Youth Crime briefing

Youth offending teams, race and justice – after the watershed (Part two)

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Introduction

Part One of this briefing set out statistics highlighting the over representation of Black young people and those from other minority ethnic communities at all points in the criminal justice and child care systems. It further outlined the legislative framework and Youth Justice Board (YJB) guidance requiring active consideration by all youth offending teams to achieve the mainstreaming of race equality in all areas of practice. Above all, Part One emphasised our individual responsibilities in ensuring that we strive to take this agenda forward and become part of the solution, not just the problem.

In an address to the Civil Service College on 28 September 1999, Sir Herman Ousley, speaking about taking responsibility for race equality said:

'If you’re doing it, it’s happening; if you believe someone else is doing it, it’s not happening’.

This is a succinct reminder of our individual responsibilities for ensuring that all our work and practice is free from any form of discrimination. This accords with the individual duty placed on all those working in public authorities not to act incompatibly with the European convention rights, enshrined in the Human Rights Act 1998. This is endorsed by the Home Office Guidance1 which emphasises our individual responsibilities in this respect. Similarly the Race Relations (Amendment) Act 2000 outlaws discrimination across all public functions, including those undertaken by the private sector.

This briefing is prompted by the findings and recommendations of the Stephen Lawrence Inquiry Report2 (SLIR). If youth offending teams are to be active in addressing the key issues identified they will need to look beyond Equal Opportunity Policies, National Standards and Youth Justice Board guidance3.

According to the SLIR:

‘There is a striking and inescapable need to demonstrate fairness, not just by the Police Services, but across the criminal justice system as a whole, in order to generate trust and confidence within minority ethnic communities, who undoubtedly perceive themselves to be discriminated against by the “system”. Just as justice needs to be “seen to be done” so fairness must be “seen to be demonstrated” in order to demonstrate trust.’ (46.30)

Responsibility

In addition to our individual practice responsibilities, there is a collective responsibility on all
agencies in the criminal justice system to ensure justice and fairness for all. Many of the SLIR recommendations refer directly to the police. However these should be applied to all agencies in the criminal justice system and the services they offer to people from minority communities whether they be victims, witnesses, suspects, offenders, professional staff or partnerships.

The findings from the 2000 British Crime Survey suggest that this responsibility has yet to be fully demonstrated in practice. In response to the question: ‘How good a job is done by different parts of the criminal justice system?’ respondents had the lowest opinion of the juvenile courts, whilst the police were rated most positively. This negative view was stronger in those who had come into contact with the agencies, as a result of being victims of crime. Youth offending teams were not one of the agencies listed and cannot be responsible for the finding, but they may also be able to have an impact here.

Youth offending teams have a responsibility to comply with legislation, YJB guidance and operating to national standards. Much innovative practice already exists within many youth offending teams and the many local initiatives with which they work. However the statistics and current research, outlined in Part One, suggest there is a great deal more to be done. The following outlines some of the key aspects of the YJB guidance:

The YJB Report (Draft) emphasises its commitment to achieving an understanding why young Black and other minority ethnic people continue to be disproportionately represented amongst those remanded in custody or receiving Detention and Training Orders. The report states:

‘The pattern of their offending, with respect to seriousness, does not appear to explain the differences in the outcomes for this group’.

It goes on to highlight the disparity between the total sentenced population and that for specific sentences. For example, Black and Black British young people represent 6.1% of the total sentenced population, but receive, 8.5% of Supervision Orders with conditions, 12.1% of the total Probation Orders (CP&RO) with conditions, 8.5% of Detention and Training Orders and 21.8% of all Section 53 (S91) now S 91 Powers of Criminal Courts (Sentencing) Act 2000). Asian and Asian British young people represent 2.0 of the total sentenced population, but receive, 3.8% community Service (CPO) and 4.2% of Section 53 (91).

