

Consideration	
Public/Non Public*	Public
Report to:	Strategic Resources and Performance Board
Date of Meeting:	9th November 2017
Report of:	Nottinghamshire Police and Crime Commissioner
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Agenda Item:	7

*If Non Public, please state under which category number from the guidance in the space provided.

THE LAMMY REVIEW 2017

1. Purpose of the Report

- 1.1 Provide an overview of key findings and recommendations from David Lammy's Independent review¹ into the treatment of, and outcomes for Black, Asian and Minority Ethnic (BAME) individuals in the criminal justice system, which was published on 8th September 2017.

2. Recommendations

- 2.1 The Police and Crime Commissioner is invited to consider the implications of the Lammy Review and an increasing government focus on outcome disparity among Black, Asian and Minority Ethnic groups for policing and criminal justice services across Nottinghamshire.

3. Reasons for Recommendations

- 3.1 Recommendations reflect an increasing national cross-party focus on reducing disparity in outcomes among BAME individuals. The Equality Act 2010 also places a statutory duty on public bodies to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity and to foster good relations between people of BAME backgrounds and those who do not.

4. Summary of Key Points

- 4.1 In January 2016, the government commissioned Labour MP David Lammy to undertake an independent review into the treatment of and outcomes for Black, Asian and Minority Ethnic (BAME) individuals in the criminal justice system. The review was supported by a Ministry of Justice and a panel of expert advisers, considered evidence from the point of arrest onwards.
- 4.2 The final report was published on 8th September 2017 and highlighted the extent of disproportionality within the Criminal Justice System noting that:-

¹ <https://www.gov.uk/government/publications/lammy-review-final-report>

- Despite the overall number of young offenders falling to record lows, the BAME proportion of young people offending for the first time rose from 11% in 2006 to 19% between 2006 and 2016 while the proportion of BAME young offenders in custody rose from 25% to 41%
- The rate Black defendants pleading 'not guilty' in Crown Courts (41%) remained significantly higher than that of white defendants (31%) between 2006 and 2014, often on account of a 'trust deficit' among BAME defendants. As a consequence, fewer Black defendants receive the possibility of reduced sentences.
- For every 100 white women handed custodial sentences at Crown Courts for drug offences, 227 black women were sentenced to custody. For black men, this figure is 141 for every 100 white men.
- Failure to take effective action in response to parenting. Only 189 parenting orders were issued in 2016, despite 55,000 youth convictions.
- BAME disproportionality in the criminal justice system is estimated to cost the taxpayers across England and Wales at least £309 million each year

4.3 As part of the Review, Lammy also makes clear that many of the causes of BAME over-representation begin long before a guilty plea, court appearance, or prison sentence. Black children, for example, are more than twice as likely to grow up in a lone parent family, and black and mixed ethnic boys are more likely than white boys to be permanently excluded from school. The report makes clear that government policy can only go so far, and challenges communities to assume greater responsibility.

4.4 The Review made 35 recommendations, many inspired by international examples of innovation and good practice. These include:

- Rigorous assessments of a young offenders' maturity to inform sentencing decisions, taking inspiration from youth justice in Germany. Those judged to have low levels of maturity should receive extended support from the youth justice system until they are 21
- Exploring how the criminal records of ex-offenders that can prove to a judge or independent body that they have reformed can be 'sealed'. Their record would still exist, but would not be disclosed to employers
- Allowing some prosecutions to be 'deferred' so that low level offenders can receive targeted rehabilitation before entering a plea and if successfully completing programmes, would see their charges dropped
- Learning from Rangatahi courts in New Zealand, 'Local Justice Panels' should be established where local people with a direct stake in a young offender's life are invited to contribute to their hearings

- Publishing all sentencing remarks in the Crown Court in order to make justice more transparent for victims, witnesses and offenders and address the 'trust deficit' that exists amongst BAME defendants
- CPS should revisit the current approach to prosecuting gang members, including reviewing its role in the protection of vulnerable children/young people and women who are often coerced into gang-related activities
- CPS use of new legislation such as the Modern Slavery Act 2015 (and other tools should be maximised to deal with those who exploit young people for criminal purposes
- The government should set a national target to achieve a representative judiciary and magistracy by 2025 and the Prison Service should set targets for BAME staff leadership progression over the next 5 years
- Prison governors should ensure Use of Force Committees are not ethnically homogeneous and ensure that there are consequences for officers that misuse force on more than one occasion
- A new approach should be agreed to record and publish ethnicity data. In particular, the CPS and courts should collect more data on religion so the treatment of different religious groups can be examined

4.5 Subsequent to the publication of the Lammy Report, the Prime Minister published the UK's first Race Disparity Audit² on 10th October 2017. This provided a comprehensive overview of disparities between public service outcomes across different ethnic groups. In terms of crime and policing, the audit highlighted:-

- Lower levels of experience and fear of crime among white people compared to Mixed, Black and Asian adult populations, although feelings of safety have improved among Asian people since 2013/14
- Lower levels of confidence in police among people from Black or Mixed backgrounds, especially young people
- Ethnic minority groups being significantly more likely to be arrested and stopped and searched than White
- Black defendants being more likely to be remanded in custody than White and Asian defendants
- Average custodial sentence lengths for indictable offences have increased for all ethnic groups since 2009, but remains lower among white offenders (18 months) compared to Black (24) and Asian (25) offenders
- While the number of white young people held in custody has fallen by 73% since 2005/06, the number of young people from non-White ethnic minorities held in custody has only fallen by 43%

