	2001-2	2004-5	As % of population 2001*
Greater Manchester	7	8	2
MPS	34	36	12
West Midlands	18	19	5
England and Wales	12	14	3

\* These figures are taken from the s95 publication for 2001-2. They refer only to the population above the age of criminal responsibility (i.e. 10+.)

Arrest rates for Black people have always tended to be similar to those for white people following s1 searches; and this also holds within each of the three forces (see Table 9) – although it is worth noting that the arrest rate for all groups in Greater Manchester is much lower than average, which implies that the numbers of innocent members of the public who are subject to the power will in turn be higher than average and, for the reasons given earlier, this will disproportionately affect Black people.

Table 9  
 Arrest rates from s1 searches 2004-5  
 (i.e. % of searches resulting in an arrest)

	White	Black
Greater Manchester	8	8
MPS	10	11
West Midlands	10	11
England and Wales	11	11

Controversy persists over the relevance of comparing the search figures against those for the resident population. For one thing, the figures refer to incidents, not to people; and it is possible that the figures for different groups may be inflated either by a differential likelihood of the same individual being searched more than once or of people being searched in a group situation (i.e. where a single occasion may generate multiple searches). Also, force-wide figures are, in any case, extremely crude since crime is distributed very unevenly within each force area and one should expect that the use of search powers would correspond with this. That is, the powers will be used very much more in crime hotspots rather than in low crime areas. Some (possibly many) of these crime hotspots will be city and town centres rather than residential areas; so they may have high rates of search but relatively small resident populations and most of the people searched within them won't live locally.

Alternative methods are increasingly being used which compare searches instead with the population on the street in the places and at the times where most searches occur. This approach usually shows *no* disproportionality (and, in some cases) an *under-representation* of Black people. However, the simple fact of being in the places and at the times where most searches occur should not automatically provide reasonable grounds for suspicion that a person is carrying stolen, prohibited or illegal goods. As a *minimum* searches should be shown to correspond to suspect descriptions in the same

area, even though this criterion is itself crude. Even if the level of disproportionality could be shown to be justified in terms of proper policing considerations, though, insofar as searches inevitably affect law abiding people as well as legitimate suspects, this means that innocent Black people will disproportionately be searched by the police. And the more s1 searches rise, the more this will be the case.

Research studies have also shown that s1 searches tend disproportionately to affect young people; and young people of all ethnic origins complain about this, believing that they are routinely being harassed by the police simply because they are young and therefore tend to be on the streets in larger numbers than at any other time of their lives. Where these experiences are adversarial, it can have a very negative impact on their perceptions of the police. Again, if innocent young Black people are disproportionately being searched – even if (see above) the disproportionality can be explained objectively - this will disproportionately perpetuate negative perceptions of the service among this group in future generations. Inasmuch as minority groups are younger, on average, than whites this would *de facto* compound the risk of this occurring; but what the published figures do not show is the extent to which disproportionality in searches increases or diminishes, even when age is controlled for.

Research studies also highlight the fact that it is young *men* who are more likely to be searched than any other group. However, if females in any group were more (or less<sup>18</sup>) likely to be searched, this might distort inter-group comparisons based on the group as a whole. Again, official figures have *never* been published with a gender breakdown at the search and arrest stages; yet it seems likely that gender will be recorded on police systems at least as commonly as age.

### *s60 searches*

In 2004/5 s1 searches accounted for 92 per cent of all police searches in public places; but recent years have also seen a much greater increase in the use of police powers of search under s60 of the 1994 Criminal Justice and Public Order Act which allows officers to search *anyone* without needing ‘reasonable grounds for suspicion’, albeit subject to the constraint that the order can only be applied in a designated area ‘in anticipation of serious violence’ for a limited period on the authorisation of a senior officer. These constraints seem to have been interpreted with considerable flexibility in some areas; yet the use of the power has received far less attention than the increase in the use of police powers of search under s44 of the Prevention of Terrorism Act 2000 – even though s60 searches are more numerous.

Forces vary much more in their use of s60 than their use of s1, though. Some still do not use it at all but the West Midlands is by far the heaviest user with a total of 20,310 s60 searches in 2004-5, followed by Greater Manchester at less than half that number (9,058). The MPS, despite being much larger than either of the other two forces, recorded 3,479 s60 searches in the same year. Importantly, s60 has an even more disproportionate impact on Black people than s1 searches (see Figure 2); and the use of s60 adds more to Black people’s total experience of being searched, accounting

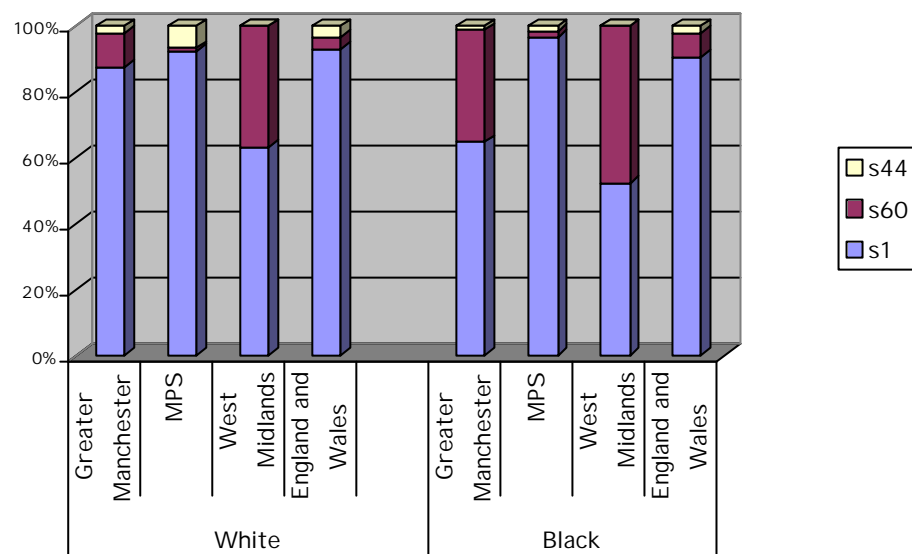
---

<sup>18</sup> It would not be surprising to find that ‘Asian’ females are very much less likely to be searched than black or white females; so restricting inter-ethnic comparisons to males only might raise questions about the long-held view that disproportionality in searches of Asians is minimal.

r nearly 8 per cent of all searches on Black people in 2004-5. compared to 3 per cent of searches on white people. Over half of all s60 searches on Black people took place in the West Midlands; and, despite, having a low to average use of s1, the West Midlands more than made up for this in its use of s60, especially with regard to Black people. Nearly half of all the searches Black people were subjected to in the West Midlands area in 2004-5(47.5 per cent) were s60 searches.

Figure 6  
(2004-5)

**Different types of search on white and black people,  
by selected force area**



One of the main concerns about s60 searches is that (because they are more indiscriminate) they inevitably also have a much lower arrest rate than s1 searches; so their potentially adverse impact on people who are searched but are innocent of any offence and generally law abiding is much greater. The s95 publication does *not* include a figure for the proportion of s60 searches on different ethnic groups which result in an arrest. However another, annual Home Office bulletin ('The Operation of Certain Powers under PACE') shows that in 2004-5, fewer than 3 per cent of all s60 searches resulted in an arrest - though this doesn't provide an ethnic breakdown.

Comparisons between this annual PACE bulletin and figures for the same item in the s95 publication for the same year, however, are often difficult since the totals given by each may vary. Thus, the PACE bulletin gives a total of 851,200 s1 searches in England and Wales in 2004/5; but the figure given in the s95 publication is 39,977.

## Arrests

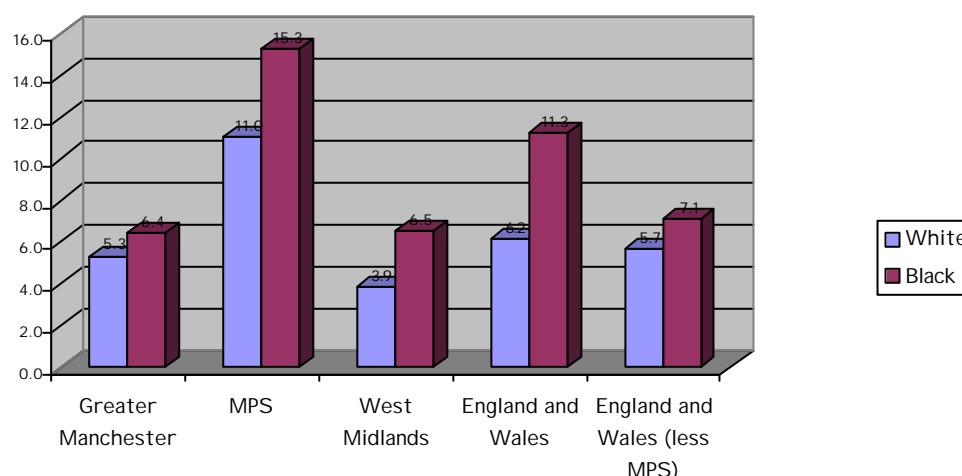
Arrest figures in the s95 publications are given for notifiable offences only (see above re. questions about the unknown number of arrests this total may omit); and a separate table within this section of the s95 report purports to show the proportion of *all* arrests for notifiable offences which are the result of s1 searches. Figure 7, which is based on these figures, shows that:

- a) overall, s1 searches contribute relatively little to the totality of arrests for notifiable offences; but
- b) the MPS is much more reliant on s1 searches as a source of arrests than other forces; and
- c) in all three selected urban force areas, Black people are *more* likely than whites to have been arrested as the result of a search; but
- d) the difference is much greater in London and the West Midlands than in Manchester (although, see above, Manchester appears to be more problematic in terms of the generally low rate of arrests from searches).

That is, s1 searches *are* more important as a route in to the criminal justice system for Black people, even when area is controlled for; but the contrast between the final two columns also further helps further to highlight the extent to which any notional 'national' average is distorted by the figures for London in ways which may artificially inflate perceptions of 'disproportionality'.

Figure 7

Proportion of all arrests for notifiable offences resulting from s1 searches 2004-5

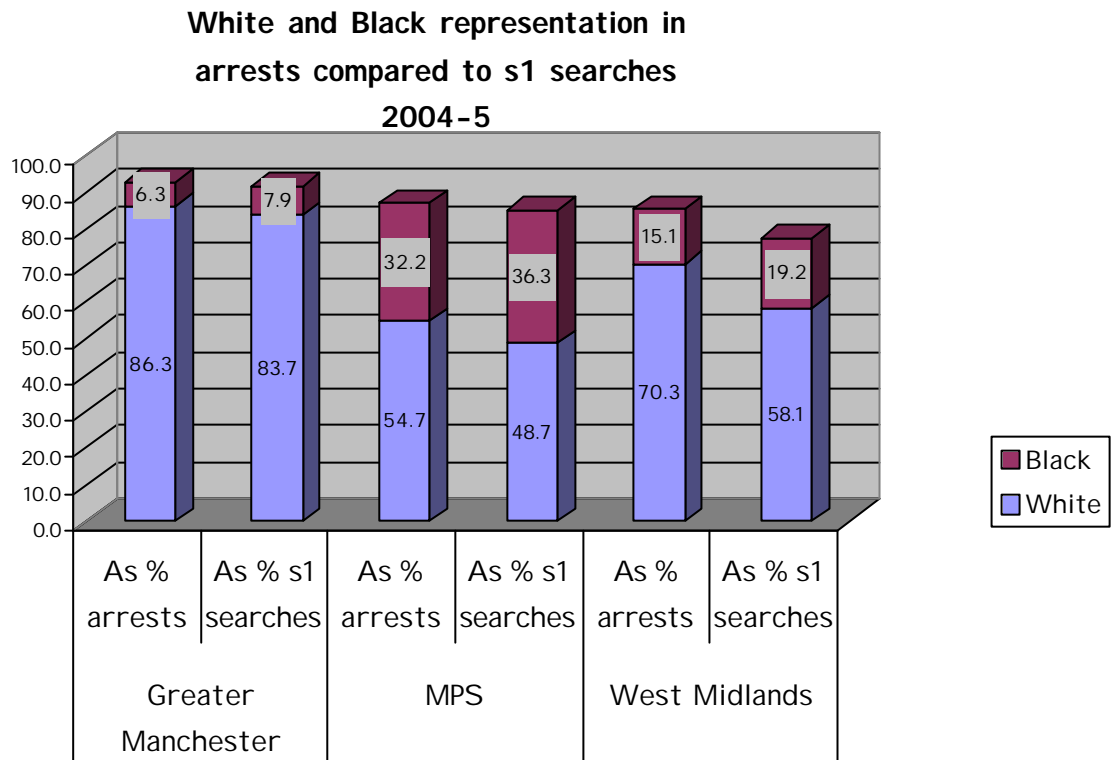


The analyses for this paper, however, have brought to light a possible anomaly in the figures being published. If we assume that the figure given for the proportion of all s1 searches which result in an arrest (Table 4.4 of the s95 publication) will include arrests for *any* offence, then it should be possible, by subtracting the figure in Table 5.3 (arrests from searches for *notifiable* offences), to work out what additional number of all s1 arrests are for non-notifiable offences. However, the 11 per cent of s1 searches shown in Table 4.4 which produce an arrest gives a figure for *all* arrests from

s1 searches of 93,369. Yet if the figure in Table 5.3 is to be believed, s1 searches actually yielded a larger number of arrests *for notifiable offences alone* (94,370<sup>19</sup>). This may seem like nit-picking; but it does raise questions about the reliability of the figures and the quality control exercised by the Home Office if this type of anomaly hasn't been picked up.

The published figures for *all* arrests for notifiable offences show rather less disproportionality than do the search figures, even within area (see Figure 8)<sup>20</sup>.

Figure 8



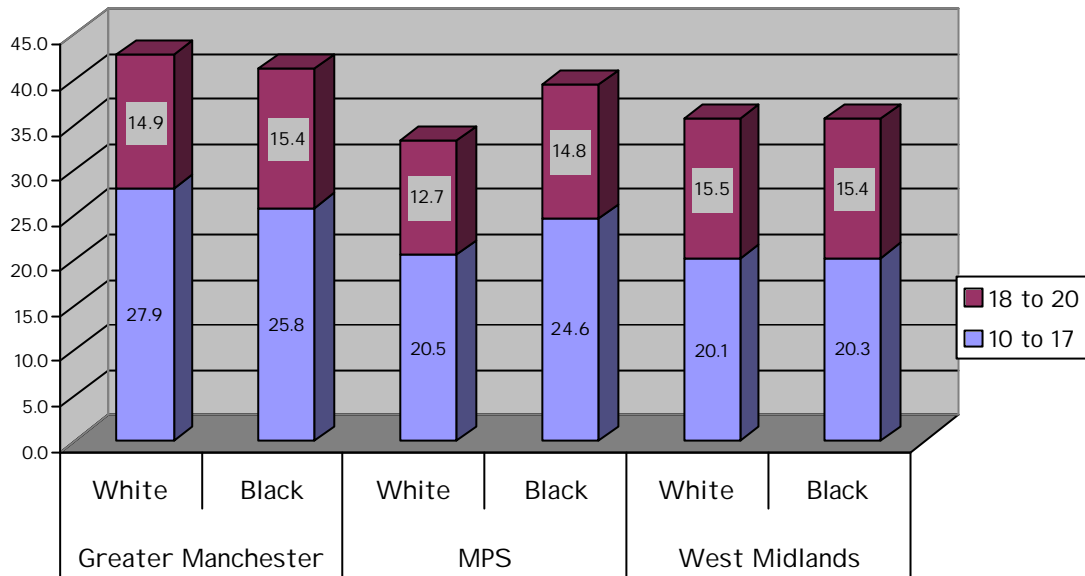
By contrast with the search figures, the arrest data do include a breakdown by age; and it is only in London that Black arrestees appear systematically to be entering the criminal justice system at younger ages than whites (see Figure 9). However, it is important to bear in mind that these are figures for notifiable offences only. As such, they may be limited in what they can tell us about *young people* entering the criminal justice system since in most cases the first offences young people commit are likely to be less serious offences and an unknown proportion of these will not show up in these totals (see above).

<sup>19</sup> That is, 7 per cent of the total of 1,349,427 arrests shown in Table 5.1

<sup>20</sup> If s1 arrests are taken out of the equation this reduces the disproportionality - but only very marginally. Once these are discounted the proportion of arrests accounted for by black people falls by less than one per cent on the figures given in Figure 4 for each force.

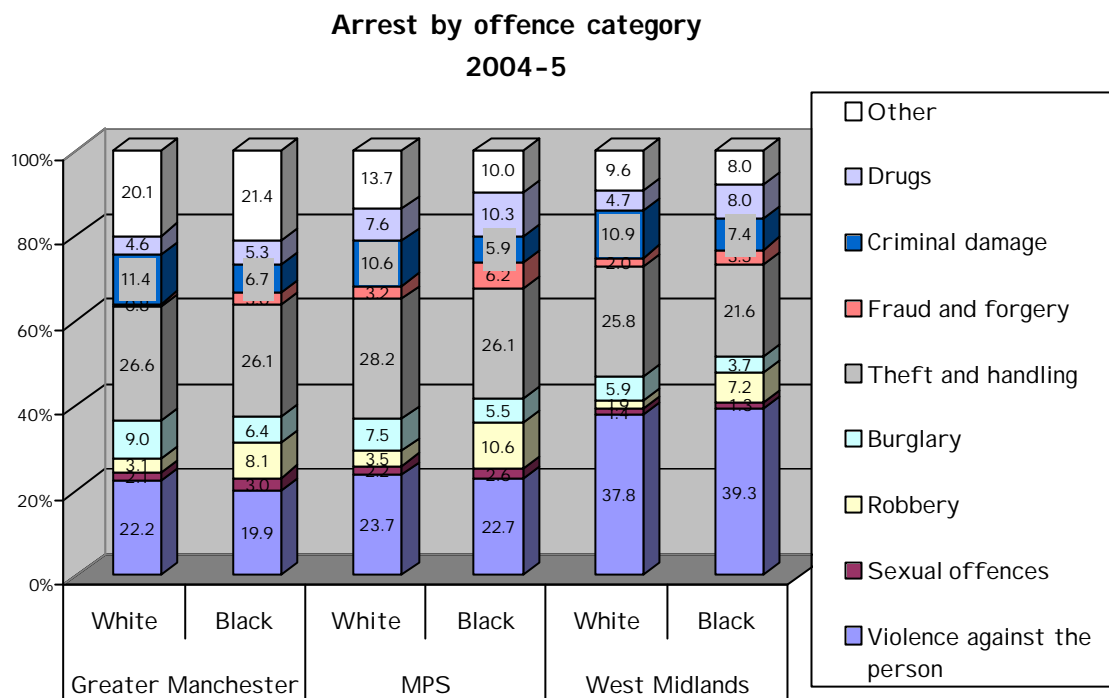
Figure 9

**Proportion of  
juveniles and young offenders among arrestees  
2004-5**



Figures are also given for arrests by notifiable offence type (Figure 10); and these show a fairly consistent pattern of ethnic differences across all three urban areas. There is some variation in overall patterns of crime within each; but when Black arrestees are compared with whites, there are some common patterns across all three forces. In particular, Black people are consistently more likely to have been arrested than whites for robbery and, to a lesser degree, fraud and forgery, whereas a smaller proportion had been arrested for burglary or for criminal damage. In both London and the West Midlands it is especially noticeable that a higher proportion had also been arrested for notifiable drugs offences.

Figure 10



*Reflections on the possible impact of policy changes on entry into the CJS*

The introduction to this section highlighted the possibility that changes in policies – including priorities determined by central government might indirectly but nonetheless significantly impact on the relative likelihood of different groups coming into the criminal justice system. The two charts below track trends in London arrests for two particular offence categories. The reasons for focussing solely on London at this point are that arrest data broken down by offence and ethnicity are not available back to 1999 for either Greater Manchester or the West Midlands and the numbers of Black people in the London figures compared to whites are also large enough to avoid having to plot the graphs on different axes.

