

EQUAL response to the Commission on Race and Ethnic Disparities call for evidence

TO	Commission on Race and Ethnic Disparities
FROM	EQUAL
DATE	30 November 2020
REGARDING	Ethnic disparities and inequality in the UK: call for evidence

Our Interest in this matter

1. EQUAL National Independent Advisory Group (NIAG) works collaboratively to improve outcomes for black, Asian and minority ethnic (BAME) and Muslims in the criminal justice system (CJS). Iqbal Wahhab OBE is the chair of the NIAG and members are mostly representatives from civil society organisations or academics. Officials from Her Majesty's Prison and Probation Service (HMPPS), Ministry of Justice (MOJ) and the Youth Justice Board (YJB) also attend meetings. Much of our focus following the publication of the [Young Review](#) has been on supporting the implementation of the Lammy Review recommendations. Our priority areas are prisons and probation, policing and BAME young people and the youth justice system. As an NIAG that focuses specifically on outcomes for BAME communities in the CJS this consultation response will focus solely racial disparities in criminal justice.

General concerns

2. It is important that we flag our concerns with the framing of the consultation questions themselves. The questions, particularly question 9 are loaded, suggesting within it a causal link between crime and race and an implication of race essentialism which we think is unhelpful when seeking to address racial inequalities in the CJS.

Response to consultation

Q1: What do you consider to be the main causes of racial and ethnic disparities in the UK and why?

3. There are several reasons for ethnic disparities within the CJS, including poverty, the school to prison pipeline, the adultification of young BAME people, over policing of the BAME community, the notion that BAME individuals are riskier than their white counterparts and many other reasons which will undoubtedly be set out in various other consultation responses. However, it is important for us to highlight our concern that this kind of question is being asked at this stage. There have been several reviews (including the Lammy Review, the Young Review, the

Stephen Lawrence inquiry etc), reports and evidence gathering sessions where the reasons for racial disparities have been explored yet racial disparities continue to increase.

4. It is our view that the focus of this Commission should be to support the implementation of any previous recommendations made in various reports regarding the CJS and policing, particularly when many of those recommendations are yet to be embedded within CJS organisations.

Q2: What could be done to improve representation, retention and progression opportunities for people of different ethnic backgrounds in public sector workforces (for example, in education, healthcare or policing)

Barriers to progression and organisational culture

5. We believe that for representation, retention and progression of BAME people to improve, all police forces will need to provide a safe space for BAME colleagues. It is not enough for the police force to simply recruit BAME police officers in order to meet their recruitment targets. BAME police officers may potentially remain in their role for longer if forces provide a safe space for them to carry out their duties. All too often BAME cohorts are brought into predominantly white organisations and leave shortly after due to the organisations lack of cultural competence or laissez-faire disciplinary processes which fail to identify issues linked to discrimination. The ‘canteen culture’ of the police force must change in order to retain BAME police officers and attract BAME candidates.
6. There is a causal link between poverty and people of BAME communities job prospects. For example, if a job role requires individuals who apply to have a driving licence at the time of application this may present as a barrier for some BAME people as your economic status is may be linked to those skills which require financial support to obtain. This is demonstrated by an initiative undertaken by ex-Bedfordshire Chief constable Jon Boutcher, who removed the requirement to have a driving licence on application, allowing applicants to acquire a driving licence whilst receiving an income. This led to a significant increase in BAME applicants and Bedfordshire police force becoming “*one of the top performing forces when it come to recruiting from black, Asian and minority ethnic backgrounds*”.¹ We recommend that forces review their recruitment processes to ensure that they do not present inadvertent barriers to progression for BAME candidates.

