



# Ethnic Inequalities in the Criminal Justice System

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## The Research Team

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**The project is funded by the Economic and Social Research Council  
(ref: ES/V015613/1)**



**Comic designed by Nifty Fox Creative, 2022.**

# THE PROBLEM

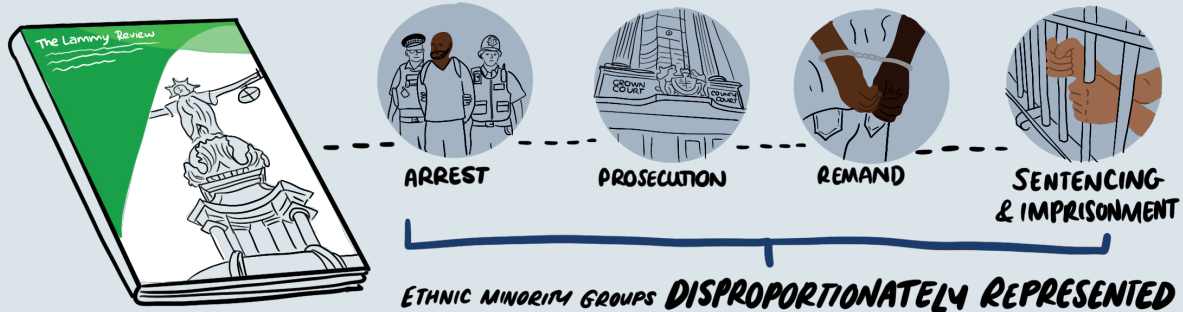
Recently, there has been considerable interest in the **existence of ethnic inequalities** in the way people are treated in society.



Following The Black Lives Matter global protests, sparked by the killing of African American, George Floyd in the US, **ethnic disparities in policing and the Criminal Justice System (CJS) have come into the forefront** of public and political debates.

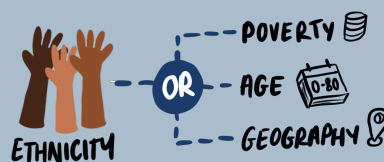


The 2017 Lammy Review in the UK presented evidence of stark ethnic inequalities at all stages of the CJS. From the point of arrest, through prosecution to custodial remand, sentencing and imprisonment, ethnic minority groups were shown to be both disproportionately represented and to experience disproportionately worse outcomes.



The most recent Ministry of Justice report (2021) shows that **ethnic minority defendants were between 4% and 28% more likely to be remanded in custody** and to have a consistently higher average custodial sentence length (ACSL), than White defendants.

4%  TO  
28%   
MORE LIKELY to be REMANDED in CUSTODY



**What are the drivers of ethnic disparities?** Lammy (2017) highlighted the tendency of CJS institutions to dismiss disparities between ethnic groups by pointing to the possibility that there may be factors other than ethnicity that explain ethnic disparities.

This was the motivation behind the **call to 'explain or reform' in the Lammy review (2017)**, that CJS agencies should provide evidence-based explanations for ethnic disparities or introduce reforms to address them.



# THE RESEARCH

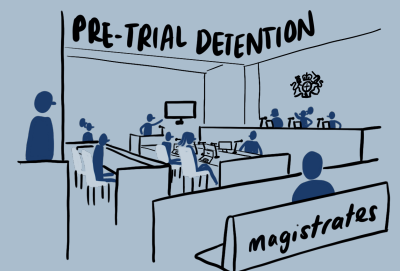
In response to the Lammy Review, research from Manchester Metropolitan University, supported by MoJ, ADR UK, CLINKS and EQUAL **seeks to examine the main factors associated with remand and sentencing outcomes and provide evidence about the independent effect of ethnicity on these outcomes.**



The first of its kind, the research is the **most comprehensive study of the extent and drivers of ethnic disparity in the CJS**, examining linked data from the MoJ Data First programme.



It examines the **factors associated with the likelihood of pre-trial detention** (remand in custody by the Police) of defendants appearing in magistrates' Courts...