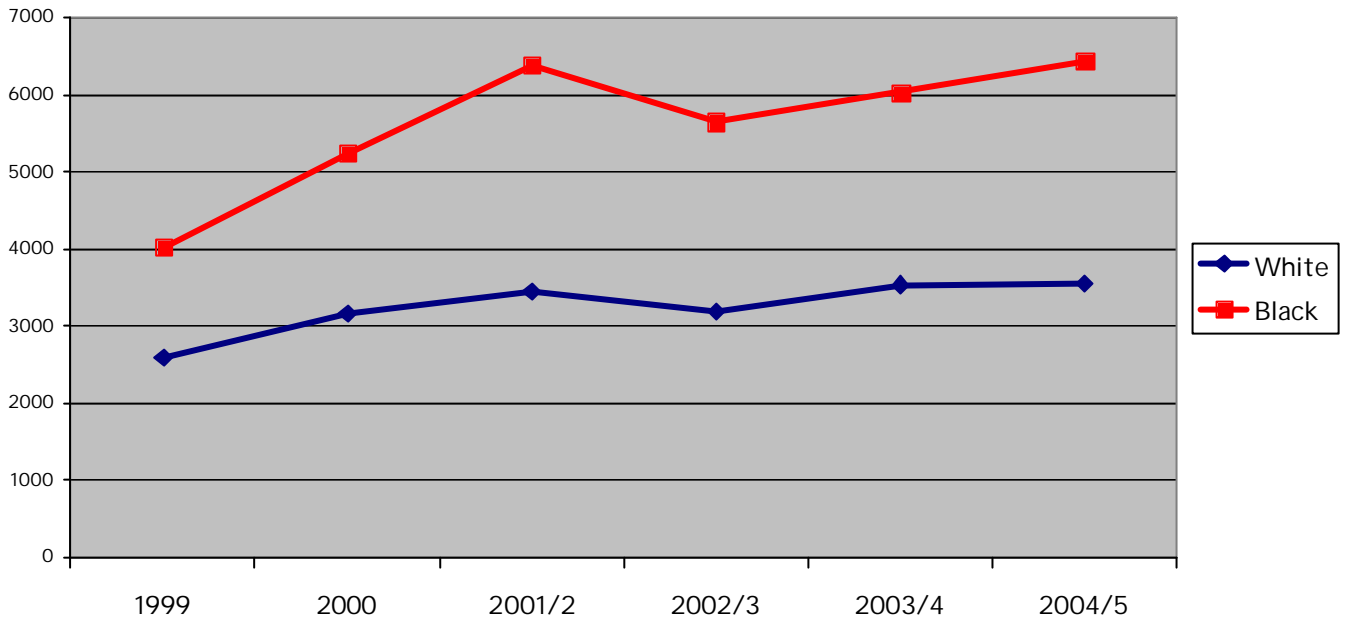
Figure 11 shows trends in arrests for robbery - an offence in which the available data have long shown Black people to be more than usually overrepresented (see also Figure 10 above). Robbery became a major priority for the police under the government’s Street Crime Initiative which was launched in March 2002. The steady rise in Black arrests for street crime from 1999 had fallen in the financial year 2001-2; but it picked up again at the point at which the Street Crime Initiative came into effect.

Overall, the numbers of Black people who came into the system as a result of arrests for robbery in London rose by 60 per cent between 1999 and 2004/5, compared with an increase of 37 per cent in the case of whites. It is difficult to know to what extent this increase was solely a reflection of Black people’s greater involvement in robbery – an offence which was certainly on the increase over this period - and to what extent this was further amplified by the extra attention they received as a result of the Street

Crime Initiative. However, the additional focus on robbery may have contributed to the fact that, whereas in 1999 Black people accounted for 25 per cent of arrests for all notifiable offences in London, the figure had risen to 32 per cent by 2004/5.

Figure 11

**Arrests for robbery MPS  
1999 to 2004/5**

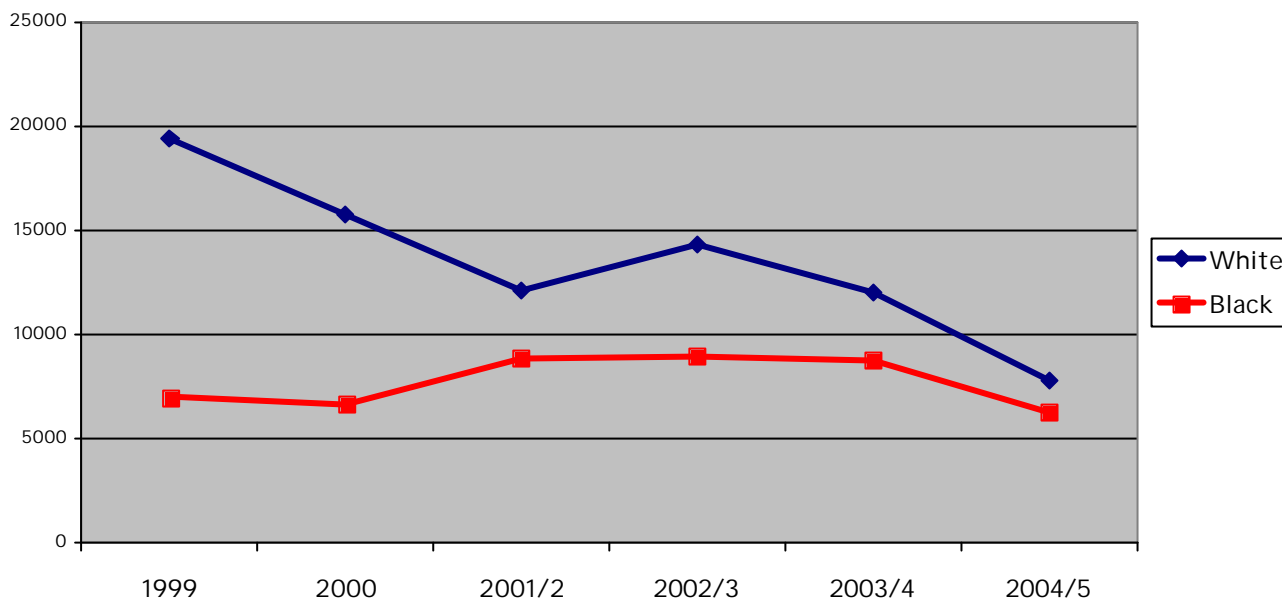


By contrast, drugs offences are largely discovered through proactive policing since these are ‘victimless’ crimes; so the police’s response is much less likely to be driven by reports to the police from members of the public than is the case for other offences. The number of arrests for drugs offences has fallen significantly in London over the same period, largely due to the change in approach to the policing of cannabis driven, in part, by central government but also by policing practice in relation to this<sup>21</sup>. As Figure 12 shows, though, Black people have not similarly benefited from the fall. In 1999 white people were nearly three times as likely as Black people to be arrested for drugs offences in London; but by 2004/5 the gap had narrowed to almost nothing.

<sup>21</sup> Possession of cannabis ceased to be an arrestable offence – but only in the case of people aged over 16. In practice, the police have always exercised a high (but almost certainly arbitrary) degree of discretion in this area.

Figure 12

**Arrests for drugs offences MPS  
1999 to 2004/5**



#### 4. POST – ARREST DECISIONS

##### Background

There has long been a significant gap in our knowledge about outcomes for different ethnic groups post-arrest and up to the point of admission to prisons or starting a Probation Order. The s95 requirement which took effect from 1996 included asking forces for information on cautions but *not* on the proportion of arrests which resulted in no further action (NFA) or the arrestee being charged with an offence despite the fact that, in principle, the police should have been in a position to provide this at that time<sup>22</sup>. Since then, however, three further developments have had implications for the type and availability of ethnic data at the critical point of decision-making immediately following arrest.

A caution (as opposed to a charge) in cases which result in further action post-arrest is only available in cases where individuals admit the offence for which they were arrested. Black people have always had lower rates of cautioning; but this has been shown to be explained by their lesser likelihood of admitting the offence (see FitzGerald 1993 for an overview). Since the s95 requirement was introduced, however, the cautioning regime has changed in two main ways. One is that eligibility for a caution has been restricted: repeat cautioning of the same offender is usually no

<sup>22</sup> It seems likely that this was because the s95 requirement was deliberately tied to information which forces were already required to supply to the Home Office. So systems were already in place for doing so and forces were only asked for an ethnic breakdown of data they already had to provide anyway.

longer an option; and cautions are in principle available only for young offenders and adults since juveniles are now covered by a different ‘warning’ regime (see below).

The second of the main changes since 1996 has been the introduction of the new youth justice system under the direction and management of the Youth Justice Board. The new system was established under the Crime and Disorder Act of 1998 and developments associated with this have included the introduction of a range of new interventions post-arrest for 10-17 year olds both at the pre-court stage and following a court appearance. Many of these do not have a direct equivalent for suspects and offenders aged 18 and over.

The third main change is that previously the police were responsible for deciding whether or not to charge the person arrested and they would then refer the case for prosecution to the Crown Prosecution Service (CPS). The CPS might then decide not to proceed (whether on public interest or evidential grounds) or to reduce the charges before putting the case before the court. However, the decision to charge has now been passed to the CPS.

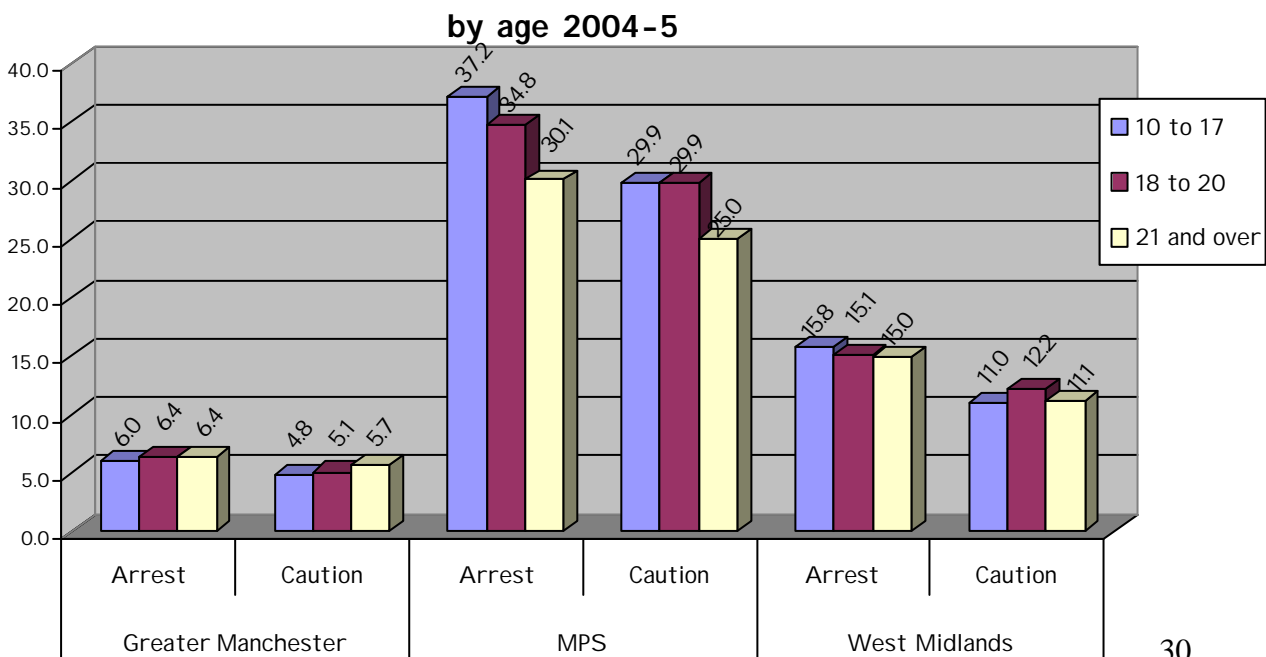
**Pre-court decisions**

The published figures provide no indication of the proportion of arrests which result in No Further Action (NFA), still less whether this varies by ethnic group.

As existing research studies would predict (see above), Figure 13 shows that Black people account for a smaller proportion of those cautioned by the police than their proportion in the arrest figures within each age group, not just on average but in all three urban police force areas.

Figure 13

**Black people  
as % of arrestees and of those cautioned by police  
(notifiable offences)**



The figures given for the proportion of 10-17 year olds cautioned seem somewhat confusing, though, in the light of the fact that cautions are now supposed *only* to be available for adults (including young adults). From June 2000 of a system of reprimands and warnings was introduced which was said by the Home Office to 'replace the system of cautioning for young offenders aged under 18'<sup>23</sup>. While the text of the s95 publication mentions that these are 'included' in the figure for cautions, there still appears to be some anomaly here. The s95 publication shows the total number of 10-17 year olds cautioned in 2004/5 as 101,202; yet the Youth Justice Board figures give a combined total of 85,370 for juveniles receiving reprimands or warnings.

The Youth Justice Board provides separate figures for these two forms of pre-court disposal, the distinctions between them being as follows:

- A reprimand is a verbal warning given by a police officer to a young person who admits a *minor* first offence.
- A final warning is also given verbally by a police officer to a young person who admits their guilt for a first or second offence. However, final warnings, as distinct from reprimands, involve assessing the young person to determine the causes of their offending and then (in most cases) result in their being directed to a programme of relevant activities.

The Youth Justice Board annual statistics include an ethnic breakdown; but this is limited by the relatively high proportion of cases in which ethnicity is not recorded. The scope for comparability with the police figures is further limited by at least two factors. One is uncertainty about the completeness of the arrest figures for 10-17 year olds as baseline data as long as the latter do not include non-notifiable offences. The other, as implied above, is the need for clarification about the relationship of the police caution figures to the figures provided by the YJB for 10-17 year olds disposed of by way of reprimands and warnings. In addition, unlike the police figures, the YJB figures also include a 'mixed' ethnic category<sup>24</sup>; and the offence types they list for young people subject to disposals are different from those used in the police arrest figures which are the basis of Figure 10 above. Unlike the police figures, the YJB statistics *do* routinely include a gender breakdown; but they do not show any gender breakdown *within* ethnic group.

As Figure 14 shows, Black young people are over-represented in the juvenile justice system relative to their presence in the population at large<sup>25</sup>. However, it is possible that if the 'Black' total is to be compared with the police figures, it should include many of the young people classified by the YOTs as being of 'mixed' origins; and these, by contrast, appear to be significantly under-represented in the system. (Indeed,

---

<sup>23</sup> See under 'cautions' in the Home Office RDS website.

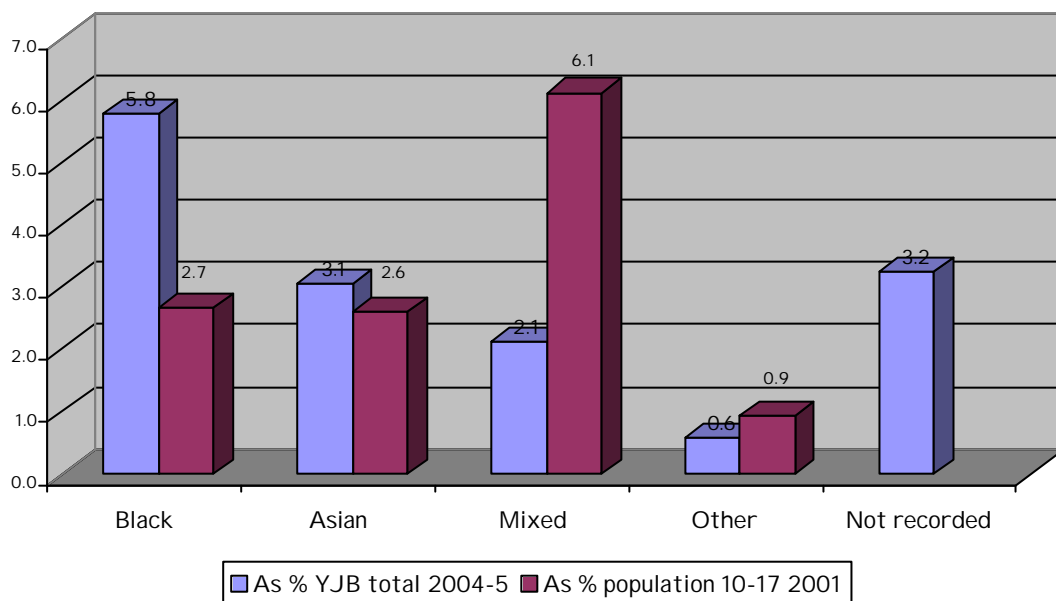
<sup>24</sup> There seems to be considerable variation by area with regard to which young people are classified as 'mixed' in returns to the YJB from the YOTs (Youth Offending Teams).

<sup>25</sup> I tried to update the 10-17 year old figure; but I could only have done so if the 2001 figures had been available for the 6-13 age range. However the published Census outputs use age breaks of 0-4, 5-7, 8-9, then 10-14.

if the Black and mixed totals are combined and the not recorded cases are distributed *pro rata*, Black over-representation in the juvenile justice statistics seems to disappear.) Given this and the fact that the 'mixed' group is actually smaller than the total for whom ethnic origin is not recorded, YJB data cited from this point on will mainly be limited to comparisons between Black and white young people or with the average for all groups.

Figure 14

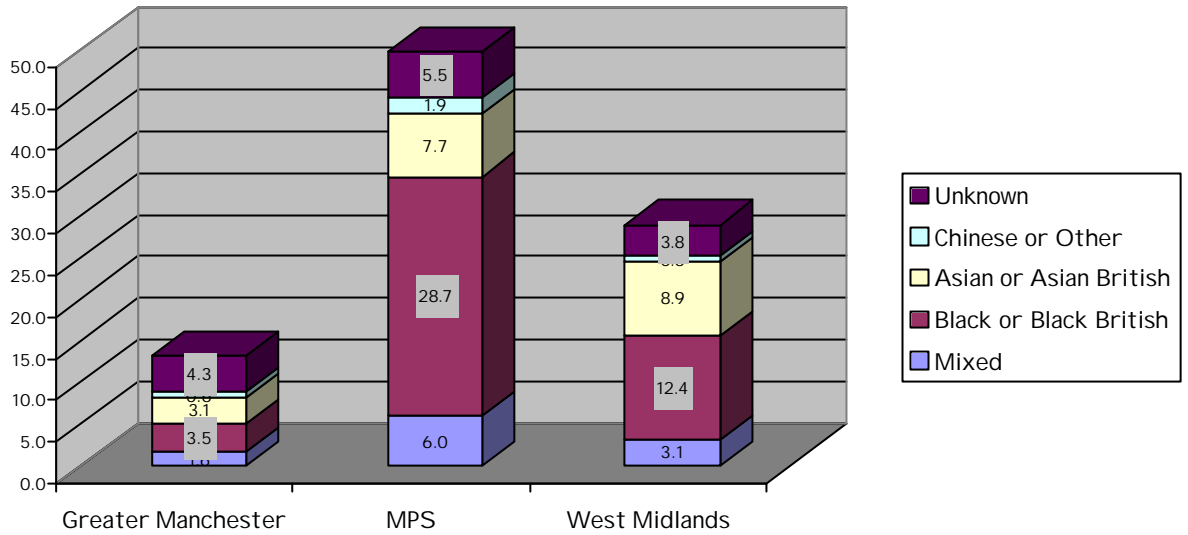
**Ethnic minorities dealt with by the youth justice system  
2004-5**



The YJB's published annual statistics do not include area breakdowns by ethnic group; but the s95 publication shows that Greater Manchester, the MPS and the West Midlands together account for nearly 70 per cent of all the Black young people in the YJB total for 2004-5 and for just over 40 per cent of the 'Mixed' group, compared with 15 per cent of all whites. It is not possible to compare the proportions in each area with the relevant age range in the local population since Census figures are not published at local level by age *and* ethnic origin. However, Figure 15 illustrates the problem posed for any meaningful local analysis of the data even in an area such as Greater Manchester where there is a relatively large Black and 'Mixed' population since both are outnumbered in the YOT total by young people whose ethnic origin was not recorded.