Recruitment and retention

¹ <https://www.bedfordshire.police.uk/news-and-appeals/chief-constable-stands-down#f83bc830>

7. The National Police Chiefs Council (NPCC) in 2018 published a [‘workforce representation, attraction, recruitment, progression & retention toolkit’](#) with the intention of having a *“policing profession with a more representative workforce”*. The toolkit states that in order to attract candidates who understand diverse communities *“Heads of departments should seek to utilise positive action”* and HR departments should engage with *“equality staff and staff support networks to utilise positive action and equality legislation”*
8. While there are often barriers to using positive action, it is clear, particularly after publication of the London Mayor Sadiq Khan’s new action plan on policing requiring forces to hire 40% of new recruits from BAME backgrounds, that despite the barriers, positive action and tools alike must be used to support BAME uptake of roles.
9. Earlier this year, the Metropolitan Police Service (MPS) Commissioner Cressida Dick denied that the finding in the 1999 Stephen Lawrence Inquiry of institutional racism within the MPS remains a huge issue despite various statistics pinpointing to contrasting evidence. It is this kind of denial that may prevent BAME communities from applying to become police officers. The failure to acknowledge, accept and effectively change the institutionally racist culture of the police force in our view will deter BAME candidates from entering the police force. It is crucial to the diversification of the police force that they accept their role in the systemic racism that erodes the force, otherwise potential BAME candidates may be seen to be “selling out” their communities, making a career in the police force controversial.
10. Even if a BAME person can overcome the public scrutiny of joining the police force they may then be faced with a culture that seeks to specifically alienate them. Patricia Gallan a former MPS Assistant Commissioner and the highest-ranking black female ever in the MPS stated that she *“experienced both overt and subtle racism – internal more often than external and from all ranks”*². Police forces must work to radically change the culture of normalised racism within policing if they want to see an increase in the recruitment and retainment of BAME people.
11. Police forces need to be alert to the fact that BAME staff often face double discrimination both internally and externally and need to invest in supporting them accordingly. We believe forces need to provide resources for specific interventions by BAME specialists to support BAME staff with things like race-based trauma; with evidence of this work being made public.

Training

² <https://www.theguardian.com/uk-news/2020/jun/14/former-top-met-police-officers-say-racism-blighted-their-careers-black>

12. Although we do not view this as the answer to everything, training on cultural competence must be undertaken by forces regularly to ensure that the unconscious bias of officers is being challenged. Any training needs to be relevant, preferably face to face and delivered by culturally competent trainers with lived experience. Online training needs to be reviewed for its effectiveness and adapted to reflect the operational challenges of policing. Inductions for new starters should address issues of disproportionality in policing head on allowing staff to discuss in a safe learning environment, practical ways in which they can address their own unconscious biases. We would also emphasise the need to engage with voluntary sector organisations with specialist knowledge to inform any unconscious bias or cultural competency training.

Disciplinary processes

13. In order to retain BAME staff they must be confident that should they make an allegation of discrimination or less favourable treatment it will be dealt with properly, independently and taken seriously. Anecdotally, we know that when BAME staff make a formal complaint of discrimination it is usually met with push back, not investigated properly and generally met with disbelief. There have been several very public examples of BAME police officers who have made allegations of discrimination to no avail. This sends the message to BAME communities that their concerns are illegitimate and may discourage BAME people from entering the police force. This contrasts with the outcomes we see when BAME staff are themselves subject to disciplinary procedures, this is often when we see the most arbitrary use of Human Resources, with formal disciplinary processes being exhausted.

14. An example of this is the case Chief Superintendent Novlett Robyn Williams, one of very few senior black female officers with an exemplary record who had received an indecent video of a child via message forwarded on from her sister. Superintendent Williams was sacked from the MPS and found guilty at trial and ordered to complete unpaid work in the community and register as a sex offender.³ This is in direct contrast with the case of Lee Vincent Kelly who was caught with nearly 1000 indecent images of children at his home. Despite the offence crossing the custody threshold the judge stated that it would be “*unjust*” to send him to prison immediately and gave him a suspended sentence because of his previous “*good work*” during his 19 years at Greater Manchester Police force.⁴

³ Met Police sacks Supt Robyn Williams over child abuse video, 13 March 2020 -

<https://www.bbc.co.uk/news/uk-england-london-51874630>

⁴ Police officer caught with nearly 1,000 indecent images of children spared jail, 12 January 2019 -