**IMPRISONMENT**



...and the **likelihood of imprisonment and the sentence length of custodial sentences** of defendants in the Crown Court, using multilevel models which examine sources of variation within and between courts.

The research also allows for **extra-legal factors, legal, and court factors** that explain these outcomes, **to zone in on the independent effect of ethnicity.**





# KEY FINDINGS

## ETHNIC MINORITY DIFFERENCES

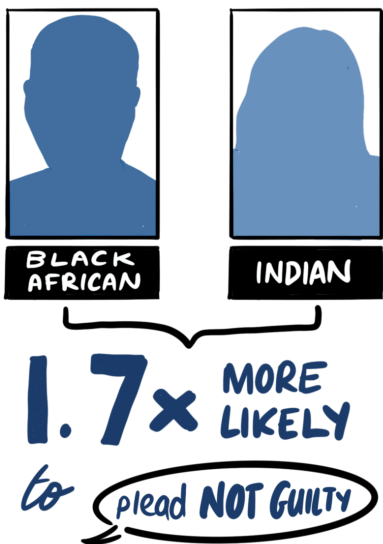


Defendants from most ethnic minority groups are more likely to:

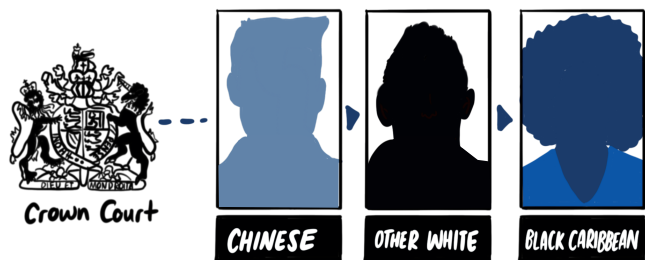
- be sent to Crown Court for trial,
- to plead not guilty,
- and to be remanded in custody when they appear in the Crown Court than the White British group.



Not-guilty plea rates are higher for defendants in the Asian and Black groups, and particularly for **Black African and Indian defendants who are 1.7 times more likely to plead not guilty than the White British group.**



Among those convicted in the Crown Court, **defendants from the Chinese, Other White and Black Caribbean groups are more likely to receive a custodial sentence** than those in the White British group.



**MORE LIKELY to RECEIVE CUSTODIAL SENTENCE**



**BLACK CARIBBEAN young men**

**1.6x MORE LIKELY**  
to receive a **CUSTODIAL SENTENCE**

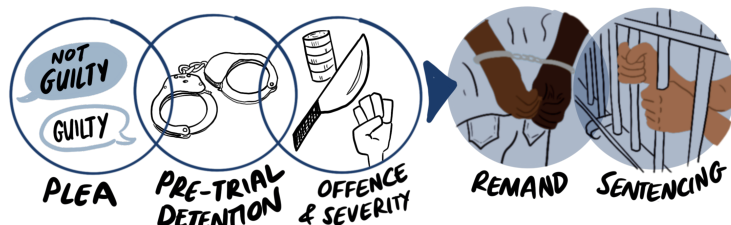
**Ethnic disproportionality is much more pronounced among young male defendants.** Black Caribbean young males are more likely to receive a custodial sentence compared to other ethnic minority groups, being 1.6 times more likely to receive a custodial sentence than the White British group.

## DRIVING FACTORS



Remand and sentencing outcomes depend on a range of legal and extra-legal factors.

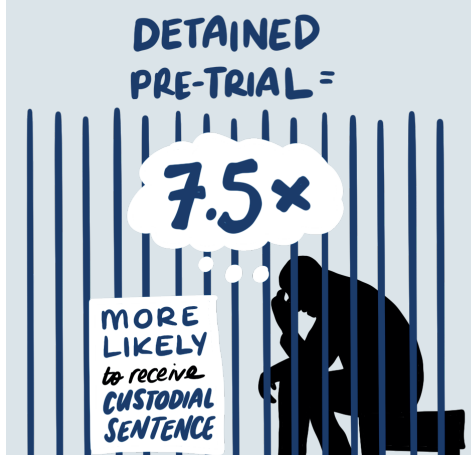
Pleading not guilty, pre-trial detention, offence type and severity are important factors determining these outcomes.