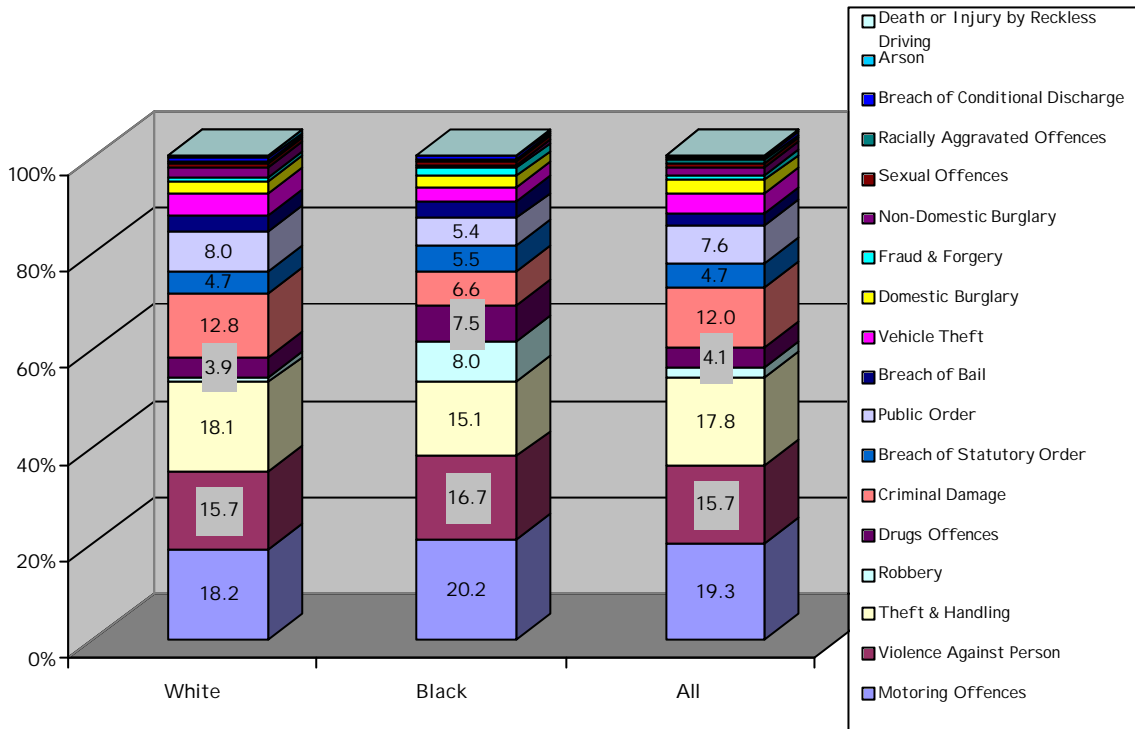
Figure 15

**Minorities (plus those with no ethnic origin recorded)  
as % all subject to disposal 2004-5  
by area**



There are some ethnic differences in the offences for which these young people were subject to disposals (see Figure 16). Again there is an over-representation of Black young people in robbery and drugs offences, whereas a higher proportion of white young people appear to have entered the system for anti-social behaviour offences such as public order and criminal damage. Important to note, however, is that the main offence categories are the same for all groups: theft and handling, violence and the person and motoring offences account for 52 per cent of the total for both Black *and* white young people. Also, although the consistent pattern of Black over-representation in robbery may be of interest, it also needs to be borne in mind that robberies account for under 10 per cent of the young Black people who have been caught for any offence and formally disposed of by the CJS.

Figure 16  
**Offences of 10-17 year olds subject to disposal in 2004-5**



A much smaller proportion of Black juveniles, however, are weeded out of the system at the pre-court stage where admission of guilt is a critical determining factor but where the decision will also be affected by whether the young person has previously appeared within the system and the seriousness of the offence they are charged with. This pattern in the national total (Figure 17a) is replicated in each of the three urban police force areas (see Figure 17b); and the Black-white disparity was greatest in London where pre-court disposals in general tend to be used less than in Greater Manchester or the West Midlands.

Figure 17a

Proportion of 10-17 year olds receiving disposals in 2004-5 dealt with pre-court

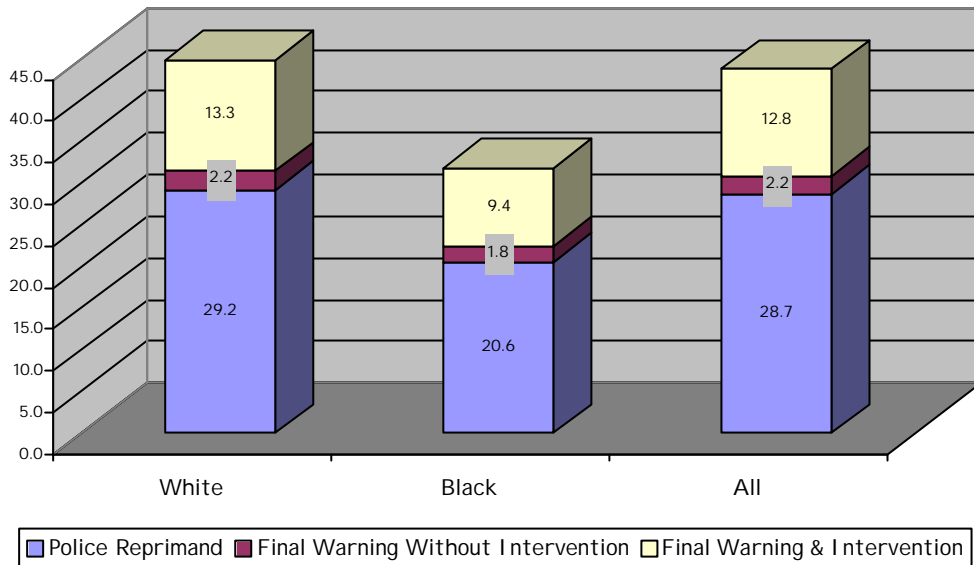
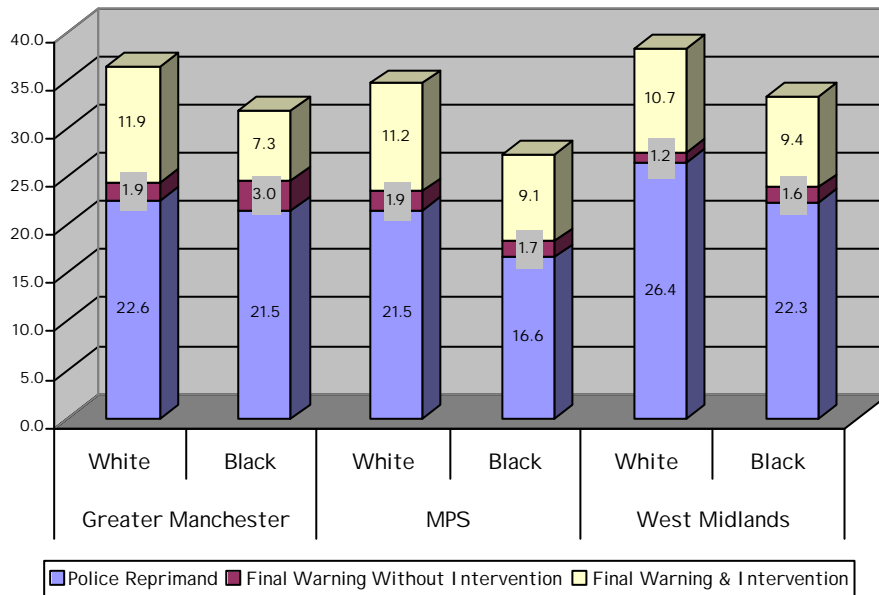


Figure 17b

Proportion receiving pre-court disposals by area



### The bail/remand decision

It is worth emphasising here again that *no* ethnic data are available for the proportion of people arrested where no further action is taken or who are charged with an offence (rather than being subject to a caution, reprimand or warning). Some figures *are* available though for the numbers who, once charged, are remanded in custody rather

than on bail pending their case being heard. These are available by ethnic origin for both juveniles and older people.

The reason this is important is two-fold. An unknown proportion of the suspects remanded in custody will eventually be acquitted of the offences they have been charged with; so it might be inferred that many of these have effectively been imprisoned even though they were innocent of the charges against them<sup>26</sup>. The other is that, where they are found guilty, the fact of having been remanded in custody in the first place increases the likelihood of their receiving a custodial sentence. If Black defendants are more likely to be remanded in custody, therefore, they will disproportionately experience both of these penalties.

In the absence of figures from the Crown Prosecution Service for the numbers of people of different ethnic origins who have been charged with an offence, *no* baseline data are available for adults (including 18-21 year olds) against which to measure whether Black people awaiting trial are disproportionately remanded in custody – still less whether these remands are related to previous offending, the seriousness of their offence or other legitimate considerations<sup>27</sup>.

The picture is somewhat clearer, though, in the case of juveniles since the Youth Justice Board data are more comprehensive. It is possible to work out the proportion of young people remanded in custody as a proportion of the total subject to pre-trial decisions aged 10-17 and also to compare this with the proportion of young people who were subsequently dealt with by the courts and received a custodial sentence (other than cases which resulted in an absolute discharge). As Figure 18a, shows, Black young people comprised a much higher than average proportion both of young people remanded in custody pre-trial and receiving custodial sentences. The proportion of white young people who were sentenced to custody was also higher than the proportion who had been remanded in custody; but, in relative terms, the disparity was slightly greater for Black young people. That is, white young people were about 1.4 times more likely to receive a custodial sentence than might have been expected from their rate of custodial remand, whereas in the case of Black young people, the figure was only 1.3.

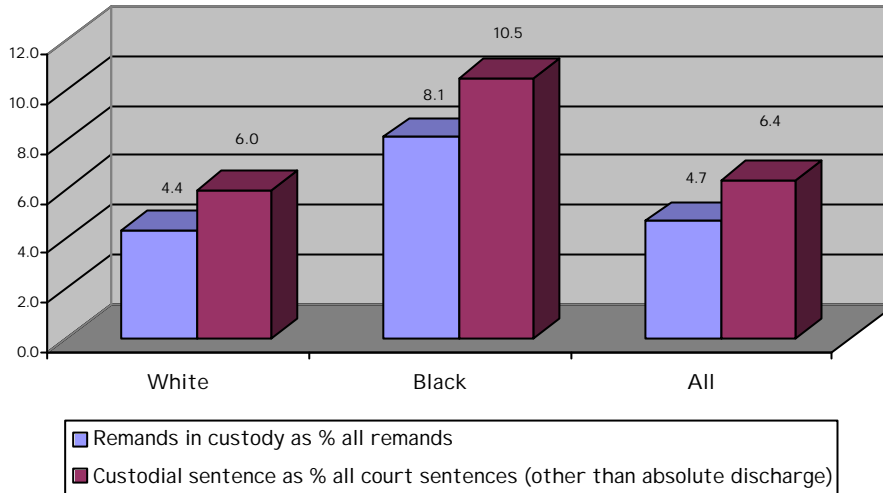
---

<sup>26</sup> In strict legal terms, however, it should be noted that an acquittal simply means that the case has not been proved rather than that the suspect has been proved to be innocent of the offence. Hence, in part, the higher rate of acquittals where defendant plead 'not guilty' since the onus is on the prosecution to provide evidence to the contrary and this may not be readily available (especially if key witnesses are unwilling to testify).

<sup>27</sup> However, the most definitive research study on this point shows that the over-representation of black people in remands in custody from the Crown Court in the West Midlands could not fully be accounted for in these ways (Hood 1992).

Figure 18a

**Proportion of 10-17 year olds  
remanded in custody compared with those receiving custodial sentences  
2004-5**



With regard to adults, it is possible to make some inferences *post hoc* from the prison statistics but these are very limited insofar as, by contrast with the data on young offenders, we lack

- a) any total figure for the remand decision and
- b) total figures for the numbers sentenced by the courts broken down by ethnic group (see also below).

So the only comparisons possible from the data now provided by the National Offender Management Service (NOMS) are between the proportion of all defendants remanded in custody who are Black and the proportion of offenders sentenced to custody after being found guilty by a court who are Black. The NOMS figures for receptions into prisons in 2004 show that Black British males in particular accounted for a higher proportion of those received *untried* than they did of prisoners entering the system following an immediate sentence to custody. The same pattern is replicated in the figures for the total prison population at June 2005<sup>28</sup> but here again the proportion is larger than the proportion of prison receptions (Figure 19a). The picture in the case of white British males (Figure 19b) is the opposite in all respects. That is, white men account for a higher proportion of prisoners received under sentence than on remand before trial; but the proportion of white prisoners in the total prison population is lower than the proportion in prison receptions.

The fact that Black British men comprise a relatively greater proportion of the imprisoned population than might be expected from the reception figures reflects the fact that they are serving longer sentences (see further below). That is, people received into prison in a given year will not only be counted in the prison population figures for that year but will be counted again in each subsequent year they are still in

<sup>28</sup> NOMS Table 8 gives figures for receptions for 2004 but for the prison population at June 2005.

prison. If the longer sentences served by Black male prisoners are related to their having been convicted of more serious offences, this could in principle explain why Black men also seem to be significantly more likely to be remanded in custody before trial. However, what is particularly striking about Figure 19a is that the proportion in the remand population is actually higher than the proportion *received* on remand, whereas the figures are reversed in the case of whites. This would tend to suggest that British Black men are also spending much *longer* in prison on remand – in some cases more than a year - whereas their white counterparts are being sent to trial much faster.

Figure 19a

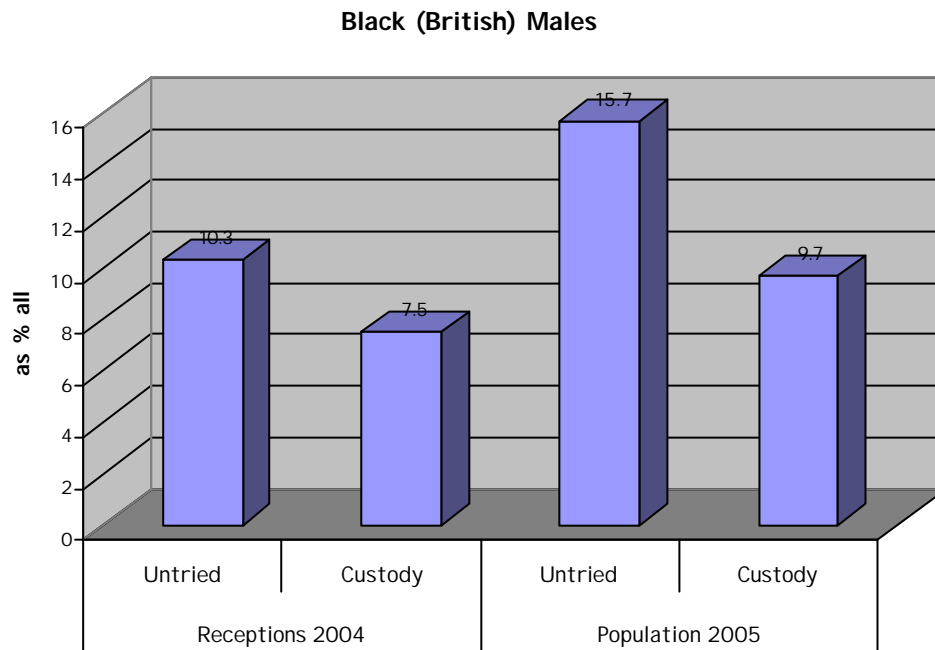
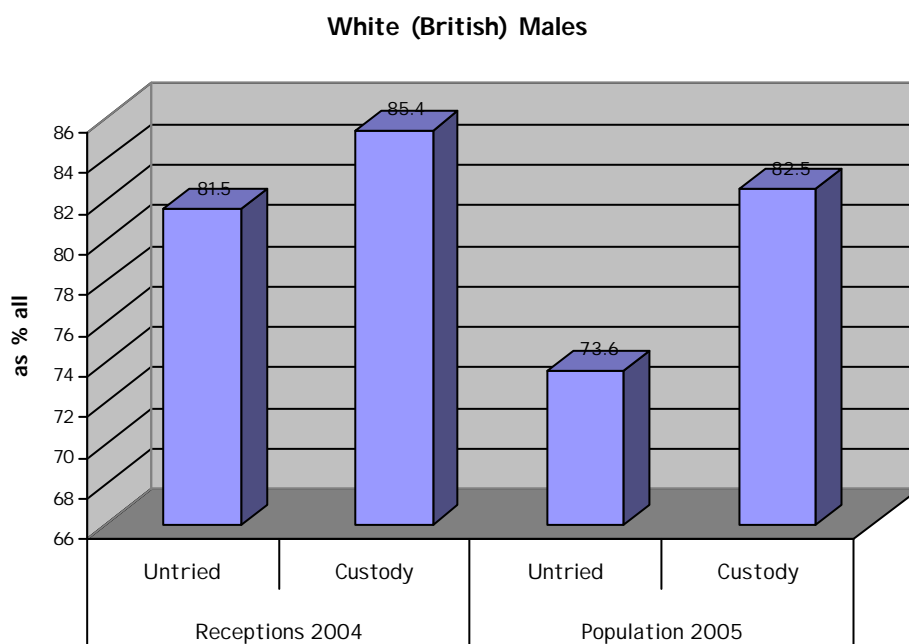


Figure 19b

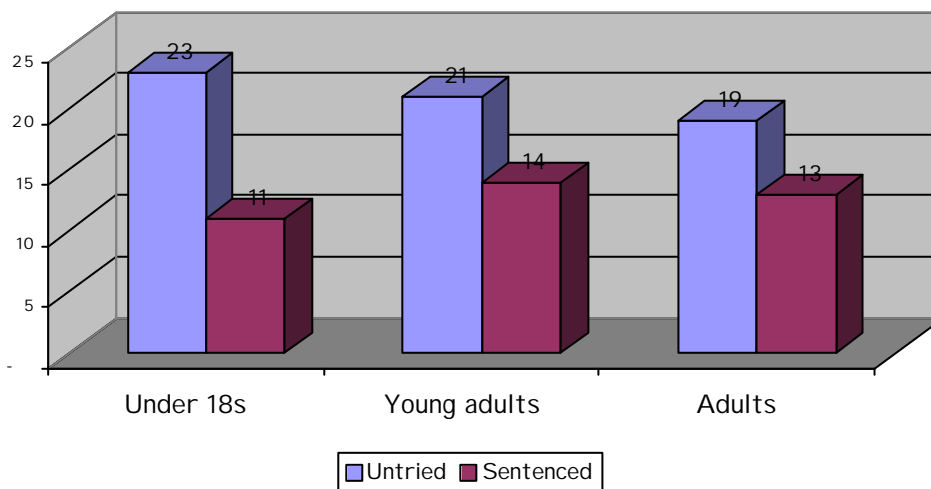


Confusingly, the s95 publication *does* provide figures for the untried remand population at June 2005 by ethnicity. However, this does not disaggregate the total by gender or (importantly) by whether these remand prisoners are British or foreign nationals. So the figures (Table 9.2 of the s95 statistics) inflate the picture of the extent of disproportionality compared to Figure 19a, indicating that Black people accounted for 20 per cent of all untried remand prisoners.