<https://metro.co.uk/2019/01/12/police-officer-caught-nearly-1000-indecent-images-children-spared-jail-8337006/>

15. The message is clear, there is no leniency for a black female, but a white ex police officer can escape prison based on his previous “good work”. This illustrates the difference in the way the law is used against BAME officers in contrast to white officers demonstrating that previous good character and dedication to the job will only be considered when you are white. This idea only creates further feelings of distrust in those disciplinary processes that are meant to be there to protect colleagues and reprimand them accordingly in cases of misconduct. The police force must address what appears to be bias running throughout the way disciplinary processes are used. BAME staff must feel that their complaints are met with the same gravitas as those complaints made against them, and that their white counterparts are equally punished for comparable incidents.

Q8: What could be done to enhance community relations and perceptions of the police?

Trust and confidence in policing

16. The general overarching theme should be to improve trust and confidence in policing. Trust and confidence in policing for BAME communities must be improved to enhance community relations and perceptions of the police. However, it is important that attempts to change perceptions of the police are not merely performative but embedded within policing tactics, policies and delivery.
17. There are a wealth of statistics that demonstrate the over policing of the BAME communities, we know, for example, that if you are black you are 9x more likely to be stopped and searched by the police. We also know that as a black person you are less likely to be offered diversion options or cautions when the option is available vs a more severe punishment. This over policing of the black community lends itself to feelings of discontentment and distrust in the police. Police forces, particularly the MPS must reduce racial disparities in the way they police if they want to enhance community relations. Statistically, there needs to be a reduction in racial disparity (particularly in stop and search), with data published and broken down by demographic for **all** forces.
18. One of our key concerns is the attitude of police forces to their line of work, we have heard from MPS officers in the past that despite recognising the disparities in the Gangs Violence Matrix (GVM) they do not view it as their role to identify why the disparity exists. This is a fundamentally flawed attitude and points to the police viewing themselves as an enforcement agency rather than public servants. It is imperative that police forces recognise their role in ensuring racial disparities decrease and that includes, where racial disparities exist, choosing to “*explain or reform*” as recommended by the Lammy Review. It is this attitude towards policing that we believe creates a ‘them’ and ‘us’ mentality creating further cynicism amongst marginalised communities.

19. Radical action needs to be taken to reverse the stop and search racial disparity. Evidence shows that increasing stop and search has very little effect on total crime, in fact anecdotally it appears many police interactions with the BAME community often escalate to things like strip searches, allegations of assault on officers and arrest. Research has found that despite increasing stop and search by 10% only 0.01% of total crime was reduced.⁵ This proves that increasing police power using military style policing does not reduce crime. However, what is clear following a number of viral online videos is the way in which stop and search incidents escalate, specifically with members of the black community. We recommend that trainee officers are not given the power to arrest until they have demonstrated an ability to deescalate situations with members of the public verbally.

Perception of inequality

20. The consultation question asks what could be done to improve perceptions of the police. This, in our view, is the wrong question to be asking the data is unambiguous, BAME communities are over policed. This is not a perception but a reality for many communities and the evidence points to this being a fact. We believe the focus needs to be on reality not perception. It appears that there is an overwhelming concern with how communities perceive the police rather than improving the experiences of BAME groups interacting with the police. We believe forces need to realign their focus and concentrate on reducing racial disparities and addressing unconscious biases and stereotypes. It is cause and effect, if the police reduce racial disparities and reduce the over policing of BAME communities those communities will likely change their views of the police force. We believe that this approach will have the most significant impact on trust and confidence in the police for BAME communities.

