



RAP THE SYSTEM

Young Black People and the Criminal Justice System

Section 95 of the Criminal Justice Act 1991 (which came into force on 1st October 1991) states that the Secretary of State "shall publish in each year such information as he considers expedient" for the following purposes: first, to ensure that those engaged in administering criminal justice become aware of the financial implications of their decisions; and second to facilitate the performance by those people of their duty to avoid discriminating against any persons on the grounds of race or sex, or any other improper ground. The second subsection of this short provision is the first time that a duty to avoid discrimination has been recognised in criminal justice legislation. Its inclusion followed strong co-ordinated pressure from a wide range of organisations including the Penal Affairs Consortium, the Society for Black Lawyers and the Commission for Racial Equality, and was supported by the Bar Council, the Criminal Bar Association and the Law Society.

Over the last 15 years there has been a growth in information about the position of black people both within the criminal justice system and in the community at large. Firstly, there is a growing understanding of what the criminal justice system actually is; an independent group of agencies with differing tasks and roles, whose main connection is the offender. It is now also understood that decisions made at an early stage of the process may effect later decisions.

In such a short article, I will not attempt to draw on all the available information but will summarise some of the findings. African/Caribbean peoples are significantly more likely than whites to be stopped and searched by police even when other factors such as age are taken into account. (Home Office statistical Bulletin 5/89 and Walker 1989). The reasons for this are complex and may partly reflect policing strategies but the effect is that many more black young people than white find that their contacts with the police are with them as potential suspects. This is despite the fact that they are also more likely to be victims of crime than whites.

Cautioning for juveniles has become accepted as an effective and desirable

method for diverting many young people from the court system. Home Office circular 59/90 provides a guide for the need to divert young offenders and the Codes of Practice for Crown Prosecutors 1992 also recommends special treatments for juveniles. Despite this, studies such as that by Landau and Nathan ('83) and Tipler ('89) suggest that this mechanism has not provided equity in the numbers of black and white young people diverted from a court appearance.

When a young black person enters the Youth Court or Crown Court, they are more likely to be remanded into custody or local authority accommodation than their white peers. However the disproportionate number of black people who are unemployed and/or homeless is an important factor in the operation of the Bail Act. Research shows that racial minorities are less likely to receive probation orders (Home Office Statistical Bulletin 6/89, Brown and Mullin, Mair, Mason, Voakes and Fowler, Walker 1989). NACRO monitored most of the Intermediate Treatment/Juvenile Justice Alternative to Custody provisions funded under a Government Initiative in 1983. Many projects did not monitor for race and gender, but the data available suggests that young black people did not benefit from this injection of resources, which had such an impact on the number juveniles sentenced to custody in the mid 80s.

With black people more likely to be arrested, less likely to be diverted from the court process, less likely to receive non-custodial sentences, and more likely to be remanded in custody it is not too surprising that in 1990, the population of black people in prison was 16 percent, compared to 12.5 percent in 1985. Over the same period the population of black female prisoners rose from 1% to 26%. It is estimated that approximately 5% of the population of England and Wales are from ethnic minorities. As already noted these statistics must be viewed alongside variables such as geographical and demographic factors, age, gender, unemployment and housing, but it is still obvious that the Criminal Justice System is producing outcomes which disadvantage black people.

Section 95 of the Criminal Justice Act clearly states the need for better monitoring. But monitoring is not an end in itself: it needs to be systematically



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gathered and properly evaluated. The different agencies involved need to agree, and use, similar specifications. It must also be done with the consensus of the whole community, and it must be linked to producing effective strategies for change. The experience of black and ethnic minority communities is that, too often, it is used against black people by perpetuating myths about wholesale criminality throughout the black community.

The Criminal Justice Act 1991 introduced some important provisions: statutory criteria for the imposition of custody; disposals which are to be commensurate with the seriousness of the offence; and national standards to cover aspects of community sentences and pre-sentence reports. But despite the potential for better practice, it is unlikely that it will have a positive impact on the experience of black people involved in the criminal justice system.

Much resources provision is structured in such a way that many black young people do not find that their needs can be addressed. Despite the growing need for agencies to work in closer partnership over a range of issues connected with the criminal justice process, this does not seem to have extended to talking about the needs of black people in an open and constructive way.

What is needed is for all services to have a stated equal opportunities policy and to ensure that this is effectively implemented, monitored and reviewed. Effective action to prevent discrimination requires significantly more than a stated willingness to accept all offenders equally.

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