Finally, on this point, the NOMS publication includes a table (8.30) which provides an age and gender breakdown for the remand population by ethnic group, though this is not further disaggregated by nationality. Subject to this important limitation, it suggests that the picture in Figure 19a above *could* mask important differences by age. For, as Figure 20 shows, the disparity between the proportion of Black people in the untried remand population and the sentenced prison population is much larger for juveniles and young adults than for adult prisoners. Nonetheless, further caution is needed in drawing conclusions, not only because the figures also include foreign nationals but also because the total numbers in the younger age ranges are very small. Only 326 male<sup>29</sup> juveniles of any ethnic origin were remanded in custody pre-trial at June 2005; and, although the figure was higher for 18-21 year olds (1,048) the number of Black males within this was still only 224.

Figure 20

Black males  
as % untried and sentenced prisoners  
by age group  
June 2005



<sup>29</sup> The comparable figure for females was 11; and, given the much smaller numbers of women in prison at all ages, these have been excluded from the comparisons here.

## Court disposals

It remains almost impossible to ascertain the extent to which cases involving defendants of different ethnic origins

- are abandoned before a verdict is reached,
- result in an acquittal or
- the type of sentence they receive when a defendant is found guilty.

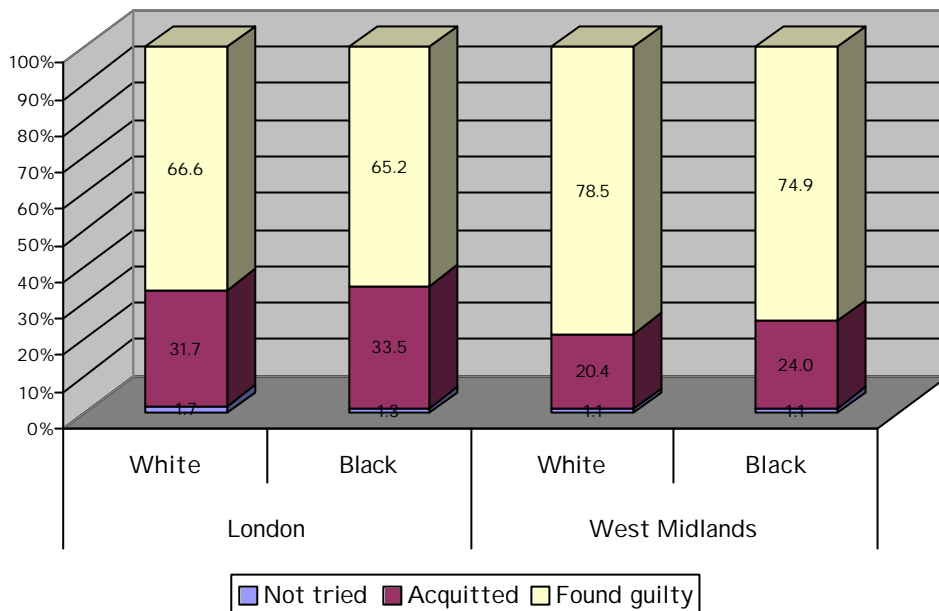
The exception is again, the youth justice system which is discussed further below. However, while some pilot work has been undertaken in both Magistrates' courts and the Crown Court, the findings are so limited as to be almost irrelevant for the Committee's purpose.

Magistrates' courts try around 95 per cent of all cases but the ethnic monitoring pilots reported in the s95 publication 2006 were conducted in only six court areas. These did not include any courts in the three urban police force areas highlighted throughout this paper. Data *are* provided for Nottinghamshire but in over a fifth of the cases tried, ethnicity was not recorded and the number was double the total figure for all minorities added together. In all other areas the numbers of defendants of 'unknown' ethnicity was also larger than the number of Black defendants.

Fuller information is available from the Crown Court; but this too is limited by the high proportion of cases in which ethnic origin is not recorded. The s95 publication gives figures for England and Wales in 2004 showing that defendants with no recorded ethnic origin accounted for 22 per cent of the total. The table does not show separate figures for Greater Manchester; but it does include outcomes from Crown Court Cases in London and the West Midlands where the 'not recorded' figures were somewhat lower than average but still stood at 13 and 15 per cent respectively. Black defendants accounted for 31 per cent and 15 per cent respectively of all cases tried at Crown Court centres in these areas in 2004 (or 36 per cent and 17 per cent, if the 'not recorded' cases are taken out of the equation). As Figure 21 shows, juries in the West Midlands were much less likely to acquit defendants than in London; but in both cases Black defendants were slightly more likely to be acquitted.

Figure 21

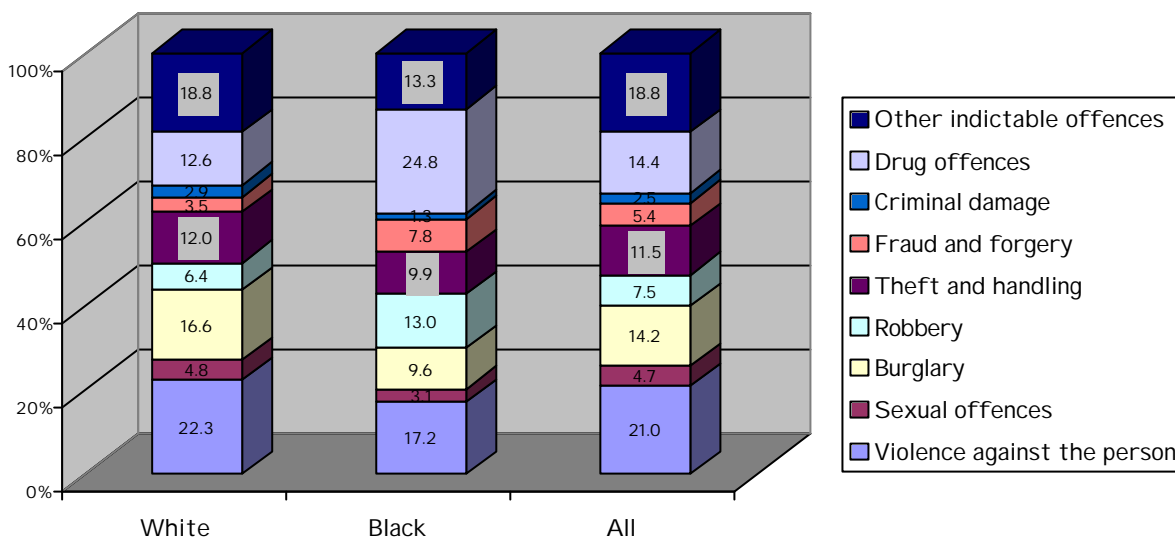
**Outcomes for Black and White defendants  
in two Crown Court areas, 2004**



For those who were found guilty at the Crown Court, the s95 publication appears to show slightly different patterns of offending by white and Black offenders which tend also to reflect the previous findings in the context of arrests and of youth offending. Unfortunately, the s95 publication does not provide any figures by area here; and, although it breaks down the totals by offence category, the fact that there is no information on the ethnic origins of offenders in just over a fifth of these cases severely limits the scope for drawing any reliable inferences from them about ethnic differences. As Figure 22 shows, Black offenders were more likely than whites to be sentenced for drugs offences and for robbery at the Crown Court but were less likely to have been found guilty of burglary or general violence against the person.

Figure 22

**White and Black offenders sentenced at the Crown Court  
by offence type  
2004**



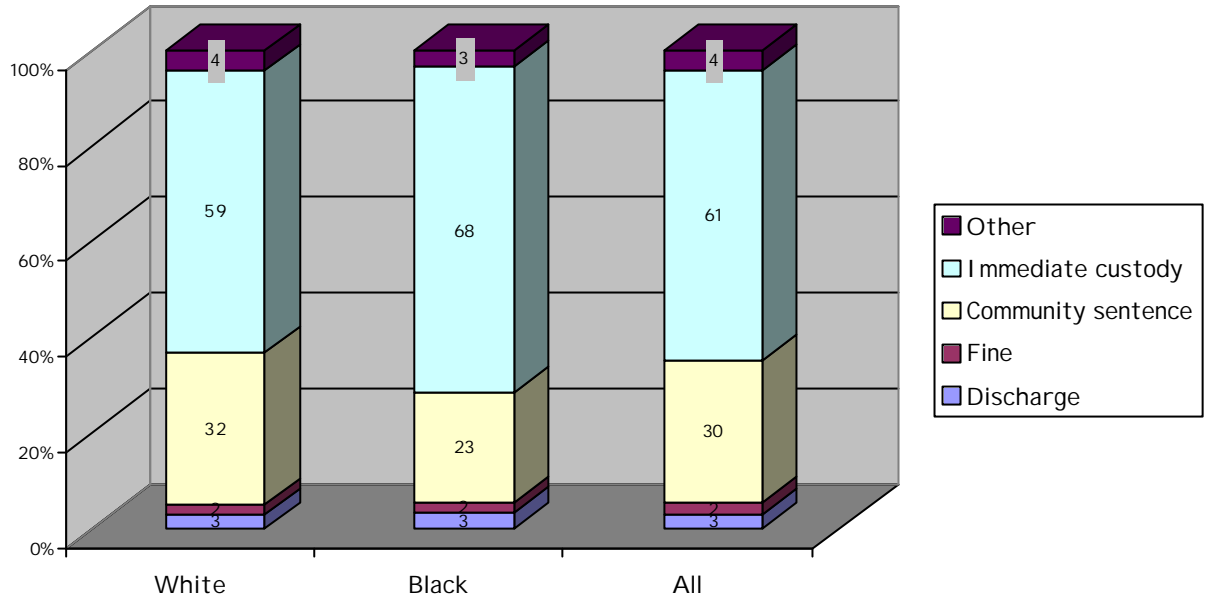
It should, however, be borne in mind that the Crown Court is the main source of the prison population and that Black prisoners comprise a high proportion of foreign nationals convicted of drugs offences, especially among female prisoners. That is, even without the problem of missing ethnic data, the pattern in these Crown Court figures may be skewed by the inclusion of foreign nationals and, in any case, they should, as a minimum be disaggregated by gender.

The higher acquittal rates shown above may to some degree reflect the higher likelihood of Black defendants pleading 'not guilty' which has commonly been found in research studies (see FitzGerald 1993). However, where defendants plead not guilty but are *not* acquitted, any custodial sentence they receive is likely to be longer; and this tends to be the case even within the same offence categories (see Table 2.18 of the Home Office's annual sentencing statistics publication). It is true for female as well as male defendants, although overall female defendants are very much less likely than males to be sentenced to custody. So the impact of plea on sentencing also needs to be borne in mind when interpreting the pattern of sentencing for those found guilty as shown below. Table 23a shows that, for all indictable offences, the proportion sentenced to immediate custody was higher for Black offenders.

Table 23a

White and black defendants found guilty at the Crown Court 2004

**Sentences for all (indictable) offences**



However there was some variation within this by offence category. As Tables 23b and 23c respectively illustrate, Black people were slightly *less* likely than average to be sentenced to custody for robbery offences but much more likely in the case of drugs offences.

Table 23b

White and black defendants found guilty at the Crown Court 2004

**Sentences for Robbery**

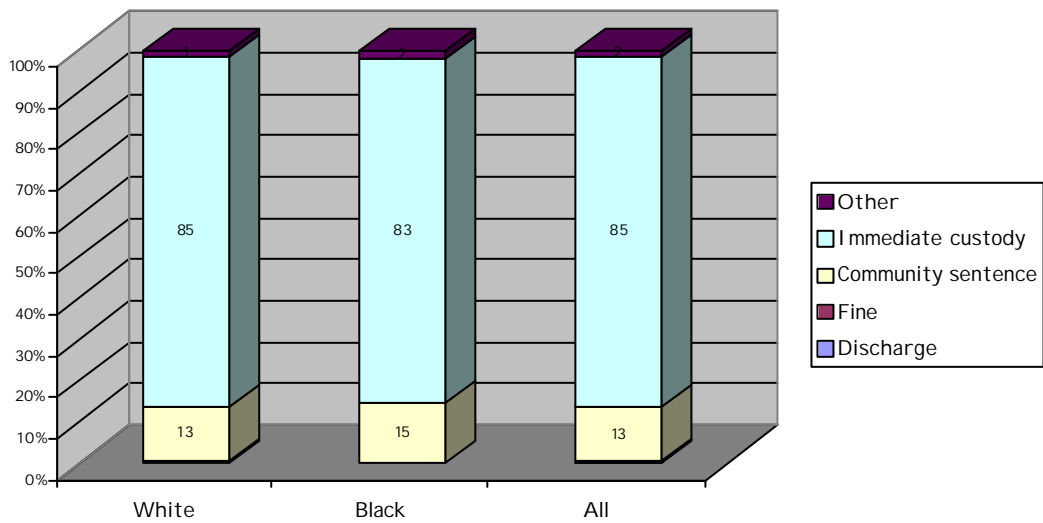
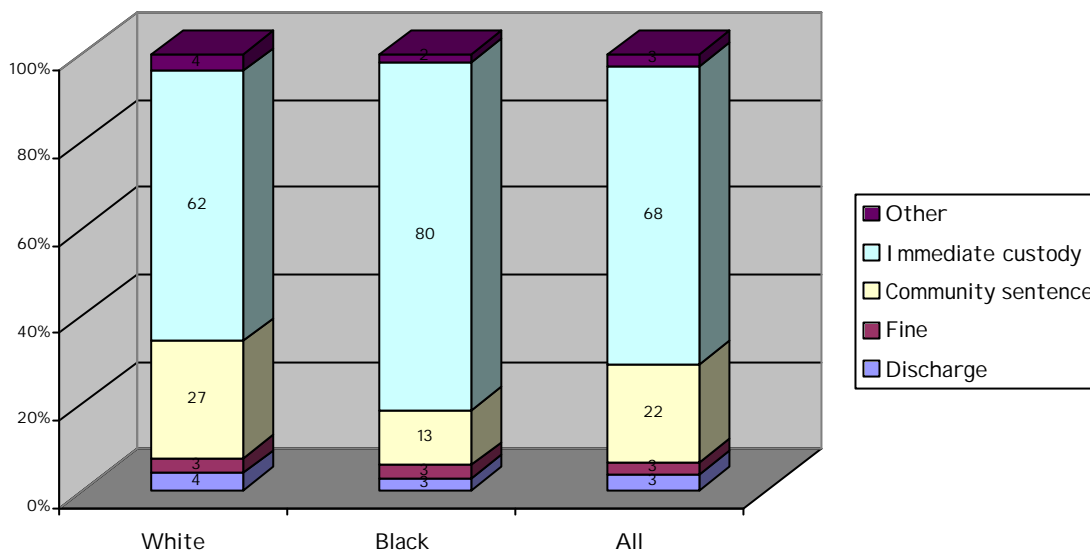


Table 23c

White and black defendants found guilty at the Crown Court 2004

**Sentences for Drugs Offences**



As the definitive study of custodial sentencing in the Crown Court by Roger Hood showed (Hood 1992) to discover the reasons for these variations in sentencing and identify any possibility of discrimination would require, as a minimum

- disaggregation by gender and age
- details of the offence charged and seriousness within the offence category
- circumstances of the offence (whether committed with co-offenders, vulnerability of victim, use of weapons etc)
- plea
- offending history and
- whether the offender was sentenced from custody.

A further variable may be the Crown Court centre at which the sentence was passed<sup>30</sup>.

For cases involving 10-17 year olds, it must again be stressed that an unknown but possibly quite significant minority of these will be summary, non-notifiable offences. It is probably no coincidence that motoring offences feature so prominently in the pattern of offences in cases within the juvenile system shown in Figure 16 when this category does not appear at all in the notifiable offences sentenced at the Crown Court. The annual sentencing statistics publication does not include any ethnic breakdown but it does give a breakdown of the 80 per cent of cases tried by the courts which are neither indictable-only (1 per cent) nor triable either way (19 per cent). Of

<sup>30</sup> The 1992 Hood study found overall differences remained in the proportion of different groups sentenced to custody once a wide range of relevant variables had been taken into account. However, this average figure masked further important differences between Crown Court centres. In the centre which provided the largest group of cases, no differences were found whereas the unexplained disparities were actually much higher than average in others.

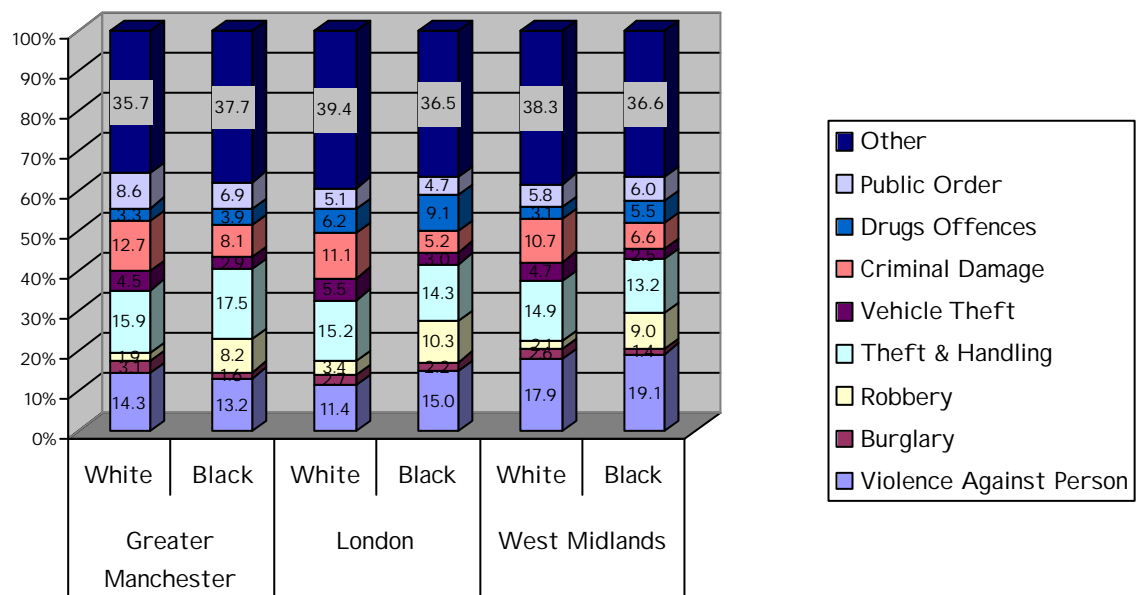
these, 34 per cent are summary non-motoring cases but nearly half (46 per cent) are summary motoring offences. Not least in view of their implications for monitoring young people at the point of entry to the criminal justice system, it seems important to ascertain which of these summary offences are not counted in the recorded crime figures because they are not notifiable.

The apparent ethnic difference in offence patterns shown in Figure 16, however, vary somewhat by area, though the details given in the s95 statistics conflate the more refined list of categories shown in the YJB statistics and thereby produce an ‘other’ category which accounts for over a third of all offences committed by 10-17 year olds of any ethnic origin. Here again, what happens in the three main urban police force areas highlighted throughout this paper has a very much more significant impact on Black young people in the juvenile justice system since they account for 67 per cent of all Black young people dealt with by the YOTs in 2004/5, compared to 17 per cent of white young people<sup>31</sup>.