**Institutional racism**

The SLIR states:

‘It is incumbent upon every institution to examine their policies and the outcome of their policies and practices to guard against disadvantaging any section of our communities’

This does not mean all individuals in an organisation are racist nor is it limited to police services. It applies to all agencies in the criminal justice system.

Institutionalised racism means that young Black and other minority ethnic people are over represented in all parts of the youth justice and child welfare systems. YJB Guidance is explicit in placing responsibility for tackling inequality across the Board itself, youth offending teams, chief officer groups and team managers. It provides the framework to assist in gathering the data in order to identify the action necessary to begin to tackle the issue of over representation. It is not unreasonable to suggest that any progress made will only be in direct ratio to the significance placed and effort made to achieve this in all our practice work.

As a first step, to implement the spirit of the SLIR, all criminal justice agencies should:

- conduct an audit of current policies, and the impact of practices and procedures, on local communities (particularly at key decision-making points)
- conduct routine ethnic monitoring of all aspects of their work – and make local use of the results.
- involve local communities in discussing the results of monitoring and devising plans to tackle any problems identified

The above strategy is reflected in and required by the YJB Guidance – specifically the section Race Equality and Crime considers:

- racially motivated crime and how youth offending teams engage with perpetrators.
the work of youth offending teams with respect to meeting the needs of victims from the minority ethnic communities

- the liaison responsibilities of the youth offending teams with other agencies including the use of ethnic monitoring to inform these interfaces

- the link between the responsibilities of the Crime Reduction partnership with respect to its engagement with local communities, and those of the youth offending team in engendering confidence and trust in the local youth justice system amongst minority ethnic communities

**Openness and accountability**

The SLIR says that:

‘... *the principle which should govern the police services, and indeed the criminal justice system, is that they should be accountable under all relevant legislative provisions ...*’ (46.32)

This principle now enshrined in legislation, the Human Rights Act 1998 and Race Relations (Amendment) Act 2000, can be enhanced by;

- **extending lay involvement.** Local race equality councils and other community groups can be asked to help establish lay panels drawn as widely as possible from different communities and different age groups. Lay panels can act as sounding boards in local areas and can be rich sources of advice when developing youth justice plans, crime reduction strategies and youth offending team policies and practice. This point may have increased significance in light of the greater involvement of the community in all aspects of reparation, restorative justice and the emerging youth offender panels.

- **developing organisational accountability.** This can be promoted by working in partnership with a range of statutory and non-statutory organisations. The youth offending team, chief officer or steering group should be central to this, providing a multi-agency forum to share information, build on monitoring or audit information gathered from each partner agency and, crucially, developing strong / effective links with local Area Criminal Justice Strategy Committees (ACJSC). The Criminal Justice Consultative Council has given a new impetus to ACJSC to continue to develop their work on race issues at a local level. Area Committees are expected to take a strong co-ordinating role around Crime and Disorder Act 1998 provisions for local community partnerships, racially aggravated offences and giving a lead to implementation of the Human Rights Act 1998, at a local level. Most ACJSCs have set up Race Issues Groups to develop joint strategies to promote race equality in the criminal justice process.

- **emphasising individual accountability.** A key theme of both the Human Rights Act 1998 and the Crime and Disorder Act 1998, can be promoted by effective work based training, proper management and supervision, and research on the impact of individual or team work on local communities. The use of appraisal systems can further encourage work on community relations. Individual and team training programmes should key into this and support and encourage the development of accountability and responsibility.

**Partnership**

The SLIR states:

‘... *there must be a change so that there is genuine partnership between the police and all sections of the community. This cannot be achieved by the police alone. The onus is on them to start the process ... co-operation must be genuine and vigorous*’

Recommendation 70 of the SLIR says that the local authority and police crime prevention forums (established by the Crime and Disorder Act 1998) should adopt plans to promote cultural diversity and tackle racism.

The partnerships and local crime and disorder audits established by the Crime and Disorder Act 1998, have a significant role contributing to restore local community confidence in criminal justice, by identifying and delivering policing and local authority services which meet local needs. This fits with the need to promote fairness and equality, a key strand of both the report and legislation.