² <https://www.gov.uk/government/publications/race-disparity-audit>

- A higher proportion of non-White offenders committed offences of violence against the person (40%), robbery (27%) and drugs (13%) than White offenders (30%, 23% and 4% respectively)
 - Black offenders had the highest rate of reoffending compared to other ethnic groups from 2006 to 2014.
- 4.6 Nottinghamshire police data indicates that that a number of findings from the Race Disparity Audit are reflected so some degree at a local level:-
- Arrest rates per 1,000 population, for example, remained significantly higher among BAME individuals (26.1) than for White individuals (16.1) in 2016/17, however the disparity has reduced compared to 2015/16
 - Stop and search rates per 1,000 population among Black (8.5) and mixed heritage (4.1) individuals remain significantly higher than that of White (1.1)
- 4.7 The force's Equality and Diversity objectives commit the service to ensuring that policing powers are used proportionately, services are accessible to all and crimes which disproportionately affect and impact on particular protected groups are dealt with proactively. It also commits the force to regularly and meaningfully engaging with local and diverse communities to ensure that actions focus on their needs and reflect their concerns and experiences. The force also aims to increase the extent its workforce represents the communities it serves and that all staff have the opportunity to progress and develop within the organisation.
- 4.8 A range of actions are being taken to drive improvements in these areas which include:-
- Steady long term progress in against the ambition to achieve a police workforce that is representative of the communities it serves. BAME police officer representation stood at 4.5% in March 2017 with an ambition to increase this level to 11.2%. The current 6.7% point gap remains slightly smaller than that seen at a national level (7.7% point gap).
 - A programme of work being undertaken by the Police Professional Standards Department, Office of the Police and Crime Commissioner, Youth Commission and other local stakeholder groups to improve access, understanding and confidence in the police complaints system among BAME individuals and communities
 - Exploratory work being undertaken by the PCC and Criminal Justice partners to review and improve outcomes for BAME women within the criminal justice system in Nottinghamshire
 - Roll out of the Nottinghamshire Police and Crime Survey, which will provide a robust insight into BAME experience and reporting of crime and perceptions of the police. Findings from the survey will be used to inform the

police and partnership response to disparities in confidence, perception and experience and monitor progress against local improvement plans

- Ongoing work of the BME Steering Group and Stop and Search Scrutiny Panel in improving police openness, transparency and accountability local policy, practice and decision making

4.9 While a range of projects and initiatives are underway to tackle inequity and improve trust, fair treatment and outcomes for BAME individuals across Nottinghamshire, it is clear that still more could be done. Areas of suggested focus for 2018 to 2021 include:-

- Developing a more comprehensive understanding of criminal justice outcome disparity at a local (force or regional) level
- Continuing to explore and evaluate the impact of training in 'unconscious bias' training within the force and other crime, community safety and criminal justice agencies
- Ensuring that the ambition to reduce outcome disparity across different social and demographic groups is sufficiently reflected within the emerging Police and Crime Plan for 2018-21
- Continuing to explore more flexible and diversionary approaches to managing risk of offending among BAME young people and exploring opportunities to help those that no longer pose a risk to society to 'start afresh'.

5. Financial Implications and Budget Provision

5.1 It is anticipated that organisational responses to reducing disparities in policing and criminal justice outcomes will be met within core budgets

6. Human Resources Implications

6.1 The report should be considered alongside the long term Police and Crime Plan ambition of Nottinghamshire Police to achieve a workforce which is representative of the communities it services

7. Equality Implications

7.1 Considerations set out in the Lammy Report and posed by the government's Race Disparity Audit are integral to delivery against the Equality Act and the development of local equality objectives and action plans across policing and criminal justice services.

8. Risk Management

- 8.1 Failure to reduce outcome disparity and secure trust and confidence in the criminal justice system among BAME communities presents a reputational risk to local criminal justice agencies and risks to both the delivery of local equality objectives and Police and Crime Plan ambitions outlined in paragraph 4.7.

9. Policy Implications and links to the Police and Crime Plan Priorities

- 9.1 The report and increasing government focus on outcome disparity should be considered alongside development of the 2018 to 2021 Police and Crime Plan

10. Changes in Legislation or other Legal Considerations

- 10.1 The Equality Act 2010 also places a statutory duty on public bodies to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity and to foster good relations between people of BAME backgrounds and those who do not.

11. Details of outcome of consultation

- 11.1 The Lammy Review was informed by consultation via a 'Call for Evidence' between March and June 2016 which obtained 275 responses from members of the public, academics, individuals working in the Voluntary and Community Sector, businesses and Judicial and Legal Professionals.
- 11.2 The Ministry of Justice is yet to issue a formal response to the findings and recommendations of the report.

12. Appendices

- 12.1 The final report of the Lammy Review 2017 can be found at <https://www.gov.uk/government/publications/lammy-review-final-report>