For the individual offence categories shown in Figure 24a, the pattern of Black over-representation in robbery is still evident in all three areas while white young people are consistently more likely to be dealt with for offences of criminal damage. However, the national average figures mask the fact that in London and the West Midlands Black young people are actually *more* likely than whites to be accused of violence offences and in Manchester they are even more likely than white young people to be dealt with for public order offences. These differences are more apparent if the large ‘other’ category is taken out of the equation (see Figure 24b)

Figure 24a

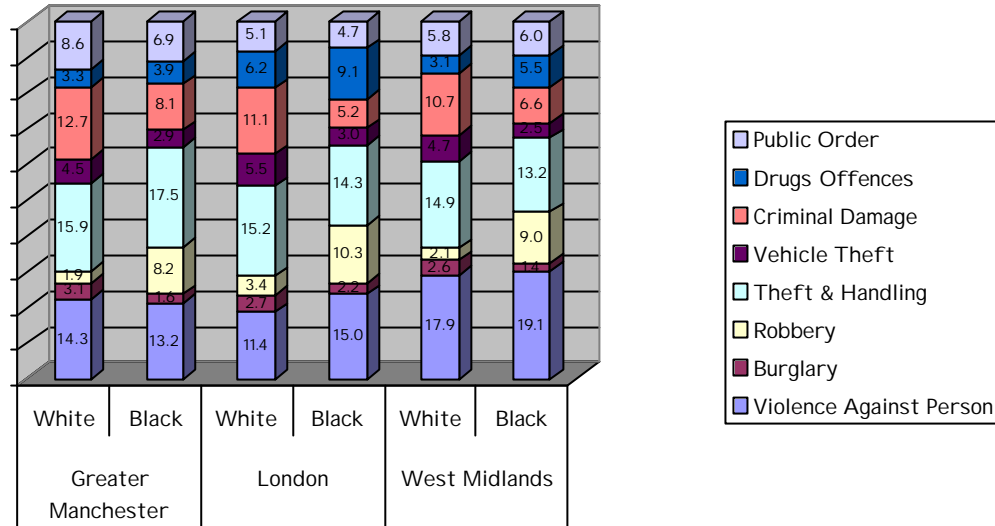
10-17 year olds dealt with in the juvenile justice system 2004-5  
by offence type and area



<sup>31</sup> The ‘Mixed’ group is more dispersed, although these three areas still account for 40 per cent of the total.

Figure 24b

10-17 year olds dealt with in the juvenile justice system 2004-5  
by offence type and area (less 'Other' offences)



With regard to disposals, it has already been noted that Black young people are less likely to have received pre-court disposals (and this was true also of young people of 'mixed' heritage); so they account for a disproportionate number of cases in each of the subsequent disposal categories. The paper now considers each level of disposal in turn; but a summary of Black juveniles' representation at all levels of the juvenile justice system is included in the final section of this paper at Figure 33.

Juveniles who have not been dealt pre-court now have available one further, intermediate, post-court intervention which is designed to keep them out of the formal justice system. A referral order is usually given at a first court appearance (except in cases so serious as to merit a custodial sentence *or* so minor as to merit only a fine or an absolute discharge), although eligibility again depends also on whether the young person admits the offence. In these circumstances the young person is referred to a 'youth offending panel' who agree with them the terms of a contract with which they will comply for between three and six months, after which their conviction is spent and, importantly, the order does *not* have to be disclosed when applying for work.

The referral order accounts for the largest proportion of all 'first tier' disposals; and the national picture suggests that a slightly higher than average proportion of Black young people at this stage in the system benefit from this (Figure 25a). As with the offence categories, the figures for selected local areas which are available only in the s95 publication collapse some of disposal categories used in the full YJB report into a miscellaneous 'other' category. However, for the first tier disposals shown in Figure 25b, Black young people appearing before the courts do appear at least as likely as whites in the same area to receive this lowest level of sentence, including the referral order.

Figure 25a  
**Proportion of all 10-17 year olds in the juvenile justice system 2004-5 receiving**  
**First tier disposals**

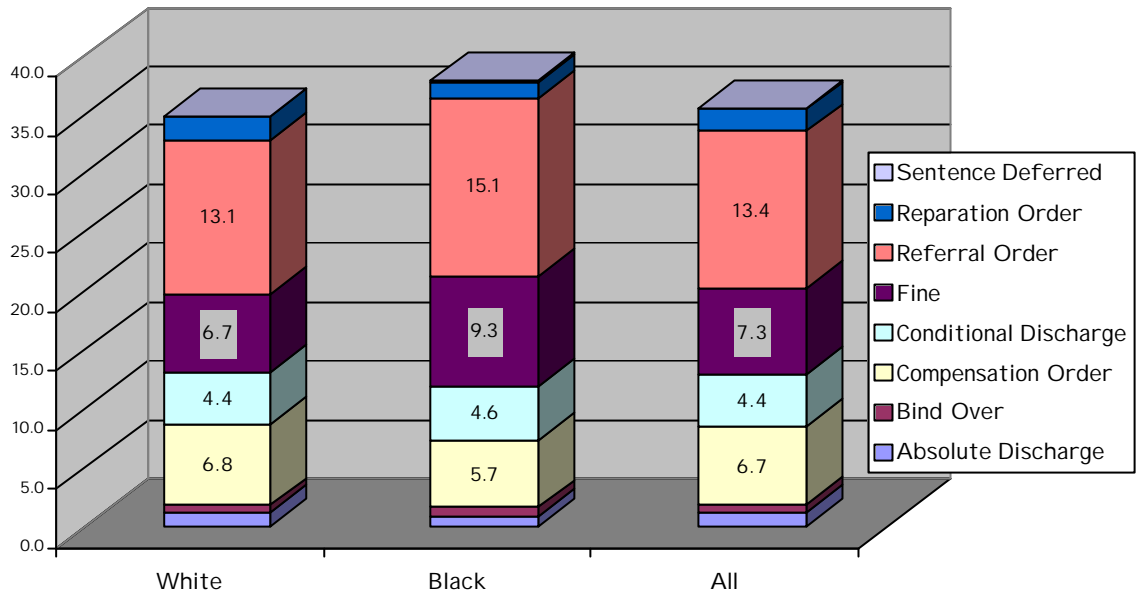
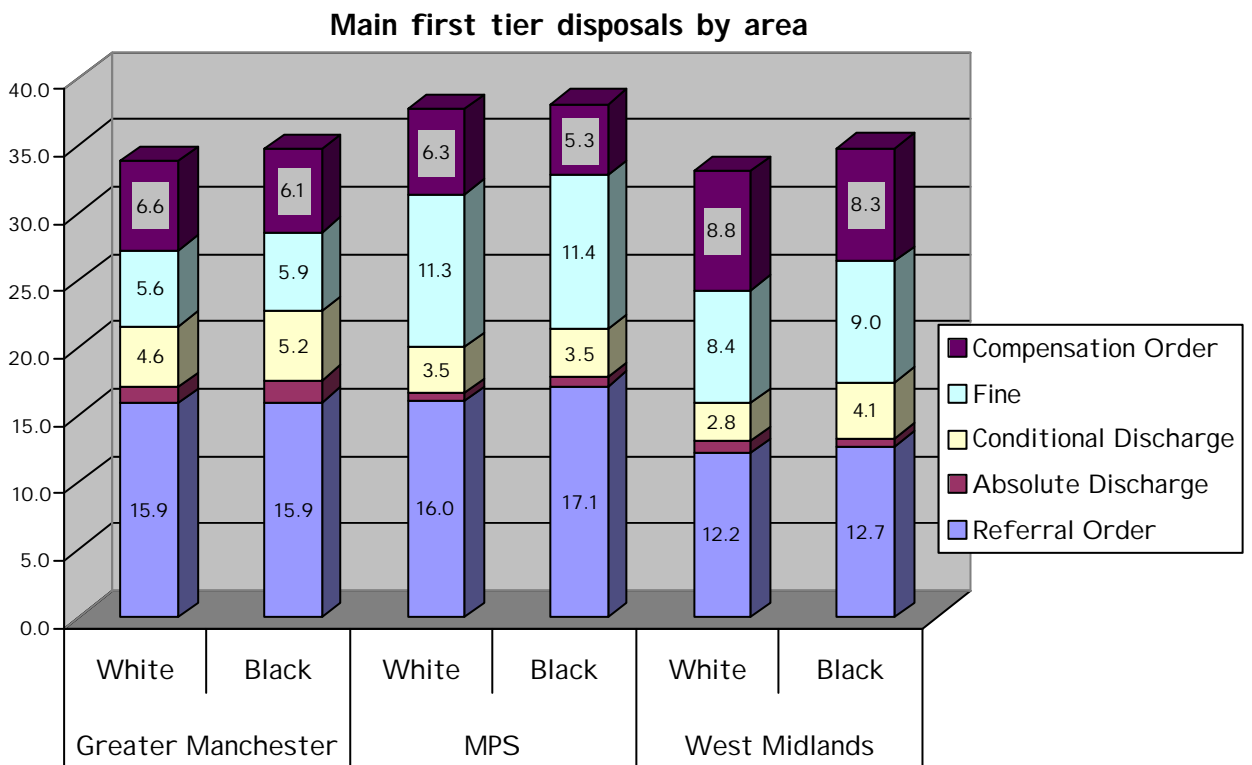


Figure 25b  
**10-17 year olds**



At the next level of sentencing, Black young people were also more likely than whites to receive community sentences (26a). This pattern was replicated across all three individual areas, although Figure 26b provides a further example of the extent to which the figures in the s95 publication are simplified since it reduces community penalties to two categories.

Figure 26a

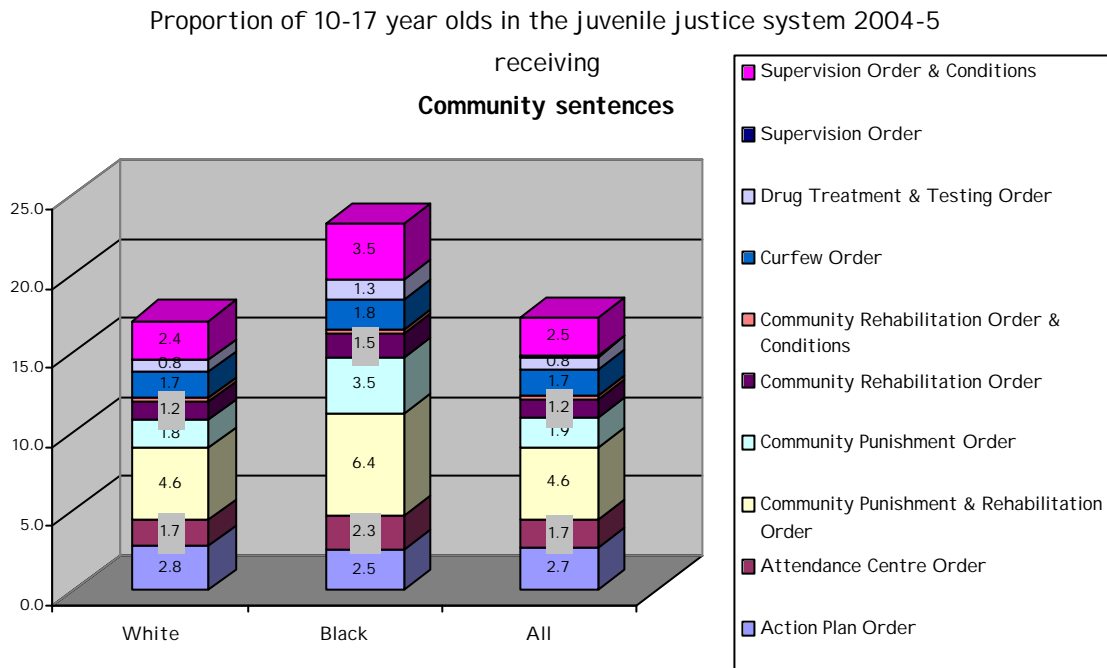
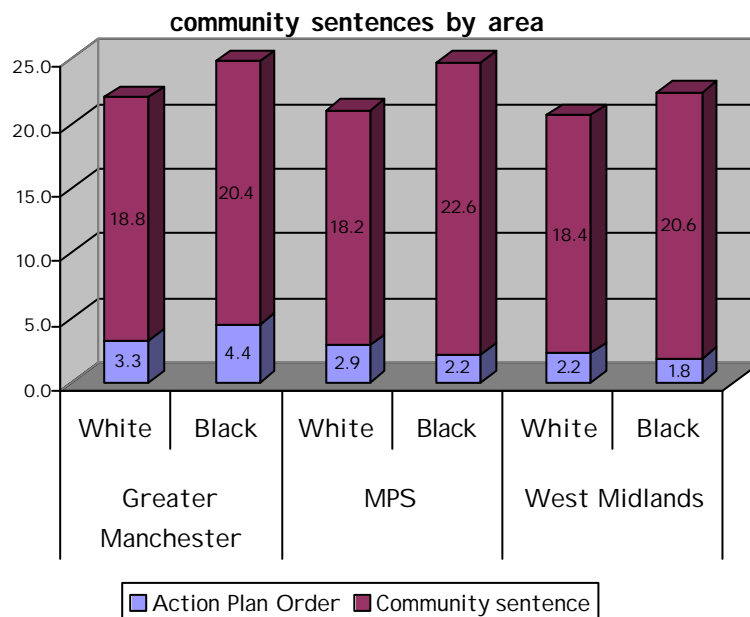


Figure 26b

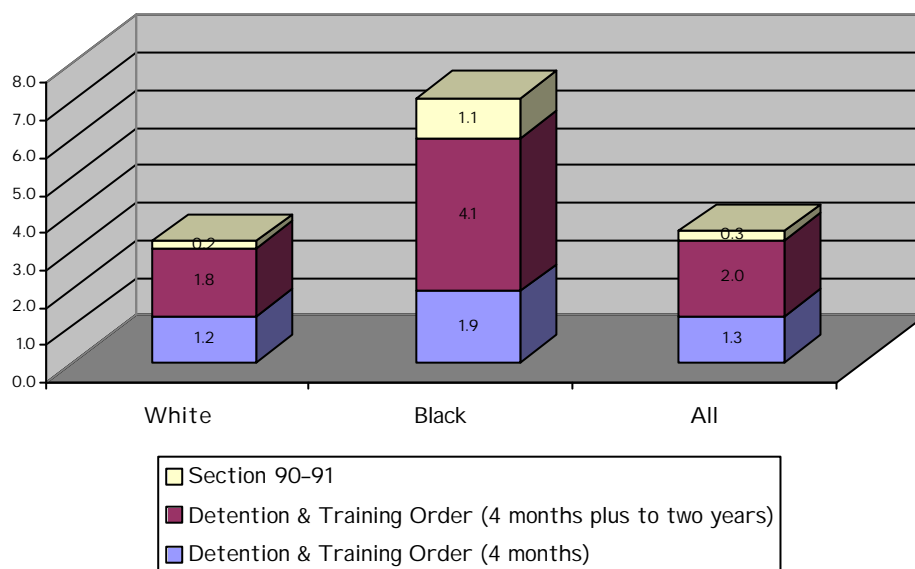
Proportion of 10-17 year olds in the juvenile justice system 2004-5 receiving



Only a very small proportion of young people appearing before the courts are sentenced to custody - overall less than 4 per cent of all of the cases in the system, rising to just over 6 per cent of all cases which are dealt with by the courts (other than those discharged). However, the proportion of Black young people within this is markedly higher than the proportion of white young people. Of those in the system whose cases come to court, it seems that over 10 per cent of Black young people who are not discharged at this stage will go to custody. Also, as Figure 27a shows, Black young people sentenced to custody receive longer and more severe sentences than their white counterparts.

Figure 27a

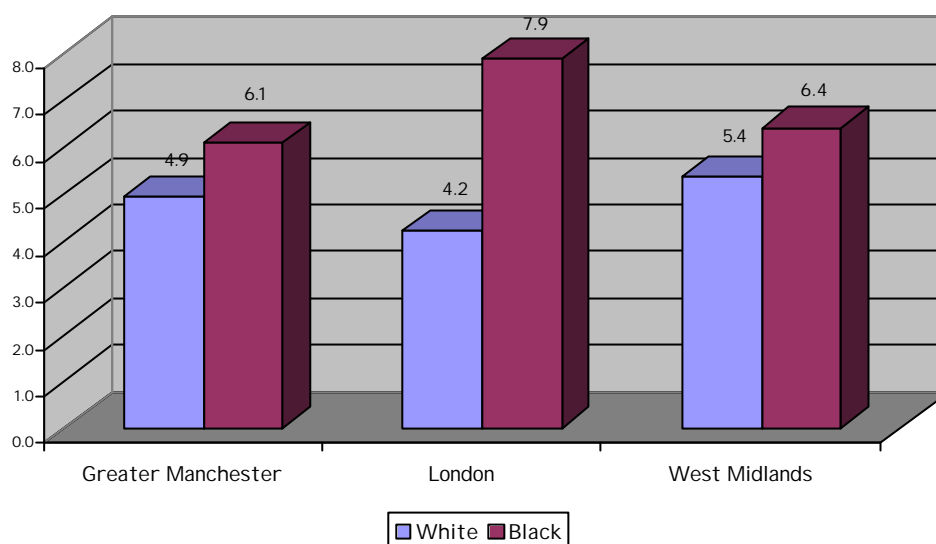
10-17 year olds in the juvenile justice system 2004-5 receiving custodial sentences



The area-level figures published in the s95 statistics again simplify this picture, obscuring the greater length and severity of the custodial sentences imposed on Black young people by reducing all of the categories shown in Figure 25a to a single 'custody' figure. However, Figure 25b highlights the fact that, while Black young people are more likely than whites to receive custodial sentences in all three main areas, the disparity is very much more pronounced in London. This will have a considerable impact on the scale of 'disproportionality' in the national figure since just under eight per cent of all white young people sentenced to custody in 2004-5 came from London but the capital accounted for 57 per cent of Black young people sentenced to custody in the same year.

Figure 27b

Proportion of 10-17 year olds in the juvenile justice system 2004-5 receiving  
**custodial sentences by area**



## 5. INFORMATION ON THE SENTENCED POPULATION

Before the advent of the National Offender Management Service (NOMS), detailed information on those sentenced to custody or given various forms of probation order had been available broken down by ethnic group in annual statistics which were published respectively by the Prisons and Probation Services<sup>32</sup>. However, the Probation Service statistics were usually limited by the very high proportion of cases where ethnic origin was not recorded and this was especially true in the London Probation Service area and the West Midlands. A large amount of this detail has now been lost in the NOMS publication, although prisons data still remain by far the most detailed of any ethnic statistics in the criminal justice system.

### Probation

The NOMS spreadsheets available from the RDS website provide figures by ethnic group for those starting court order supervision by the Probation Service on different types of community sentence with a break down by gender, though no further breakdown is provided by age. However, these figures are limited to the period October to December 2004; and the table does not provide raw numbers so it would be impossible to work out, for example, what proportion of all Black men starting supervision received what type of community sentence or to compare the numbers starting probation with the numbers being sent to custody during the same period.

This NOMS table showing different ethnic groups by type of Probation order is *not* replicated in the s95 publication. However, two tables are included in *both* the NOMS

<sup>32</sup> The separate annual Probation reports also used to include, for example information on recommendations in Social Inquiry Reports prior to sentencing.

spreadsheets and the s95 publications which give a breakdown by area. One shows the proportion different ethnic groups comprise of those starting supervision under a court order (of any type) in each Probation area and the other shows the proportion starting pre- or post-release supervision by the Probation Service. No gender or age breakdowns are given for either. Again the figures relate only to the last quarter of 2004 and again the base numbers are not included (so it is not possible to work out, for example, what proportion of all probation supervisees are accounted for by Greater London, Greater Manchester and the West Midlands, still less to make comparisons within this by ethnic group). There is, however, one important difference between the tables in the two publications. The NOMS publication includes a column showing the proportion of cases in which ethnicity was not recorded but this is omitted in the s95 publication.

For those starting supervision, the proportion of cases where probation staff had not recorded ethnicity was 3 per cent in Greater Manchester, but 7 per cent in London and 9 per cent in the West Midlands. Yet the figures are presented in the s95 publication (Table 8.1) as though they are based on 100 per cent of all cases. With regard to pre- and post sentence supervision by the probation service (which has been the main focus of recent media and political concern) the proportion of cases in which ethnicity was not recorded rose to 7 per cent in Greater Manchester but the figures in London and the West Midlands were 14 per cent and 12 per cent respectively. It may be for this reason that neither the NOMS tables nor the s95 publication give any ethnic information on prisoners and ex-prisoners supervised by the Probation Service in these areas, despite the fact that we might assume these areas account for a large proportion (and possibly the majority) of Black people under this type of supervision.