Representation

21. As above, it is fundamental that any police force is representative of the communities it serves. Official government data shows that black people make up 3.3% of the population (according to the 2011 Census) but only 1.2% of the police force across the UK. The same disproportionality can be seen with those of Asian descent, Asian communities make up 6.8% of the population (according to the 2011 Census) yet only make up 2.9% of the UK police force. However, when compared with the White population the data shows White communities make up 86% of the population (according to the 2011 Census) but make up 93.1% of the UK police force.⁶ The data is damning, UK police forces are not

⁵ Matteo Tiratelli, Paul Quinton and Ben Bradford, 'Does Stop and Search Deter Crime? Evidence from Ten Years of London-wide Data', The British Journal of Criminology, Volume 58, Issue 5, September 2018, Pages 1212-1231. <https://academic.oup.com/bjc/article/58/5/1212/4827589#119992510>

⁶ Ethnicity facts and figures, Police Workforce Data, GOV.UK - <https://www.ethnicity-facts-figures.service.gov.uk/workforce-and-business/workforce-diversity/police-workforce/latest#by-ethnicity-police-officers>

representative of the population demographic and despite the Mayor of London's recent 40% 2022 target⁷ if things continue as they are it could take approximately 100 years to achieve the 40% BAME police target.

Accountability

22. For trust and confidence to improve in policing we believe that the accountability structures that exist need to be strengthened to ensure that complaints against the police are dealt with effectively. The current complaint structure means that many complaints are dealt with at a local level and those handled by the Independent Office for Police Conduct (IOPC) are limited. The IOPC public perceptions tracker found that black and minority ethnic groups tended to be slightly less confident that the police deal fairly with complaints made against the police than the population overall. We believe that the IOPC should play a more significant role in the complaints process by having the power to make findings, increasing investigations, recording officer's ethnicity data and making representations at misconduct hearings.

23. Additionally, the IOPC need to record outcomes data to improve trust and confidence both in the police complaints system and the police. The IOPC public perceptions tracker 2018/19 found that 22% of black and minority ethnic (BME) participants wanted to see evidence that police officers had been punished previously in comparison with 12% of the rest of the population. 32% BME also wanted to be able to see evidence of positive change/police learning compared with 29% of the rest of the population.⁸ This demonstrates the need for public outcomes data broken down by demographic. This is supported by comments made at the Home Affairs Committee held on Tuesday 9 July 2019 where the IOPC was asked to provide ethnicity data on officers who were or had been subject to an IOPC investigation but were unable to provide that data as at the time they did not record such data.⁹

<p>Q9: What do you consider to be the main causes of the disparities in crime between people in different racial and ethnic groups, and why?</p>

24. Again, we wish to highlight that the phrasing of this question indicates causal effect, and we support the letter written to Dr Tony Sewell CBE from our partner organisation Clinks which sets out that this question may be unlikely to solicit the information that would allow the Commission to effectively explore the overrepresentation of BAME groups in the CJS.

⁷ Action Plan – Transparency, Accountability and Trust in Policing, published 13 November 2020 - <https://www.london.gov.uk/mopac-publications/action-plan-transparency-accountability-and-trust-policing>

⁸ The Independent Office for Police Conduct, Public Perceptions Tracker, June 2018 – March 2019 - https://policeconduct.gov.uk/sites/default/files/Documents/statistics/IOPC_public_perceptions_tracker_annual_report_summary_201819.pdf

⁹ Home Affairs Committee, Tuesday 9 July 2020 - <https://parliamentlive.tv/Event/Index/740b3868-df9c-48bc-9a25-5eb7d1f9554d>