**Plea is shown to have a strong effect on sentencing outcomes** with those entering a not guilty plea being three times more likely to be imprisoned and receive 95% longer sentences.



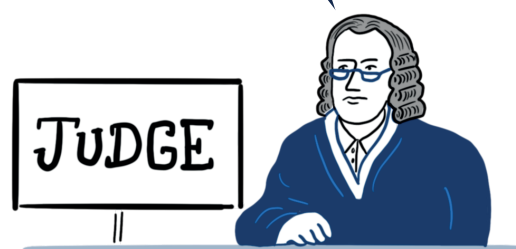
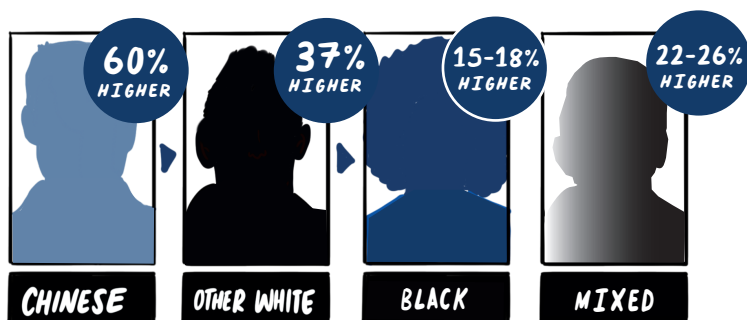
Pre-trial detention holds a strong association with the likelihood of imprisonment with defendants remanded in custody prior to sentencing in the Crown Court **being 7.5 times more likely to receive a custodial sentence.**



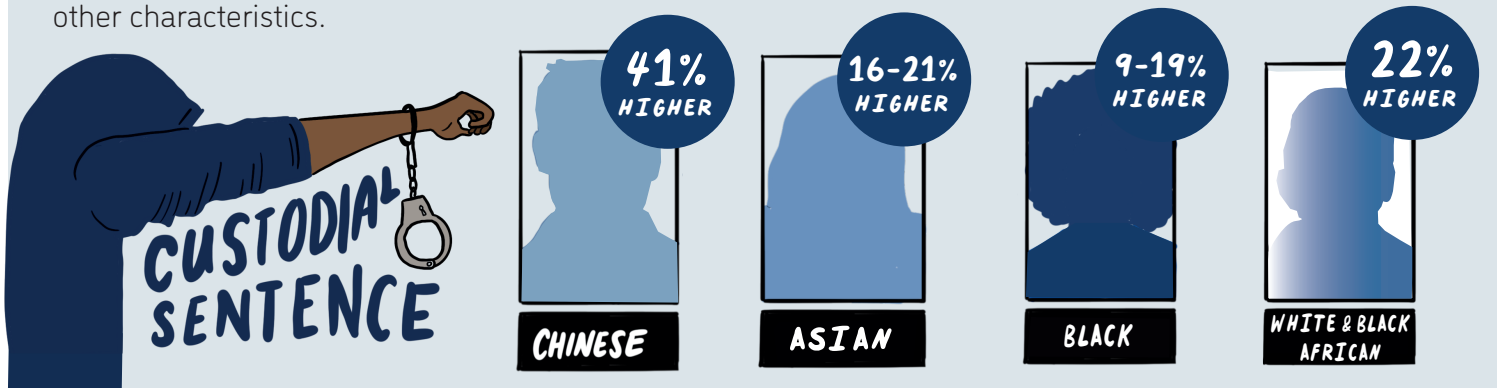
Legally relevant factors, however, do not fully explain disparities in remand and sentencing outcomes between ethnic minority groups and the White British group.