Imaginative and flexible approaches need to be taken to involve and consult local people from all
communities and of all ages, including young people. Special youth or Black issues forums have been used to encourage wider participation and promote local accountability. These can be encouraged at all levels of youth offending team structure and practice. One youth offending team included a young person from such a group in the recruitment and selection process for the team manager post. Clearly, this could be extended across all posts and volunteer/sessional worker positions.

Local crime audits must include an assessment of the scale of racist crime as well as the overall crime risks for minority ethnic people. Community groups must be consulted and involved in setting crime reduction strategies; effective partnerships are likely to be those most active on the ground in minority ethnic communities.

Ethnicity of staff in youth offending teams

The YJB supports the Home Office in working towards its Public Service Agreement (PSA) target of achieving representative workforces in the Home Office and its police, fire, probation and prison services. The percentage of police (4.1%) and probation (13.2%) service representatives seconded to youth offending teams from minority ethnic communities, both exceed the 2004 national targets of 4% and 8.6% respectively. Amongst the staff representing social services ethnic minority staff make up 16.2%, the largest percentage of all the five partner agencies.

However the Youth Justice Board (Draft) Report⁶, shows the number of staff from minority ethnic communities represents 11.9% of the total staffing compliment of youth offending teams. This is above the 6% over all population figure, but is not representative of the numbers of young people from minority ethnic communities within the youth justice system, due to their over representation. This may be a factor contributing to how fair and just the system is perceived to be. It may also suggest that whilst ‘targets’ are achieved, this does not impact on the experience and perception of those people in receipt of services.

In this light, the National Training Strategy for the Social Care Workforce in seeking to ensure that by 2005 ‘the proportion of people from the minority ethnic communities in the general population is reflected at all levels of the social care workforce’ may be the wrong target. That said, this must be the minimum achieved, and should include all volunteers, sessional and youth offender panel members recruited by the youth offending teams.

Monitoring

Section 95 of the Criminal Justice Act 1991 was significant in placing a statutory duty on criminal justice agencies to avoid discrimination. These agencies were not covered by the 1976 Race Relations Act, but are in the Race Relations (Amendment) Act 2000. This led to far more information being available and a greater understanding of the impact of the criminal justice system on different groups of people. Findings from Section 95 reports appeared in Part One of this briefing. Monitoring however, is just a tool. Its significance comes from how the information is reviewed, and if patterns or trends emerge suggesting a problem, what action is then taken to explore and address this? This has to be led by people in senior positions who can act on the findings and who will share the information in ways suggested earlier. Feedback from this process needs to be shared with staff, clients, partner agencies and wider communities, in order to have an effect on perceptions of ‘justice’ and ‘fairness’ and begin to implement recommendations from the SLIR, as outlined.

Ethnic monitoring is vital across the criminal justice system and incorporates all agencies, but particularly at key decision making points, where discretion is involved. Localised management information, collected on an ongoing basis, or from snapshot surveys or client feedback, is just as vital to the overall process and this information should also be shared with partner agencies.

The Youth Justice Board (Draft) Report⁷, is however critical of the 11.1% of cases recorded with ‘ethnicity unknown’. Particularly as the Board guidance⁸ is specific about the level and scope of ethnic monitoring and evaluation Summarised, it includes:
Responsibilities of steering group

- the ethnicity profile of the local population
- analysis of this data, informed by that shared by all partner agencies
- performance should be measured against indicators set out in Home Office ‘Race Equality in Public Services’
- youth justice plans should address any identifiable trends and outline what action needs to be taken if any groups are over represented in the system
- the chair of the steering group should take overall responsibility for future action

Responsibilities of the youth offending team manager

- ensure all team members and contracted service providers are aware of; ethnicity groupings (2001 Census Classifications); recording based on ‘self’ classification not ‘observed’; recording processes required within ASSET and local management information systems
- ensuring quarterly returns are submitted to the board within timescale
- provide an analysis of activity by ethnicity, within the local youth justice system, for respective steering groups and partner agencies
- this analysis to be shared with local youth court panel and crime reduction partnership
- service users from Black and other ethnic minorities should be included in any sample, used for quality assurance and Best Value purposes
- ensuring the national standard for quality assurance of court reports, is adhered to