25. As above, there are several reasons for disparities in crime many of which fall outside of the scope of EQUAL's work: school to prison pipeline, poverty, systemic racism, reductions in public funding for other services, risk perceptions of BAME communities etc. Although outside the scope of our work it is important to highlight that racial disparities in policing should not be considered in isolation, many of the reasons BAME communities experience racial disparities in crime are linked to other circumstances, for example the over policing specifically of 'urban' areas which house many BAME communities across the UK.
26. In our view one of the overarching key drivers of race disparity in the CJS is risk perception. We believe that BAME communities are viewed as riskier than their white counterparts. We believe that this notion of risk is hard wired into what should be objective tools which then leads to differential treatment of BAME communities throughout the CJS. EQUAL believes, that to undermine the current notion of risk around BAME communities there needs to be a shift towards the needs of the individual. This, in our view, explains why when asked police forces often find it difficult to define the reasons ('explain or reform') behind the disparity as the notion of risk in regards BAME communities seems to be hard wired into the police forces unconscious biases. It is this notion of risk that informs 'intelligence' which lacks scrutiny on the basis that it is confidential. This is evidenced in the Amnesty International report: Trapped in the Matrix where Detective Superintendent Champion expressed concern that the different ways boroughs add and remove people from the Gangs Violence Matrix led to inconsistencies in approach.¹⁰
27. In an American study looking at the differences of treatment between black girls (particularly in the age range of 5-14 years old) and white girls of the same age in education. It was found that compared to white girls of the same age participants in the survey perceived that black girls needed less nurturing, needed less protection, to be supported less, to be comforted less, seen as more independent, know more about adult topics and know more about sex.¹¹
28. Similarly, research in 2014 by Professor Philip Goff revealed that beginning at the age of 10, black boys are more likely than their white peers to be misperceived as older, viewed as guilty of suspected crimes, and face police violence if accused of a crime.¹²
29. Although both studies are American there are some parallels with the UK. We believe that the notion of risk as described above is linked to the idea of adultification. BAME children and young people are viewed as riskier partly

¹⁰ Amnesty International, Trapped in the Matrix, May 2018 - https://www.amnesty.org.uk/files/2018-05/Trapped%20in%20the%20Matrix%20Amnesty%20report.pdf?lJSxllcKfkZgr4gHZsz0vW8JZ0W3V_PD=

¹¹ Girlhood Interrupted, The Erasure of Black Girls' Childhood - <https://www.law.georgetown.edu/poverty-inequality-center/wp-content/uploads/sites/14/2017/08/girlhood-interrupted.pdf>

¹² The Essence of Innocence: Consequences of Dehumanizing Black Children - <https://www.apa.org/pubs/journals/releases/psp-a0035663.pdf>

because they are perceived as older than their age. This perception may explain why recent Sentencing Council research found that black men were more likely to be given custodial sentences or longer custodial sentences for their role in a drugs offence than their white counterparts.¹³

30. The other concern for us is what we are calling '*fishing*'. This is the idea that when a police officer stops an individual on the street for a particular offence but does not find evidence of that offence they then go on to pursue the person further effectively '*fishing*' for something to arrest/charge them for. Anecdotally, we hear this often from BAME communities and especially from young people. It is EQUAL's view that stop and search should be limited to searching for the item that initially raised suspicion, it is not acceptable for officers to then continue searching until they find something; searching an individual is intrusive and personal and should not be an opportunity to carry out a fishing expedition. We know that stops and searches where the item searched for is not found but something else is found instead (e.g. police searched for a knife but found drugs) are still deemed as successful stops. We recommend that successful stop and searches are classified as a success only if the item that raised the suspicion is proved, all other stops should be deemed unsuccessful with qualitative data provided on why a particular stop was unsuccessful. Without this data it is impossible to identify '*fishing*' trends and the unconscious biases that may be driving these '*fishing expeditions*' which contribute to historically poor relations between the police and black community, particularly.

Q10: Can you suggest other ways in which racial and ethnic disparities in the UK could be addressed? In particular, is there evidence of where specific initiatives or interventions have resulted in positive outcomes? Are there any measures which have been counterproductive and why?

31. Serious Violence Reduction Orders (SVRO's) and Knife Crime Prevention Orders (KCPO) are just two of the most recent measures which to be introduced that we believe are completely counterproductive for decreasing racial disparity and building trust and confidence in BAME communities. We have seen throughout the pandemic an increase in police powers provided by the Coronavirus Act 2020 whilst simultaneously seeing racial disparities increase in stop and search and the distribution of fines, particularly in London.
32. The SVRO consultation acknowledged that BAME groups would be disproportionately affected by SVRO's yet justified this on the basis that BAME communities are more likely to be the victims of serious violence. This notion is fundamentally flawed, and the consultation failed to provide any mitigation. An Equality Impact Assessment was not completed prior to consultation and the

¹³ Sentencing Council, Investigating the association between an offender's ethnicity and the sentence imposed at Crown Court for drug offences - <https://www.sentencingcouncil.org.uk/wp-content/uploads/Sex-and-ethnicity-analysis-final-1.pdf>

risks to BAME communities have not be mitigated. We believe that the introduction of such measures is counterproductive and will increase feelings of wariness amongst the BAME community.