## **Prisons**

The Prison Service statistics in the NOMS tables contain more detail than the s95 publication. However, the s95 statistics do include a breakdown of the prison population at June 2005 based on the 16 point classification used in the 2001 Census with a further breakdown within this by gender and by nationality (i.e. British/foreign national). This confirms that prisoners of Black Caribbean and white heritage account for the majority of both male and female prisoners in the newly created 'Mixed' category, especially among prisoners who are British nationals where they make up over 60 per cent of male prisoners in the 'Mixed' category and over 70 per cent of females. So it may be safe to assume:

- a) that the 'Mixed' group in other criminal justice statistics is predominantly of Black Caribbean and white heritage; and
- b) that before the 'Mixed' group was created most people in it would have been counted into the 'Black' total.

Figure 28a and b show that the Black Caribbean group is also the predominant group within the generic 'Black' category for both male and female prisoners but that the proportion of foreign prisoners varies considerably within each of the 'Black' subcategories. Across the board, foreign prisoners account for a much higher proportion of Black female prisoners compared with males. In both cases, though, the majority of Black African prisoners are foreign nationals; but, while foreign nationals

accounted for just under a third of male prisoners of Caribbean origin, they made up nearly half of the equivalent female group.

Figure 28a

Composition of  
**Black male prison population**  
June 2005

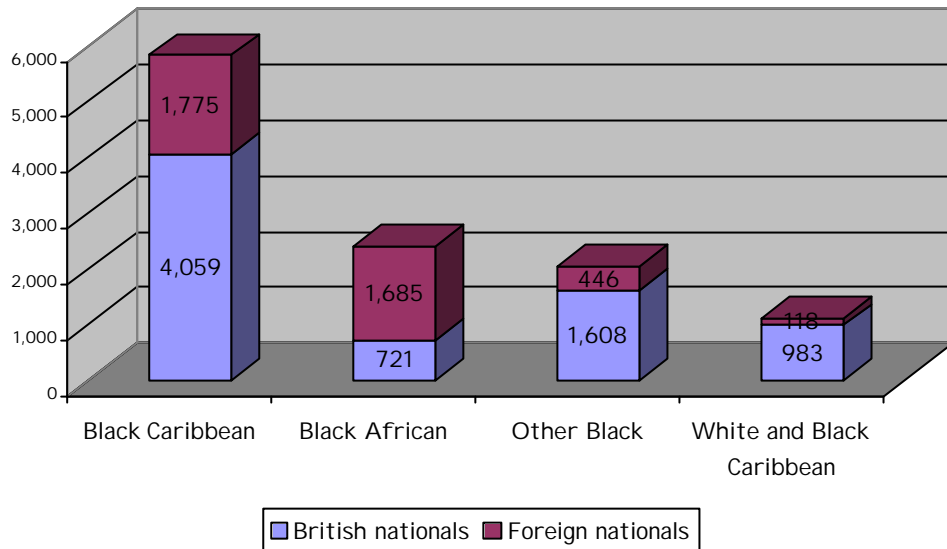
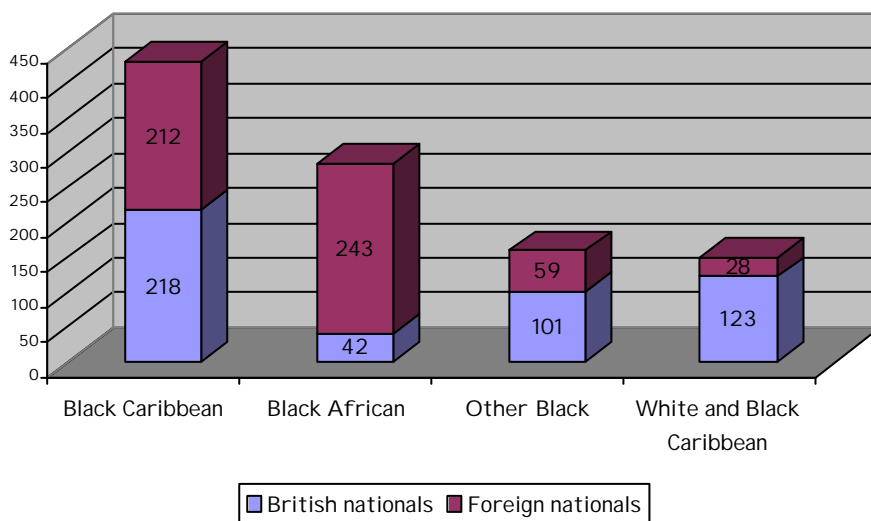


Figure 28b

Composition of  
**Black female prison population**  
June 2005



The s95 publication additionally includes a more refined age breakdown than the NOMS figures of the sentenced prison population at Table 9.2, although this is not disaggregated either by gender or nationality. It suggests (Figure 28c) that the proportion of Black prisoners is actually lower than average in the youngest age group but that the opposite is true in the case of sentenced prisoners of 'Mixed' origins. It seems highly likely that the increase in the proportion of 'Black' prisoners in the older age groups reflects the greater presence of Black foreign prisoners in the adult population, whereas prisoners in the 'Mixed' group contain relatively few foreign prisoners at any age (see Figure 26a). The 'Mixed' prison population, that is, is largely drawn from a very young group of British national which shares many of the characteristics of the Black Caribbean group in terms of disadvantage (see Written Evidence 18). It is just starting to enter the criminal justice system in increasing numbers and is likely to do so for the future.

Figure 28c

Black and 'Mixed' prisoners  
as % all sentenced prisoners in different age groups  
June 2005

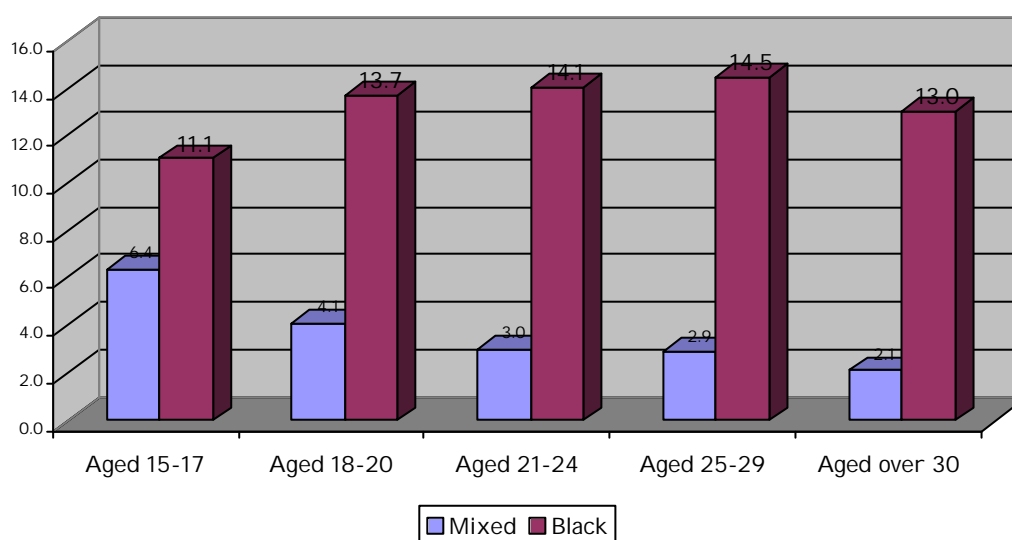


Table 9.3 of the s95 publication also provides information on the court area from which sentenced prisoners were received in the year ending March 2005. Again, courts in Greater Manchester, Greater London and the West Midlands together accounted for nearly 70 per cent of all Black prisoners compared to 24 per cent of all whites and just under 50 per cent of the 'Mixed' group. London, though, predominates within this picture: 55.6 per cent of all Black prisoners were sentenced by London courts in this period, compared to only 11.2 per cent of all white prisoners<sup>33</sup>. It is possible that this figure is inflated by the presence of foreign nationals *if* (as seems likely) these are not evenly distributed across all areas *and* the

<sup>33</sup> Relatively few prisoners in London, however, were classified as 'Mixed' compared to the numbers in Greater Manchester and the West Midlands. The ratio of Black: Mixed prisoners was 2.5 in Greater Manchester and 5.0 in the West Midland but 7.0 in London.

distribution of Black foreign nationals is not the same as that of the British Black population.

The NOMS tables use the previous White, Black, Asian, Other classification; but they provide trend data on this basis for the proportion of prisoners sent to prison each year who were Black, broken down both by gender and by nationality. As Figure 29a shows, Black people have accounted for an increasing proportion of male prison receptions; but a large part of the increase between 1994 and 2002 was due to a growth in the number who were foreign nationals. Meanwhile, the *proportion* of all women being sent to prison who are Black has fluctuated – albeit this was in the context of an overall rise in the *number* of women prisoners that is much greater than that for men (see further below). Overall, Black women accounted for 12.8 per cent of all women prisoners in both 1994 and 2002. However, the balance within this had changed with Black foreign prisoners accounting for a much higher proportion the total by 2002 while Black British women who had accounted for although the overall proportion in Black women this has been entirely due to a fall in the proportion who are British nationals: Black foreign nationals accounted for 9.2 per cent of the total in 1994, contributing 7.2 per cent 6 years later (Figure 29b).

Figure 29a

**Black males**

as % all males received into prison, by nationality  
1994 to 2002

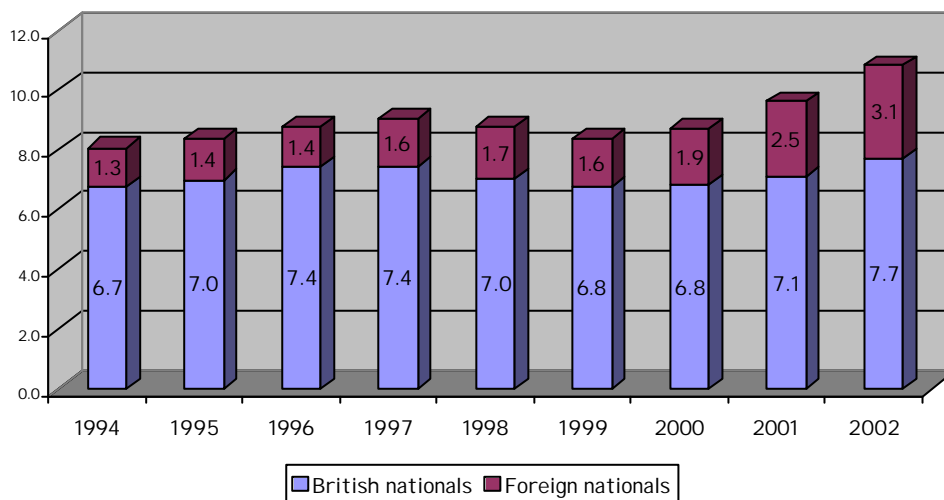
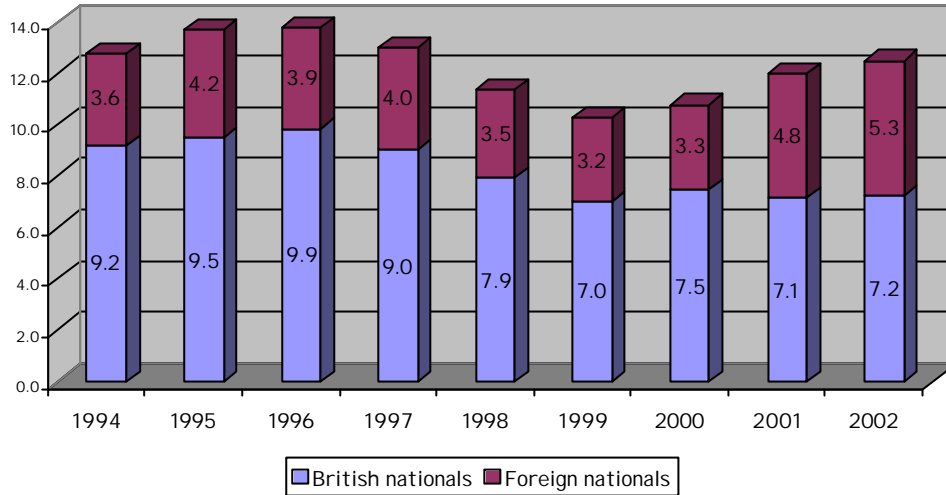


Figure 29b

**Black females**  
as % all females received into prison, by nationality  
1994 to 2002



These trends in the *proportion* of Black prisoners, however, must be set in the context of the large overall increases in the prison population over this time. That is, here again, it is essential to consider the impact of generic policy developments on particular groups. For, especially in the area of criminal justice policy, these will not fall evenly across the population. They will fall on those *sections* of the population which are already most likely to be over-represented within the system, although (depending on the nature of the developments) they may either widen or narrow its focus. Whereas the number of white British males sentenced to prison increased by just over a third between 1994 and 2002 (36 per cent), the rise was nearly twice as great in the case of Black British men (69 per cent). In proportionate terms, the overall rise in incarceration has been even sharper for women than it has been for men. In 2002 6,211 white British women were sent to prison, compared to 2,386 in 1994, an average rise of 160 per cent. The increase was actually lower for women who were Black British nationals than for their white counterparts; but, at 106 per cent, it was still much higher than the rise for Black British men.

The s95 figures provide an ethnic breakdown of prisoners by offence type at Table 9.2 but they do not disaggregate this either by gender or by nationality and may therefore give a misleading picture. For the NOMS figures, which do both, show that there is considerable variation in the type of offence for which white and Black British nationals are imprisoned; but there also appear to be important differences *within* the Black group in the offending patterns of foreign nationals compared to British nationals; and there are also important gender differences within this.

Figure 30 shows that drugs offences and robbery played a much more significant part in the numbers of Black British men in prison in 2005 compared to whites, accounting between them for nearly half of all Black British male prisoners. However, drugs offences were far more salient in the case of women and were the reason for over half of all Black British women being in prison. By contrast with men, though, there was

very little difference in the proportions of white and Black British women sentenced for robbery.

Figure 30a

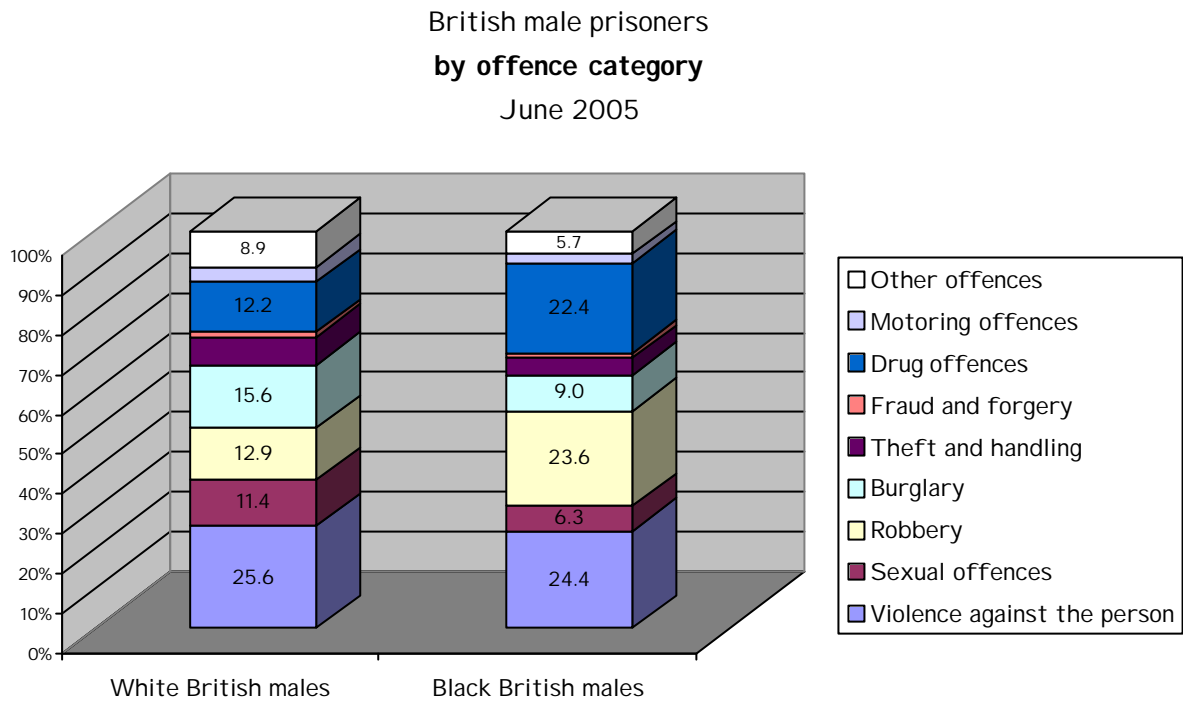
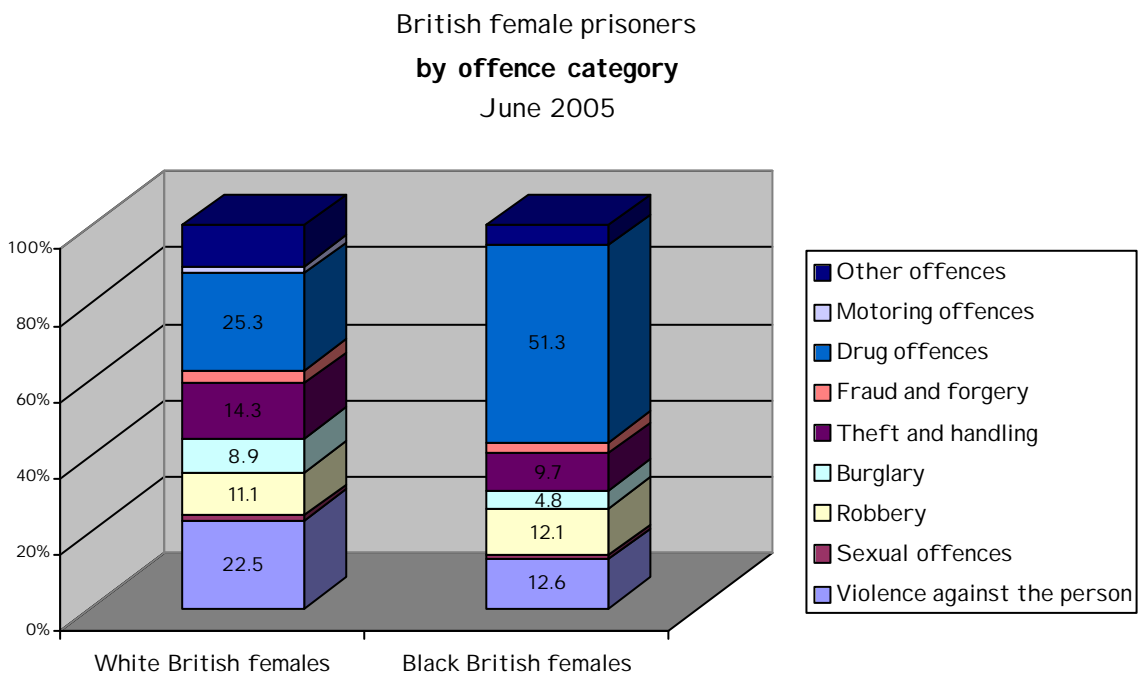


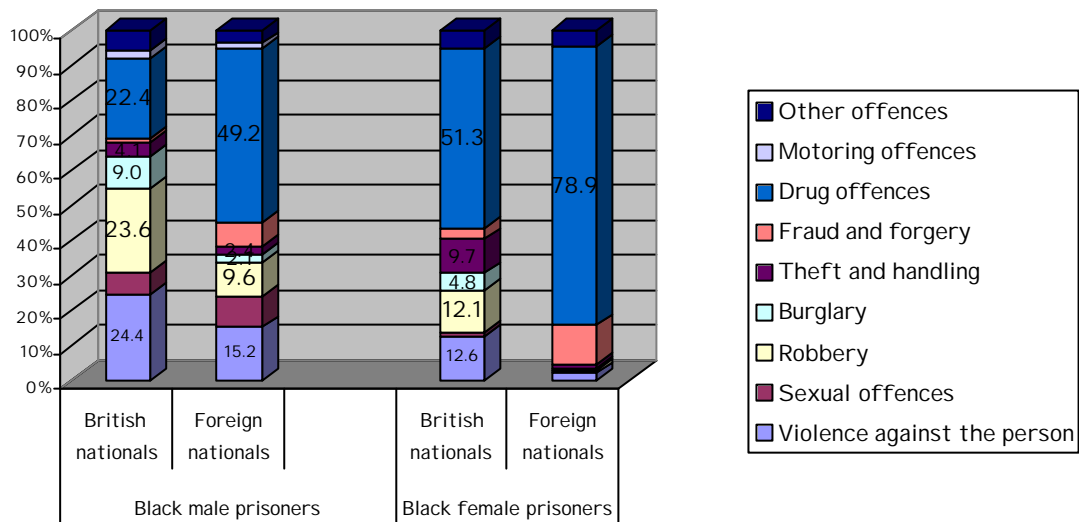
Figure 30b



Drugs offences predominate in the case of Black foreign national prisoners (Figure 30), accounting for nearly 80 per cent of Black women in prisons who were foreign nationals. However, the proportion of Black male foreign nationals sentenced for robbery offences was actually lower than for white British males.