**There is a consistent association between ethnicity and remand and imprisonment and ethnic disparities become more pronounced after controlling for legal factors.**

The likelihood of **remand is 60% higher for defendants in the Chinese group and 37% higher for those in the Other White group** compared to the White British group. **Remand for defendants in Black groups was between 15% and 18% higher** than the White British group and **between 22% and 26% higher for defendants in the Mixed group** compared to the White British group.



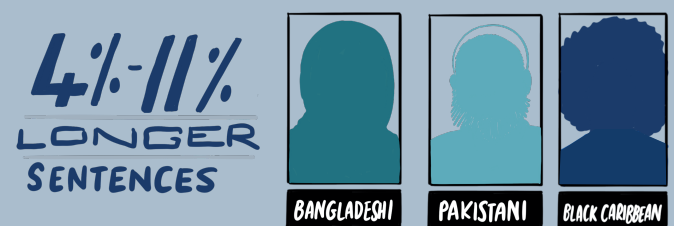
A custodial sentence is **41% more likely for Chinese defendants**, and **between 16% and 21% more likely for defendants from Asian groups**, compared with White British defendants. Similarly, a custodial sentence is between **9% and 19% more likely for defendants in the Black groups**, and **22% more likely for White and Black African defendants** than White British defendants after adjusting for other characteristics.



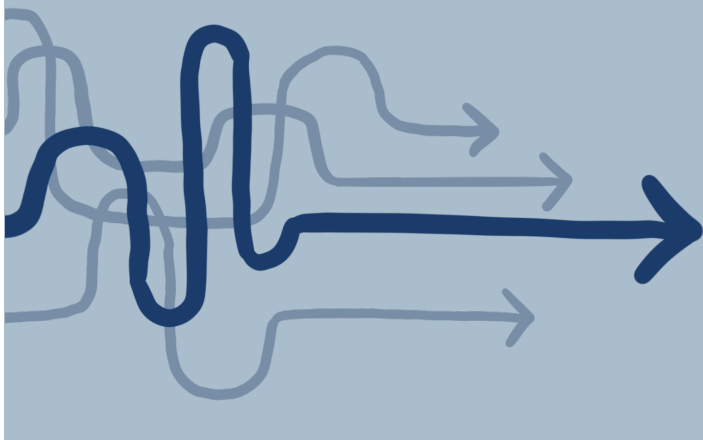
In contrast, ethnic disparities in sentence length are largely explained by legal factors, and after adjusting for these factors, observed differences between most ethnic minority groups and the White British disappear.



The exception is defendants from Pakistani, Bangladeshi and Black Caribbean groups who are shown to have worse sentencing outcomes than the White British receiving between 4% and 11% longer sentences than the White British.



## VARIATIONS IN REMAND AND SENTENCING OUTCOMES WITHIN ETHNIC GROUPS



There are substantial differences in the size of the effects of legal factors on remand and sentencing across ethnic groups. **The effect of offence severity on remand is larger among defendants from ethnic minority groups compared to defendants in the White British group.**



Black African and Black Caribbean defendants are 2.8 and 2.7 times more likely to be remanded in custody by the Police prior to appearing in court if their case involved more serious offences.



BLACK AFRICAN & BLACK CARIBBEAN  
**2.8 AND 2.7x**  
MORE LIKELY to be REMANDED

In comparison, defendants in the White British group appearing in court for serious offences are 1.6 times more likely to be remanded in custody by the Police than those in less serious offences.



WHITE BRITISH  
**1.6x** MORE LIKELY to be REMANDED



Bangladeshi defendants convicted of serious offences are 5.2 times more likely to receive a custodial sentence than those convicted of less serious offences but White British defendants convicted of serious offences are 2.5 times more likely to receive a custodial sentence.