33. The media also plays a significant role in the way BAME communities are perceived and EQUAL believe this contributes considerably to the notion of risk attributed particularly to young black men. This includes the national broadcasting of negative stereotypes, including comments made by Chair of the Metropolitan Police Federation Ken Marsh whose response when defending the police enforcement of the Coronavirus lockdown measures after figures showed that officers were 2x as likely to issue fines to black people than white people was that *“anyone out in the first four weeks was a drug dealer”*. Comments like this only perpetuate stereotypes and encourage the ‘canteen culture’ of the police force as above. The governments hostile environment via its discriminatory immigration policies and the Windrush scandal have also played into this narrative.
34. There is also a strong concern about the lack of public funding of other services and the impact this has on policing. Due to a lack of other resources police officers are often required to attend situations where other professionals may be better suited to help an individual. This lack of resource often means that officers with little training on things like mental health, disabilities etc are drafted in to assist with individuals who have specific unidentified needs. This also impacts on the police’s ability to identify perpetrators and victims leading to punitive enforcement action rather than a more holistic approach that may have been provided by an alternative service. We would encourage the government to invest in other public services to ease the responsibility of the police and support BAME communities to break the school to prison pipeline and reoffending cycle.

Prisons

35. In prisons, prison officers can switch off their body worn video (BWV) or delete CCTV recordings. To ensure its legitimacy there must be ongoing governance of use of force in prisons. HMPPS began equipping prison officers with PAVA spray in 2018 but in March 2020 this was rolled out across the entire adult prison estate. Pre Covid-19 prisons were assessed on their use of force before PAVA spray would be provided via a ‘readiness assessment’ (which fails to adequately address inequality in our view). However, following initial lockdown restrictions only 43 of the 81 prisons provided with PAVA spray had completed a readiness assessment. This is despite the 2018-19 HM Inspectorate of Prisons report that stated data collection on use of force was inadequate in *‘about half’* the prisons they had inspected.¹⁴
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36. The decision to equip prison officers with PAVA spray during the Covid-19 pandemic without completing 'readiness assessments' despite their lack of robust safeguards specifically in relation to discrimination and racial disparities was and is, we believe, likely to undermine trust and confidence in the prison service for BAME service users. The rollout of PAVA spray without completed readiness assessments is counterproductive to building trust in BAME communities and fails to acknowledge HMPPS duties under the Public Sector Equality Duty.

BAME-led Voluntary Sector

37. We believe that to tackle overrepresentation and discrimination against BAME communities in the CJS there needs to be a cross-government approach. This must include the advice and support of BAME-led voluntary sector organisations who work in this space and have an acute understanding of the experiences of BAME communities in the CJS. As summed up in our partner organisation Clinks letter to Dr Tony Sewell CBE (which we support), *"These organisations (BAME-led voluntary sector organisations) are able to positively recognise and reaffirm people's cultural identities in a way that aids desistance from crime, and also to recognise and address experiences of discrimination, which if ignored, can be a significant obstacle to desistance."*

38. We know through data and anecdotally that BAME-led voluntary sector organisations are under significant financial pressure affected by recent cuts in public spending, changes to commissioning and the Covid-19 pandemic. It is vital that BAME-led organisations receive sustainable, long term resource and financial support to address.

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¹⁴ HM Chief Inspectors of Prisons for England and Wales Annual Report 2018 – 19 - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814689/hmip-annual-report-2018-19.pdf#:~:text=HM%20Chief%20Inspector%20of%20Prisons%20for%20England%20and,be%20printed%20on%209%20July%202019.%20HC%202469