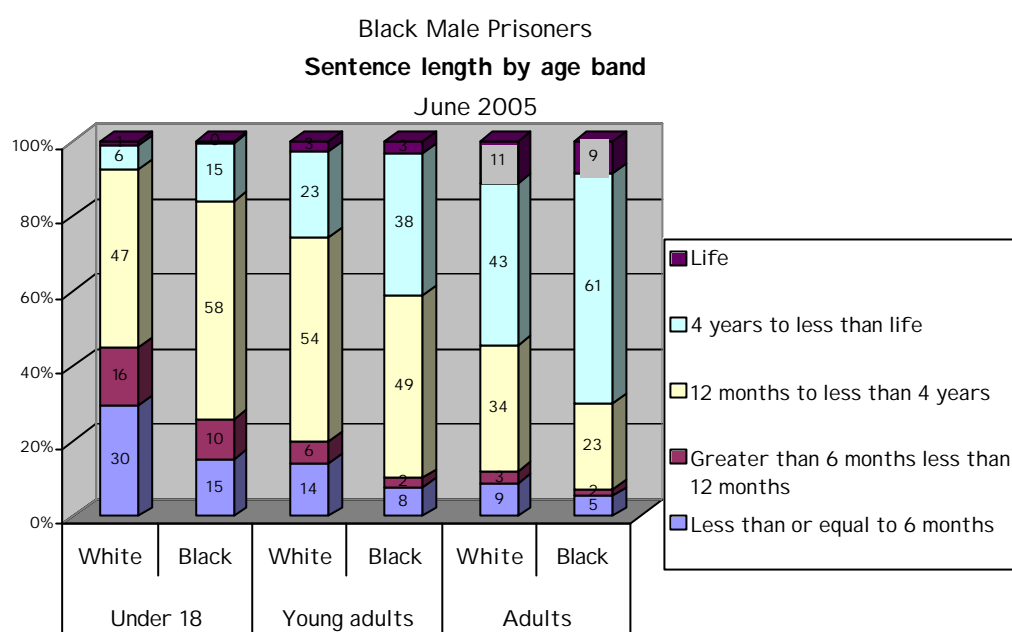
Figure 31

Black male and female prisoners  
at June 2005  
by offence category and nationality



Finally, the NOMS data provide a very much more refined picture of sentence length by ethnic group since these figures are broken down by gender *and* age band, whereas the relevant s95 table simply gives the overall average for different ethnic groups. The figures for minority women are too small for meaningful analysis in the case of juveniles and young adults, though among adults it is worth noting that 66 per cent of Black women were serving sentences of four years and more at June 2005, while the figure for white women was 32 per cent. In the case of male prisoners, though, Figure 32 shows that Black men were serving longer sentences than white men in all three age bands.

Figure 32



Previous work by the Home Office analysed sentence length differences in some detail in the mid 1990s, taking account for example of offence type; but this does not appear to have been replicated since the major increases in the prison population since then. To understand whether and to what extent this consistent picture may raise questions of discrimination would require multivariate analysis of the results for British and foreign male prisoners separately, taking account of offence type and seriousness, plea and previous remand in custody; and much of this information will be available on the Prison Service database. Similarly, the National Prison Survey of 1991 provided useful insights into similarities and differences in the background of white and Black prisoners; but this has not been replicated either.

Unlike many of the previous stages in the criminal justice process, the Prison Service database (along with individual prisoner records) should in principle be amenable to a wide range of analyses by ethnic group which could retrospectively shed light on the operation of the criminal justice system – if only with regard to the relatively small number of cases which, having entered the system in the first place end up in custody. It is not only disappointing that this opportunity has not been seized. Less work of this type seems to have been done by the Home Office in recent years; and the published statistics now *omit* ethnic data which used regularly to be published previously – for example a breakdown of offences against prison discipline and related punishments (NOMS table 9) – even though it is safe to assume that this information is still collected.

### Post-sentence

The Parole Board annual report simply gives figures for the numbers of parole applications it considers from different ethnic groups and the proportion of these which are granted. This shows that, for prisoners serving determinate sentences of

‘under 15 years’ it granted parole in a slight higher proportion of the Black cases it considered, compared to whites (51.9 per cent versus 48.4 per cent). However, this tells us nothing about the respective proportion of prisoners of different ethnic groups who were considered by the Board in the first place, controlling for gender, sentence length and any other relevant variables.

NOMS data also provide information on *estimated* reconvictions within two years of release from prison, by nationality. Although these show British Black prisoners as less likely to re-offend than whites, a comparison between the figures for 2000 and 2001 suggests there may be considerable uncertainty around these estimates and/or that trends in reconvictions are very volatile (see Table 10).

Table 10  
**Proportion of prisoners reconvicted  
 within two years of discharge from prison**  
 (British nationals only)

	Reconvictions of prisoners discharged 2000	Reconvictions of prisoners discharged 2001
White	45%	63%
Black	32%	61%

The Home Office RDS, however, has been analysing reconviction rates for NOMS for everyone convicted and subject to the full ranges of sentences. The available data are the basis for rates of predicted offending, taking into account a wide range of factors including offence, previous convictions and type of disposal (from pre-court to custody). Actual reoffending rates within a one-year follow-up period are then compared with the predicted scores for different groups. Unfortunately, while information on offenders up to the age of 18 is available for the 2004 cohort (Whiting and Cuppleditch 2006), at the time of writing, information on young adults was only available on the 2002 cohort (Cuppleditch and Evans 2005). The two cohorts may not be strictly comparable in terms of their likelihood of re-offending and, in any case, the report on juveniles recognises that prediction is more difficult in the lower age ranges since numbers are relatively small anyway and fewer of these will have previous convictions to take into account as a potential indicator of future offending<sup>34</sup>. Both publications include a breakdown by ethnic group, gender and age group within the three main bands; so comparisons between Black and white offenders at different ages, may nonetheless be of potential interest to the Committee.

As Figure 30a shows, it was only in the youngest and oldest of the age bands used for the analysis that Black male offenders had higher predicted scores for re-offending than whites; and the same was true for females, although the prediction scores were lower than for males in both cases (Figure 30b).

<sup>34</sup> The wider literature suggests that those who enter the system for a first detected offence who are most likely persistently to re-offend will be characterised by a number of distinctive risk factors, including prior behavioural problems which may, for example, have long been recorded in school and medical records before ever they enter the criminal justice statistics.

Figure 30a

Predicted re-offending rates at different ages

Black vs White males

(NOMS 2002 and 2004 cohorts)

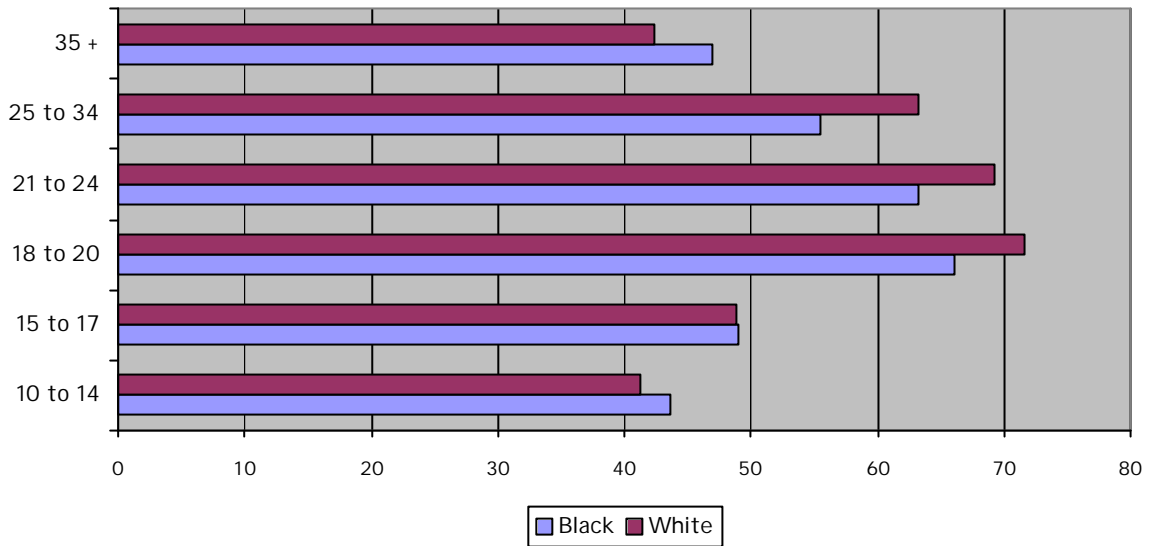
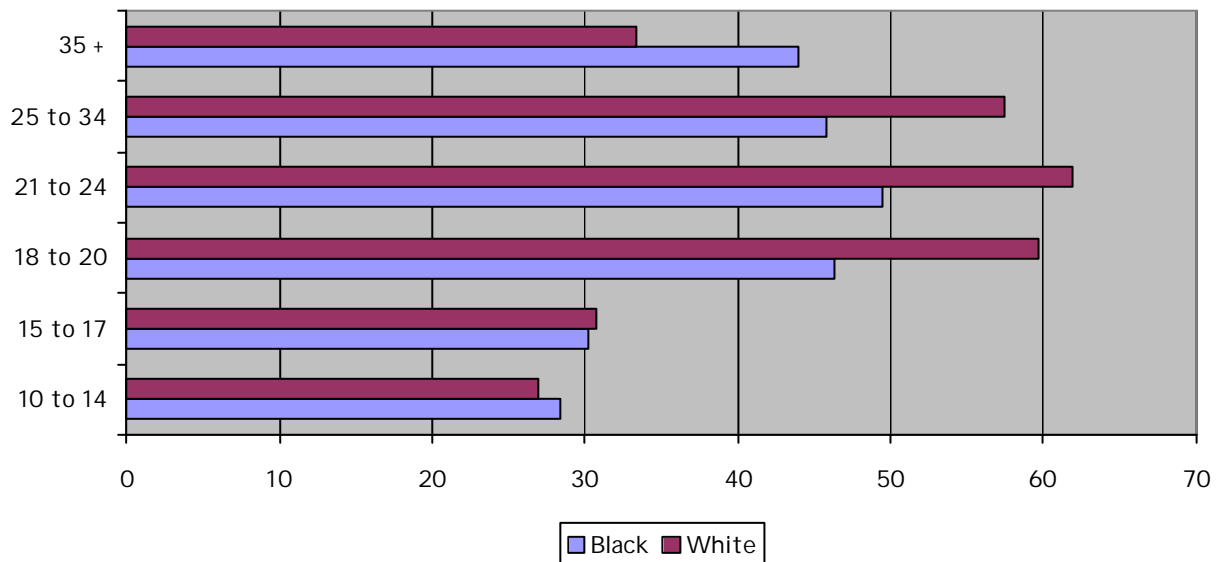


Figure 30b

Predicted re-offending rates at different ages

Black vs White females

(NOMS 2002 and 2004 cohorts)

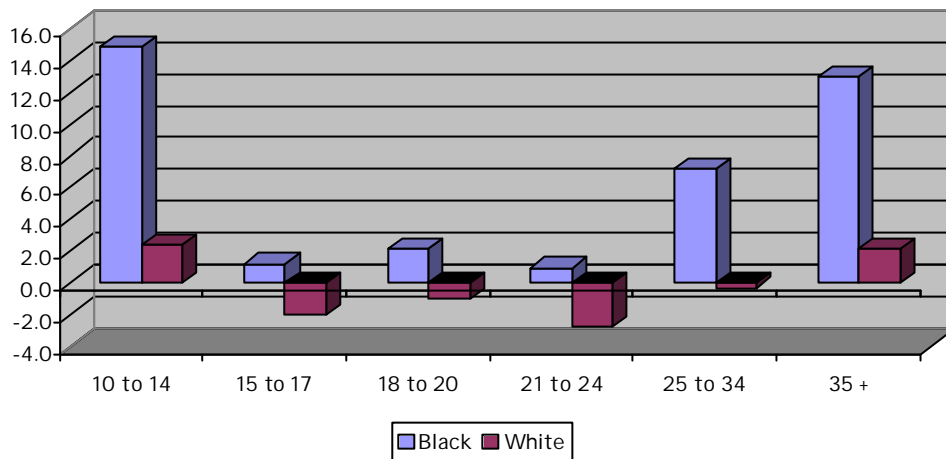


However, there were some differences in the extent to which *actual* rates of offending matched these predictions. As Figure 31a shows, Black males were consistently more likely to be reconvicted than was predicted – and more so than was the case for white

males who, in some instances, offended less than was expected. The effect is most pronounced, though, in the youngest age group where (see above) the prediction scores may be least reliable and among adults aged 25 and over.

Figure 31a

**Actual convictions compared to predicted scores**  
 (as %)  
 Black vs White males  
 (NOMS cohorts 2002 and 2004)



In the case of females the picture is far more mixed, showing no difference between Black and white girls aged 10 to 14, but with Black young women aged 15 to 17 much less likely to be reconvicted than might have been expected, although the opposite was the case for young adults.

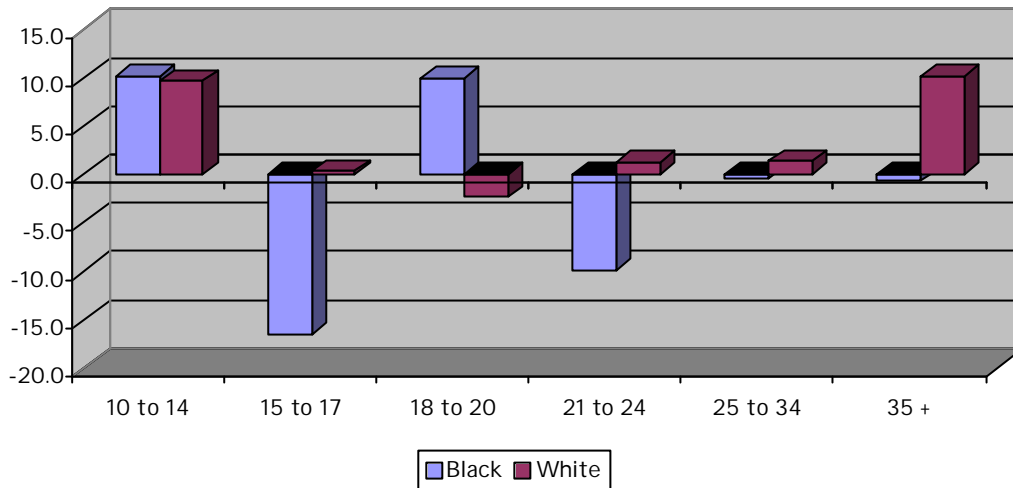
Figure 31b

**Actual convictions compared to predicted scores**

(as %)

Black vs White females

(NOMS cohorts 2002 and 2004)



It is possible that the more uneven picture in the case of females is partly the result of the numbers being much smaller. In the case of older men, a further compounding factor may be the presence of foreign nationals in the Black group. For the NOMS tables for convictions two years after discharge from prisons indicate that foreign nationals account for a very much higher proportion of those reconvicted than they do of the sentenced population. Also, it must be borne in mind that what is being measured is not re-offending but reconviction – that is, subsequent offending which comes to the attention of the criminal justice system and results in a disposal. So if Black people who offend are more likely to come into the criminal justice system in the first place (see earlier), the same factors might be at work with regard to reconviction rates.

However, these reports also show that reconviction rates varied considerably by the original type of disposal; and this might be construed as raising important questions about how well the system manages offenders of different ethnic origins once they have been convicted, including the effectiveness of the types of intervention they are subject to.. Despite an increasingly large literature on evaluation, it is not apparent that this routinely considers ethnic differences in *outcomes* from criminal justice interventions, still less explores the reasons for these.

## 6. SUMMARY, OBSERVATIONS AND SOME (TENTATIVE) CONCLUSIONS

### Overview of the statistics

The available statistical evidence on ethnic minorities and the criminal justice system has expanded rapidly in recent years but remains very patchy. Some recurrent patterns are apparent; but the published figures also frequently contain anomalies. By no means all of the information collected is accessible to the public and data which were previously routinely in the public domain are no longer included in the NOMS tables. Meanwhile, the s95 publication contains a still more limited subset and the level of aggregation is such that some of these statistics give a misleading impression. Nor does it refer to relevant findings with regard to ethnic minorities from research studies conducted during the same period (not least by the Home Office).

Yet the s95 publications are the best known source of information on ethnic minorities and the criminal justice system for members of the public, campaigning organisations and journalists; but their original purpose, under the terms of the 1991 Criminal Justice Act, was to enable everyone involved in the administration of justice to 'avoid discrimination'. It is difficult to see how, in their present form, they might do so; and while some of the recommendations of the recent root and branch review of the statistics might result in considerable improvements, they do not address several issues of potential concern to the Committee.

In particular, information is not consistently available on young people and, until the prison stage, almost none of the figures are broken down by gender.

Statistics published by the Youth Justice Board (and the unpublished figures they hold for different areas) are the most comprehensive set of data available. Unlike the criminal justice statistics more generally these, in principle, allow inferences to be made about the decisions taken with regard to different ethnic groups from one stage of the juvenile justice system to the next. However, the number of cases where ethnicity is not recorded still outnumbers the figures for individual minorities in many areas, although this situation has been improving. Questions remain over the extent to which young people aged 10-17 arrested by the police appear in the youth justice statistics at all if no further action is taken against them; and an apparent disparity between the police 'cautions' data for this age range and the YJB's statistics on reprimands and final warnings suggest these figures may also be incomplete. A further question raised in this paper is the extent to which it is possible meaningfully to compare the figures for juveniles known to the YOTs with other criminal justice figures since the YJB uses offence categories which are different from the standard breakdown in the police returns to the Home Office and other criminal statistics (including many tables in the s95 publication). The latter refer only to 'notifiable offences', thereby excluding a range of summary offences. The number of the latter is unknown but they seem likely to include minor offences which will have brought some young people into the criminal justice system.

Information is particularly sparse with regard to young adults (aged 18-21), a group which, as the Barrow-Cadbury evidence highlights, is at a critical point in terms of their own long term future. Given that they are at – or entering – the peak age for parenthood, their prospects are critical also for the group as a whole. For where a

disproportionate number of young men in a relatively small group has limited legitimate opportunities for economic success but high rates of incarceration and an increased likelihood of being a victim of homicide, the ramifications extend far beyond the young men in question and have implications for future generations.