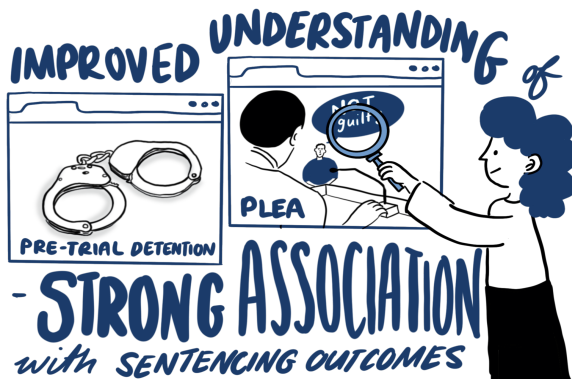
The effect of pre-trial detention on imprisonment is larger for defendants in the Other White group than any other ethnic group.





# WHAT DOES ALL THIS MEAN?

There is a need for **improved understanding of factors such as plea and pre-trial detention**, and specifically the processes by which plea and pre-trial detention decisions are made, which are shown to hold a **strong association with sentencing outcomes** and have a **disproportionate impact on ethnic minority defendants**.

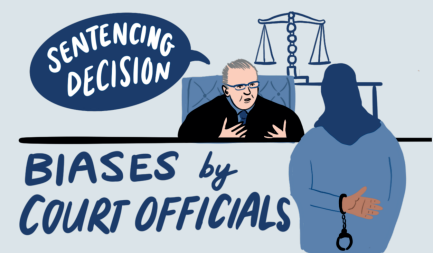


Effective responses to address ethnic inequalities require attention to the **different experiences of ethnic minority groups in the CJS**, and not treat them as a homogeneous group.



The persistence of ethnic differences which remain after adjusting for other factors may be attributed to biases in the CJS or to other unobserved characteristics not examined in the study.

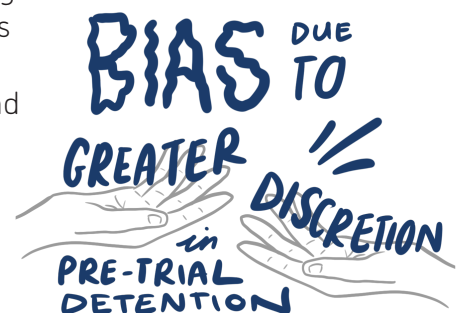
The source of ethnic disparities is likely to be deeper and more systemic than bias in the way remand and sentencing decisions are made.



The lower extent of ethnic disparities in sentence length compared to remand and imprisonment may reflect the lower discretion of judges in passing decisions about sentence length which are **determined by sentencing guidelines and mandatory minimum sentences passed by Parliament**.



In contrast, there is **greater discretion in pre-trial detention and imprisonment decisions** at the sentencing stage which are also **based on subjective assessments within which biases may arise** regarding individual risks posed by defendants and the **need to protect victims**.



# WHAT DO WE DO NOW?

Policymakers need to examine the processes leading to the overrepresentation of people from ethnic minority groups in pre-sentencing outcomes such as plea and pre-trial detention



and re-evaluate guidelines and practices which may contribute to harsher sentencing outcomes for ethnic minority groups.



Targeted efforts should be directed towards raising awareness of, and responses to discrimination, racial bias and ethnic inequalities in the CJS.



Provision of training and support for CJS officials including:

- judges
- magistrates
- probation officers
- police officers

to understand race and ethnicity and how it relates to the CJS.



# WHAT YOU CAN DO RIGHT NOW

**Read about the project**

[bit.ly/3MC9D3k](https://bit.ly/3MC9D3k)

**Read the ADR report**

[bit.ly/3MC9L20](https://bit.ly/3MC9L20)

**Read about the Data First criminal justice linked data**

[bit.ly/3msVP0t](https://bit.ly/3msVP0t)

**Visit the project website**

[ethnicityandcriminaljustice.co.uk](https://ethnicityandcriminaljustice.co.uk)

**Visit the ADR website**

[adruk.org](https://adruk.org)





