**Exposed: ‘racial bias’ in England and Wales criminal justice system**

Prosecutions of some black defendants should be dropped or deferred, says Labour MP David Lammy’s report

Thursday 21 September 2017, Guardian

Prosecutions against some black and minority-ethnic suspects should be deferred or dropped to help tackle the bias against them in the criminal justice system of England and Wales, according to a highly critical report written by the Labour MP [David Lammy](https://www.theguardian.com/politics/david-lammy) at the request of the prime minister.

Lammy said allowances should also be made for younger defendants’ immaturity and criminal records should be sealed to help former offenders find work, adding that statistics suggested discrimination was worse than in the US in some cases.

“My conclusion is that BAME individuals still face bias, including overt discrimination, in parts of the justice system,” the [MP says in his report](https://www.gov.uk/government/publications/lammy-review-final-report). His findings provide facts that people from minority ethnic backgrounds have argued for decades.

The MP highlighted the fact that there was “greater disproportionality” in the number of black people in prisons in England and Wales than in the US. Black people make up 3% of population in England and Wales and 12% of the prison population, compared with 13% and 35% respectively, in the US.

His report concludes there is overt racial prejudice in the criminal justice system, although it is declining. But problems of covert and unconscious or implicit bias are becoming more apparent instead.

Lammy says overt discrimination is declining, but covert and unconscious or implicit bias are becoming more apparent.

As an example, Lammy said that when the word “gang” was used rather than “group” in discussions about crime, “it can be used to signal ethnicity rather than to describe the links between a group of suspects”.

The review was commissioned in January 2016 by David Cameron, the then prime minister, and has been supported by his successor, Theresa May. It attempts to disentangle the broader effects of discrimination and disadvantage in society from the procedures of police, courts, prisons and the probation service.

Deferred prosecutions, permitting suspects to enter rehabilitation programmes without having to admit guilt, have been piloted successfully in New Zealand, California and the West Midlands, the report says. People completing programmes have their charges dropped, but those who do not go on to face criminal proceedings. Such schemes, Lammy said, should be extended to tackle racism in the system in England and Wales.

Violent offenders who have gone through the West Midlands programme, Operation Turning Point, are 35% less likely to reoffend than those who went through the normal criminal justice channels. Victims were also more satisfied and costs were lower than traditional prosecutions, the report states. The scheme should be rolled out across England and Wales for adult and young offenders, Lammy recommends.

Young black people are [nine times more likely](https://www.theguardian.com/society/2017/sep/01/young-black-people-jailed-moj-report-david-lammy) to be locked up in England and Wales than their white peers, according to Ministry of Justice analysis picked up by Lammy. The BAME proportion of youth prisoners rose from 25% in 2006 to 41% last year.

If the prison population reflected the makeup of England and Wales, there would be 9,000 fewer people in prison. The costs to the taxpayer of such disproportionate outcomes, the report claims, is more than £300m a year.

A symptom of the bias problem, the MP said, was the mistrust shown by BAME defendants. “They see the system in terms of ‘them and us’ ,” Lammy said. “Many do not trust the promises made to them by their own solicitors, let alone officers in a police station warning them to admit guilt. What begins as a ‘no comment’ interview can quickly become a crown court trial.”

Between 2006 and 2014, 41% of black defendants pleaded not guilty in crown courts compared with 31% of white defendants. Consequently, black defendants lose the opportunity of reduced sentences through early guilty pleas and distrust in the system is reinforced.

Opening up judges’ rulings to wider scrutiny would help demonstrate fairness, Lammy urged. Encouraging the criminal justice system to work more closely with local communities would also increase public acceptance.

The report says the deferred prosecution scheme should be offered regardless of race to all those facing charges who meet the criteria, namely that they are not hardened offenders. Lammy believes it would help cut the race gap and help divert people from a life of offending.

Lammy said England and Wales should adopt Germany’s approach to assessing the maturity of younger offenders. Rather than an “inflexible” boundary, at the age of 18, between youth and adult courts in England and Wales, the German system allows for less punitive juvenile law to be applied to young adults if the “moral and psychological development” of the defendant suggests he or she is immature or “like a juvenile”.

Such a method reflects the latest scientific evidence on brain development, Lammy said. Assessments of maturity should be developed and used for defendants up until 21. Since there is a high proportion of BAME individuals among young adult prisoners, their introduction would help significantly. Most young people grow out of crime, the report says. Selling drugs as a teenager could prevent an individual becoming a plumber or licensed taxi driver well into their thirties.

Lammy supports a system used in Massachusetts where offenders who can demonstrate they have reformed and are no longer a threat can petition to have their criminal records expunged so that they do not need to disclose them on job applications. Their criminal records would be “sealed” so that judges would still have access in case of reoffending.

The report calls for an “ethnically representative judiciary and magistracy” by the year 2025. While 14% of the general population are from BAME backgrounds, the proportion within the police and prison service is 6%. It is 7% in the judiciary, 11% among magistrates and 19% in the Crown Prosecution Service.

David Lidington, the justice secretary, thanked Lammy for a “detailed and incisive review”. He said ministers would look at his findings and respond in due course, adding that the government would committed to publishing public sector race audits next month. These would allow “the clearest understanding to date of how someone’s ethnicity can impact their day to day life”, Lidington said.

Alison Saunders, the director of public prosecutions, said she would consider Lammy’s recommendations.

“The review calls on all parts of the criminal justice system to be more open to external scrutiny, have rigorous internal oversight, and to develop a diverse workforce as we have done and will continue to do,” she said.

**QUESTIONS**

**What are Lammy’s main conclusions in his report?**

**What sorts of unconscious bias toward BAME groups does he think still exists in the criminal justice system?**

**What solutions does he offer?**

**Include some of his key statistics that support his point:**