It is probably also at this age (i.e. among young adults), that the numbers of foreign nationals begin to have an inflationary effect on the numbers of Black people in the statistics. It is by no means the case that the figures for juveniles do not include some foreign nationals, though, or that all foreign nationals will be in Britain on a temporary basis, as opposed to being normally resident here. Although these may be relatively few in number, the challenge of meeting their needs within the system is particularly difficult. Account must also be taken of the fact that an unknown proportion of foreign nationals in the system more widely may be here illegally and, according to recent qualitative research by the Home Office, these may tend disproportionately to be found in London. The Committee's visit to Southwark confirmed insights of from my own work which suggest that both the police and the YOTs are increasingly dealing with young people who may themselves have been unaware that they were here illegally until they left school and tried to find work or found themselves caught up in the criminal justice process. A more routine disaggregation of British versus foreign nationals seems essential if we are to gain a better indication of the real underlying trends at different ages with regard to people who are British nationals and Black; but further work would then be needed to explore the characteristics of the foreign nationals at different ages.

Trends are also somewhat obfuscated by the increasing production of statistics which include a 'Mixed' as well as a 'Black' category. The largest group in the 'Mixed' category is of Black Caribbean and white heritage, though it is rarely possible to know what proportion of the total these account for in any criminal justice data which include a 'Mixed' group. It seems possible, nonetheless that most of these might previously have been included in the 'Black' category and it is likely that many still are, with variations in recording practices from one area to another. Despite the confusion this is currently causing, it will be important to keep track of this group and to start trying to make sense of its experiences. As my other briefings to the Committee (Numbers 2 and 18 of the written evidence) highlighted, it is very young, mainly British born, disproportionately shares many of the 'risk' factors for coming to the attention of the CJS with other disadvantaged groups (including the Black group); and it will become increasingly important for the future to the extent that it may eventually equal and ultimately overtake the Black Caribbean group in numerical terms<sup>35</sup>.

However, the experience of the 'Mixed' group is also very different from either of the two main Black groups (i.e. the Black Caribbean and Black African group) in at least two important respects which the Committee may wish to bear in mind. One is that a high proportion of young people in this group who come to the attention of the criminal justice system are likely to be living in single parent households headed by a white mother. The other is that they are more likely to be found away from the main areas of concentration for the Black Caribbean and Black African groups, with many

---

<sup>35</sup> It is worth bearing in mind that the 'black' population of London in the time of Queen Elizabeth 1 is estimated, in relative terms, to have been as large as it is to-day; but it disappeared over subsequent centuries largely as a consequence of intermarriage.

of them fairly isolated (and therefore often highly visible) in predominantly white areas.

With regard to the Black groups as such, these also comprise at least two major and very different groups which are rarely distinguished in the currently available statistics. The Black Caribbean group is the longest established but may still include recent arrivals (legal and otherwise) who are involved in serious organised crime and who may skew the picture presented by the crude published statistics. (By far the largest single group of foreign nationals in the prison statistics are Jamaicans.) However the Black African group is growing fast and, though currently the majority of those legally resident here may be foreign born, this may not be the case 20 years from now; and Black Africans are increasingly displacing the Black Caribbean population in many areas of London with large 'Black' populations. Here too, the presence of illegals may distort the picture<sup>36</sup>: after the Chinese, Nigerians were the second largest single national group in detention in the United Kingdom solely under Immigration Act powers as at 25 December 2004 (followed by Jamaicans).

Finally, with regard to general considerations about the presentation and analysis of the statistics, this paper has drawn attention to the impact of the very skewed geographic distribution of the Black groups. In many areas, the numbers will be far too small for meaningful analysis; but any supposedly 'national' average will largely be determined by what happens in a small minority of police force areas. The paper in its present draft has focused on just three which, together account for over half the 'Black' total across a range of key s95 statistics; and if just two other large forces (Thames Valley<sup>37</sup> and West Yorkshire) were added in, they would account for nearly three quarters of the 'national' figure in most instances. As Figure 32 shows, London predominates in all cases but especially in terms of s1 searches.

The fact that these forces account for a smaller proportion of the total for the YOT population, though, may offer a pointer to the future. The demographics, combined with the risk factors for the 'mixed' group suggest that their numbers in the system will increase significantly within the next decade and beyond; but the fact that they are much more geographically dispersed than the 'Black' group will make for a much more diffuse picture than has been the case up to now.

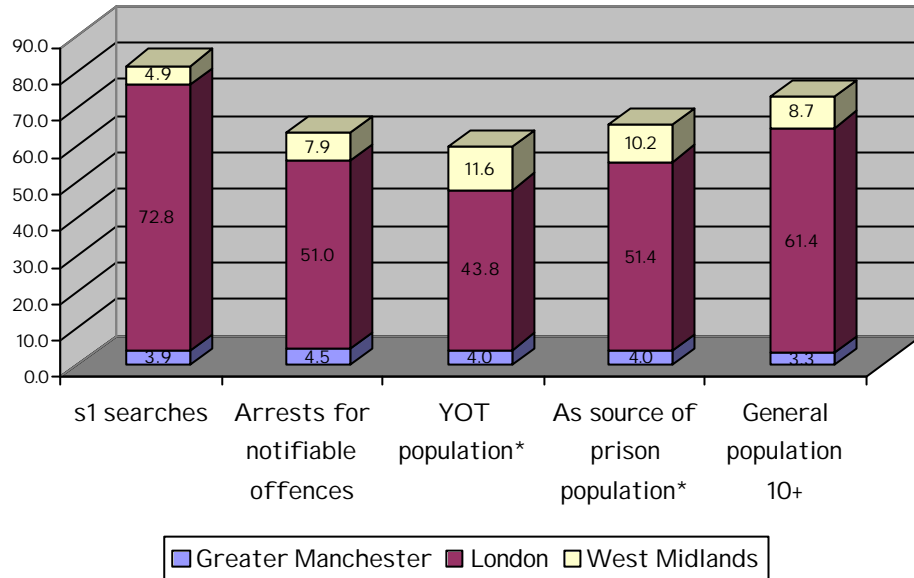
---

<sup>36</sup> It is highly unlikely these will have been counted in the Census but they may also be more than likely to show up in the crime figures and a combination of these two factors could appreciably distort any estimate of 'disproportionality' based on comparing the number of black people in the crime figures with the Census.

<sup>37</sup> The number of black people arrested in Thames Valley in 2004-5 was actually larger than the total for Greater Manchester. Greater Manchester has long been associated with black crime and criminality in relation to gangs and the history of Moss Side in particular. Yet black people account for a smaller proportion of its population (1.9 per cent) than that of Thames Valley (2.2 per cent); and two much smaller police forces have higher proportions again – Bedfordshire (3.9 per cent) and Nottinghamshire (2.3 per cent).

Figure 32

**Contribution of 3 police force areas**  
to black totals in selected s95 statistics and  
as % total black population of England and Wales 2004-5



\* includes 'Mixed' as well as 'Black'.

**Key findings from the available evidence**

*Underlying rates of offending and victimisation*

The paper highlights the major limitations of survey data with regard to small minorities in terms of providing reliable insights into underlying rates of offending and victimisation, especially when the Committee's interest is specifically in *young* people.

The evidence on offending tends to be contradictory and should be read in the context of the much wider statistical evidence cited in submissions to the Committee with regard to the disproportionate 'risk' factors affecting young Black people. Victimisation data are also limited, especially with regard to young people, though they are probably more robust than self-reported offending data. There also seems to have been a neglect of Black people's experience of victimisation relative to the extent of research focus on their offending. Notwithstanding their limitations, however, victimisation data are more likely than self-reported offending data to be subjected to multi-variate analyses; and these fairly consistently show that, inasmuch as minority groups suffer higher levels of victimisation than do white people, the differences are accounted for by socio-economic and demographic factors.

Many of the risk factors for victimisation are identical with those relating to offending – including being young, male and disadvantaged on a number of key indicators. An additional factor which is often found to influence victimisation rates is the type of

neighbourhood people live in. By inference, all of these factors should be taken into account before drawing any crude conclusions about 'ethnic' differences in offending; and more recognition needs to be given to the influence of neighbourhood on young people's involvement in crime, not least in the light of its impact on the likelihood additionally of coming to the attention of the criminal justice system (see below).

#### *Entry into the criminal justice system*

The paper highlights two main sets of factors which – over and above any underlying differences in *rates* of offending – make it much more likely that Black people will be brought into the criminal justice system if they *have* offended.

The first set of factors relates to the fact that they score higher than average on several factors which have been found significantly to increase *any* offender's chances of being caught by the police. One of these is simply living in the sort of area which attracts a lot of police resources and attention; but another is having associates who are 'known' to the police. The latter suggests that a descending spiral may be at work whereby members of any group where a higher than average proportion already have criminal records disproportionately enter the list of 'the usual suspects', so they disproportionately feature in 'intelligence' reports which, in turn, legitimate closer police surveillance, etc.

The second set of factors relates to a consistent pattern of ethnic differences in types of offending. The simple fact of being involved in contact crimes (including robbery) rather than stealth crimes (such as burglary) makes detection more likely since victims are much more likely to be able to give the police a description of the offender.

A possible third factor may be that victims are more likely to report crimes to the police where the offender is Black; but there is no hard evidence on this.

Stop and search is *not* a significant factor in the over-representation of Black people in the criminal justice system; but the paper highlights the fact that this has a disproportionate impact on *innocent* Black people - and would do so even if there were no question of discrimination. As such, it has long been a major source of tension between Black people and the police; and the more the power is used, the lower the rate of return (as measured by arrests) but the more it compounds these long-standing grievances. It is for this reason that the Committee may also want to address this issue and, in doing so, they should give particular attention to the hitherto largely neglected question of the use of s60 searches, especially in the West Midlands where the paper shows that in 2004-5 these accounted for nearly half of all searches on Black people.

#### *Decision-making within the criminal justice system*

The first major gap in our knowledge about the disposal of different ethnic groups once they enter the system is what proportion have no further action taken against them following arrest. Of those who remain in the system, we only have information with regard to cautions but *not* on the proportion who are charged with an offence, although more comprehensive figures *are* available for juveniles (see above).

Cautions (and their juvenile equivalent) have always tended to be lower in the case of Black people but this is likely to be due in some measure to a lesser readiness to admit the offence. Other legitimate factors may be the seriousness of the offence in question and the extent to which the individual has previously been cautioned or sentenced. No recent work seems to have been done on this, however.

What *is* apparent is that Black young people in the juvenile justice system and also those of 'mixed' heritage (a high proportion of whom might also be classified as 'Black' in the alternative four-point classification scheme) are also more likely than whites to be subject to more punitive disposals, not only because fewer are weeded out at the pre-court stage (Figure 33a) but also net of this (Figure 33b). Analyses presented earlier in this paper also show that Black young people are subject to more intensive forms of community-based sanctions and longer custodial sentences.

Figure 33a

10-17 year olds  
by main disposal type 2004-5

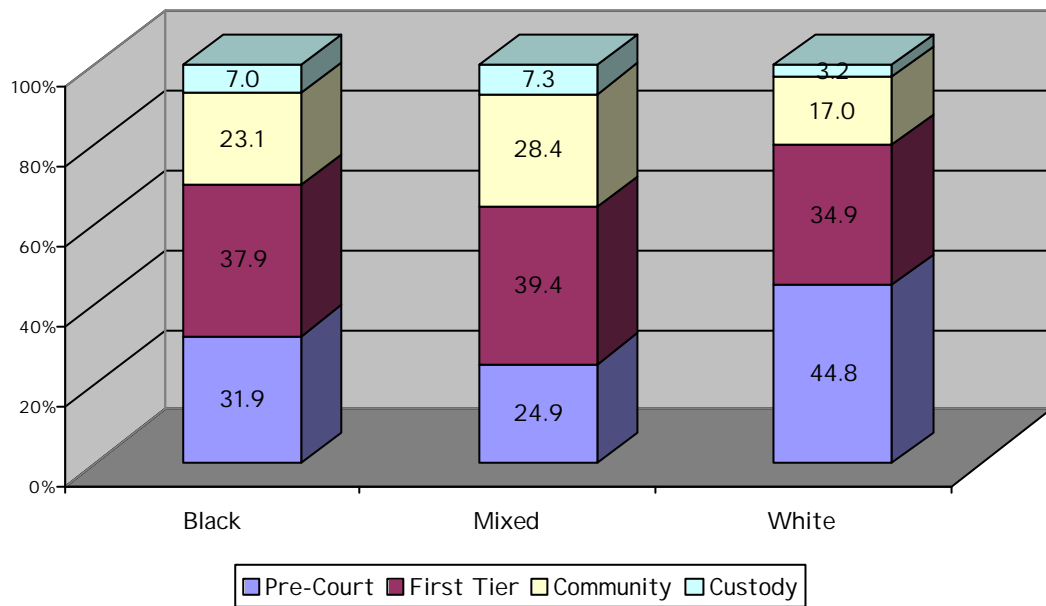
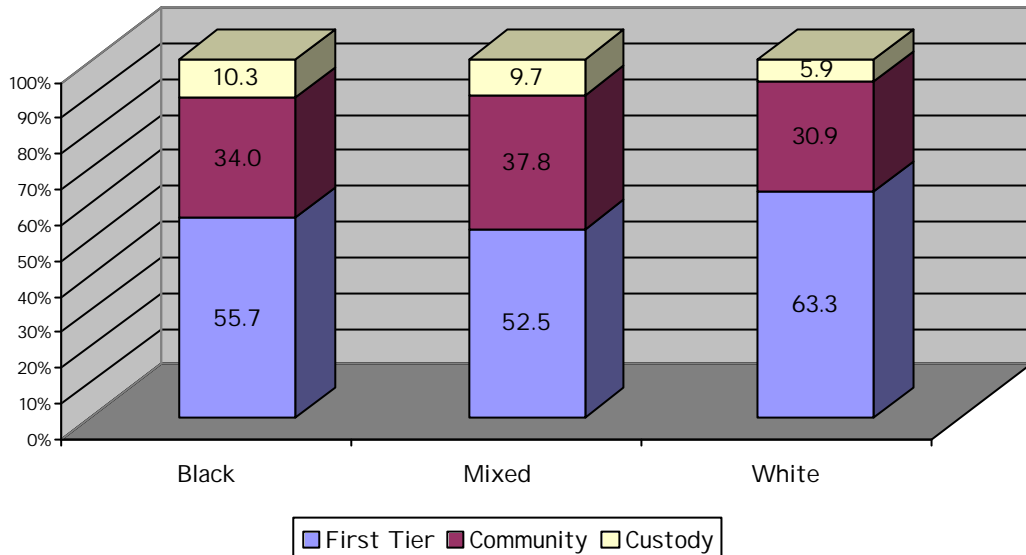


Figure 33b

10-17 year olds by main disposal  
(less pre-court)  
2004-5



Some of these differences may be accounted for by differences in the type of offence with which these young people have been charged and also by the level of seriousness within the offence category (as the head of Southwark YOT confirmed from their own detailed analyses of young people under their supervision). And this, in turn, may be part of the reason for the very much higher rate at which young Black people are remanded in custody pre-trial.

Older Black people awaiting trial are also more likely to be remanded in custody even when the comparison is limited to male British nationals only; and this may again be related to offence, although other factors may also legitimately be taken into consideration such as the risk of skipping bail or intimidating witnesses. No research seems recently to have been undertaken to explore the extent to which these or other factors explain ethnic differences in the bail/remand decision, though; so a lot is riding on the work currently being undertaken on these issues by the Home Office and the extent to which this addresses two points of particular concern highlighted by the analyses in this paper. One is the fact that custodial remands of Black people relative to custodial disposals are actually *highest* in the youngest age range; and the other is that male Black British nationals seem to be subject to much longer periods of remand in custody before being brought to trial than their white counterparts.

The currently available data are particularly deficient in terms of the disposals of adults of different ethnic origins, including young adults *other* than the minority who are sentenced to custody. It is especially disappointing that the published returns from the Probation Service – which was actually the first to introduce a form of ethnic monitoring after the Prison Service – are so minimal and have such high numbers of missing data in key areas that they contribute little to our knowledge. Analysis of

trends in the prison population suggests that any further research which is undertaken with regard to adult offenders, though, should try to disaggregate the figures for foreign versus British nationals and that breakdowns by gender as well as ethnicity should routinely be included in all statistics.

Figures which are already held on the prison population would readily lend themselves to further analyses including exploring the important question of why Black British men of all ethnic origins are serving longer sentences in every age range. Clearly the fact that nearly half have been sentenced for robbery and drugs offences may be relevant but these are very crude categories (and the pattern of Crown court sentencing in both cases suggests that there may be differing levels of seriousness within these). They are also unlikely fully to account for these differences. Nor is any information currently *published* (although it is likely to be available) on the length of sentence served by British prisoners of different ethnic origins pre-release.

Finally, it is important to explore the inconsistencies and anomalies in the statistics identified by this paper and to fill in the remaining glaring gaps. Nonetheless, it is worth highlighting by way of conclusion that the proliferation of ethnic statistics to date appears largely to have been concerned with measuring *inputs* to the system. In order to discover whether the system is operating effectively, much more needs to be known about *outputs* with regard to those who pass through it and the factors which determine whether or not they return – including related issues concerned with post-sentence provision, much of which may rest on the role played by the system's key partners in local areas.

Marian FitzGerald  
23 November 2006

### **Main sources**

#### **Parole Board**

[http://www.paroleboard.gov.uk/annual report 2006/stats annexe 2005-06.pdf](http://www.paroleboard.gov.uk/annual%20report%202006/stats%20annexe%202005-06.pdf)

#### **NOMS**

<http://www.homeoffice.gov.uk/rds/pdfs05/hosb1705.pdf>  
and related Excel spreadsheets from RDS website at  
<http://www.homeoffice.gov.uk/rds/hosb2005.html#hosb1705tabs>

#### **s95**

<http://www.homeoffice.gov.uk/rds/pdfs06/s95race05.pdf>  
and related Excel spreadsheets from RDS website at  
<http://www.homeoffice.gov.uk/rds/section951.html>

#### **Youth Justice Board**

<http://www.yjb.gov.uk/Publications/Resources/Downloads/YJB%20Annual%20Stats%202004-2005.pdf>

## References

- Clancy A., Hough M., Aust R. and Kershaw C. (2001) *Crime, Policing and Justice: the Experience of Ethnic Minorities. Findings from the 2000 British Crime Survey*. Home Office Research Study 223. Home Office.
- Cuppleditch L. and Evans W. (2005) *Re-offending of adults: results from the 2002 cohort*. Home Office Statistical Bulletin 25/05.
- FitzGerald M., Stockdale J. and Hale C. (2003) *Young People's Involvement in Street Crime*. Youth Justice Board
- FitzGerald M. (1993) *Ethnic Minorities and the Criminal Justice System. Research Study No 20*. Royal Commission on Criminal Justice
- FitzGerald M. and Hale C. (1996) *Ethnic Minorities: Victimisation and Racial Harassment*. Home Office Research Study 154. Home Office.
- FitzGerald M., Stevens A. and Hale C. (2004) *Review of Knowledge on Juvenile Violence: Trends, Policies and Responses in Europe*. (Final Report to the EU) University of Kent
- Hayward R. and Sharp C. (2005) *Young people, crime and antisocial behaviour: findings from the 2003 Crime and Justice Survey*. Home Office Findings 245. Home Office.
- Hood (1992) *Race and Sentencing: a study in the Crown Court*. Oxford University Press
- Jansson K. (2006) *Black and Minority Ethnic groups' experiences and perceptions of crime, racially motivated crime and the police: findings from the 2004/05 British Crime Survey*. Home Office Online Report 25/06. Home Office
- MORI/YJB (2004) *Youth Survey 2004*. Youth Justice Board
- Sharp and Budd (2005) *Minority ethnic groups and crime: findings from the Offending, Crime and Justice Survey 2003*. Home Office Online Report 33/05. Home Office.
- Whiting E. and Cuppleditch L. (2006) *Re-offending of juveniles: results from the 2004 cohort*. Home Office Statistical Bulletin 10/06. Home Office
- Wood (2005) *The victimisation of young people: findings from the Crime and Justice Survey 2003*. Home Office Findings