Responsibilities of the YJB

- with the Commission for Racial Equality it will analyse the quarterly returns and annual returns concerning the breakdown by ethnicity of the staff membership; these reports are to be shared with the youth offending team and steering groups.
- ensure findings from the quarterly and annual returns are included in Section 95 (Criminal Justice Act 1991) reports published annually

Recording racist incidents and crimes

The SLIR calls on the Home Office in consultation with police services, local authorities and other agencies, to create a comprehensive system of reporting and recording all racist incidents and crimes. It further recommends that all relevant local agencies and communities should be encouraged to report racist incidents and crimes and that arrangements should be made to enable victims to report incidents 24 hours a day at locations other than police stations.

The Home Office ‘Code of Practice on Reporting and Recording Racist Incidents’, is a response to the report recommendation above. The code is applicable to all statutory, voluntary and community groups involved in the multi-agency reporting and recording of racist incidents. The aim of the code is to establish effective local procedures to do this, including the creation of 24 hour reporting centres. It establishes guidelines for the minimum data content required in respect of recording racist incidents and provides guidance on the disclosure of this information within data protection principles.

Youth offending teams should sign up to the code; they could even be influential in establishing local reporting centres or multi-agency information sharing procedures. Potentially youth offending team offices could be a designated reporting centre. At the very least, teams need to be aware of the local arrangements for reporting in order to advise and support young people, families and victims in recording incidents brought to their attention.

Some issues for practice

Direct practice guidance for youth offending team staff appears scarce and requires a degree of local and national searching for relevant practice information in comparison to the flow of guidance in relation legislation or policy development. Clearly all teams are operating within the national standards framework requiring ‘that the youth justice agencies take specific actions to ensure their work is free from discrimination … these requirements for non-discriminatory practice apply to and underpin all of the national standards’. 
ASSET does not replace the Department of Health comprehensive assessments using the *Framework for the Assessment of Children in Need and their Families*\(^\text{11}\), the Department of Health Practice Guidance\(^\text{12}\) is particularly thorough in relation to assessing Black children in need and their families. This guidance notes:

‘Within the current context of practice, professionals charged with responsibilities for promoting the welfare of children and their families often struggle with how best to address the needs of Black children and their families. Although many professionals are aware that it is essential to take account of race and culture, and in particular to be culturally sensitive in their practice, they are often at a loss to translate this into practical terms. In assessing the developmental needs of Black children and their families practitioners should address two key questions:

- What are the developmental needs of Black children and their families, and in what ways are these similar, and in what ways do they differ from the developmental needs of white children and their families?
- How can these developmental needs be responded to in work with Black children and families?

‘Working together to safeguard children’\(^\text{13}\) is extremely useful in providing some key principles for practice, particularly for working in partnership with children and families. These are reproduced in full here:

1. Treat all family members as you would wish to be treated, with dignity and respect.
2. Ensure that family members know that the child’s safety and welfare must be given first priority, but that each of them has a right to a courteous, caring and professionally competent service.
3. Take care not to infringe privacy any more than is necessary to safeguard the welfare of the child.
4. Be clear with yourself and with family members about your power to intervene, and the purpose of your professional involvement at each stage.
5. Be aware of the effects on family members of the power you have as a professional, and the impact and implications of what you say and do.
6. Respect the confidentiality of family members and your observations about them, unless they give you permission for information to be passed to others or it is essential to do so to protect the child.
7. Listen to the concerns of children and their families, and take care to learn about their understanding, fears and wishes before arriving at your own explanations and plans.
8. Learn about and consider children within their family relationships and communities, including their cultural and religious contexts, and their place within their own families.
9. Consider the strengths and potential of family members, as well as their weaknesses, problems and limitations.
10. Ensure children, families and other carers know their responsibilities and rights, including any right to services and their right to refuse services, and any consequences of doing so.
11. Use plain, jargon-free language appropriate to the age and culture of each person. Explain unavoidable technical and professional terms.
12. Be open and honest about your concerns and responsibilities, plans and limitations, without being defensive.
13. Allow children and families time to take in and understand concerns and processes. A balance needs to be found between appropriate speed and the needs of people who may need extra time in which to communicate.
14. Take care to distinguish between personal feelings, values, prejudices and beliefs, and professional roles and responsibilities, and ensure that you have good supervision to check that you are doing so.
15. If a mistake or misinterpretation has been made, or you are unable to keep to an agreement, provide an explanation. Always acknowledge any distress experienced by adults and children and do all you can to keep it to a minimum.
The Department of Health report ‘Excellence not Excuses’\textsuperscript{14}, is based on the Social Services Inspectorate inspection of services to minority ethnic children and families in eight local authorities. It notes in its summary of main findings:

‘Workers had varying levels of understanding of the situations of ethnic minority families. In some instances white staff relied on the expertise of black resources teams. These arrangements could be the source of tension. Overall the quality of services delivered to ethnic minority families was heavily dependent on the quality of social work intervention. Workers had to be knowledgeable and tenacious to achieve positive results particularly where there was a limited range of appropriate services’

The Department of Health guidance and assessment framework, emphasise the need to extend and develop practitioner knowledge base, as fundamental to the provision of effective implementation of equal opportunity policy and practice. On this issue, the Judicial Studies Board have developed a ‘Equal Treatment Bench Book’\textsuperscript{15}, this runs to approximately 200 pages, the first handbook was produced in 1994 and there has been a ongoing process of review and up-date since. The handbook is founded on the observation that “if judges, recorders and magistrates are to understand the people who come before them, it is necessary for them to know something about the principle minority ethnic communities”.

The bench book seeks to provide this information and expand the knowledge base, it is extremely positive in its approach and format, the introduction points to its intention, “This Bench Book has not been written simply to identify the traps that must be avoided. It has a much more positive aim. The social reality of England and Wales – and indeed of the whole United Kingdom – today is of a rich cultural, racial and religious diversity. This new scene provides everyone with the opportunity of enriching themselves with the experience of living in such a society, both in their private lives, and, for judges and others, in their working lives as well. In this new landscape those who administer justice must recognise the existence of these differences. They must also consider what their implications may be, if they are to achieve their purpose – and duty – of promoting confidence in the justice they are charged to administer’.

Youth Justice Board Race Equality Guidance\textsuperscript{16} places clear responsibilities on the youth offending team manager and heads of service to ensure ‘any induction programme for new staff provides a comprehensive set of information on the cultures represented in the area covered by the team’ and on team members to ‘be aware of the cultural diversity that exists within the team area and the implications for the effective and fair delivery of youth justice services within such an environment’. Access to good quality information, such as that in the ‘Equal Treatment Bench Book’\textsuperscript{17} complementing information gained from local monitoring, information sharing and client feedback, can only enhance the effectiveness of these responsibilities and see them begin to be implemented in practice and effect outcomes for young people from ethnic minority populations.

References

1 Human Rights Act, Core Guidance for Public Authorities: a new era of rights and responsibilities’ See www.homeoffice.gov.uk/hract/hrcgpa.htm
3 ‘Race Equality Guidance for the Youth Justice Board and Youth Offending Teams, YJB 2000
5 ‘Report (Draft) on the Findings From the Youth Justice Plans 2001/02’, YJB, unpublished, June 2001
6 See footnote 5 above
7 See footnote 5 above
8 See footnote 3 above
9 ‘Race Equality in Public Services’, Home office, 2000
10 Published April 2000
11 ‘Working Together to Safeguard Children’, Department of Health, 1999
13 See 11 above
16 see 3 above
17 see 15 above