

**Rebalancing the Criminal Justice  
System In Favour of the Law-Abiding  
Majority**

**Race Equality Impact Assessment  
Report**

**July 2006**

## **Executive Summary**

### **Background**

'Rebalancing the Criminal Justice System In Favour Of the Law-Abiding Majority' examines the functions of the criminal justice system from policing through to courts to prison and probation. The plan outlines the progress to date, sets out clear proposals, and begins a debate to ask what more can be done to redress the balance within the Criminal Justice System.

The document says that we currently have a system where those from certain ethnic groups are disproportionately more likely to be arrested, to be convicted of a serious crime, and to be imprisoned. The document makes clear that part of rebalancing must be in favour of the law-abiding, but also ensuring that there is no built-in unfairness based on race, creed or colour.

### **CJS framework/areas of business**

The plan contains a number of areas designed to address issues within the Criminal Justice System for which a range of agencies are responsible.

### **Top aims and objectives of reform**

The CJS as a whole has a core objective of increasing the confidence of people from minority ethnic backgrounds that they will not be treated worse by one or more CJS agency compared to white people. In addition to this target the vision for criminal justice in 2008<sup>1</sup> is that unjustified racial disparities in stop and search and in sentencing will have been reduced and that the workforce in each criminal justice agency will be more diverse, more fairly representing the local community it serves. The "Rebalancing" document builds on this basic strategic framework.

This document highlights actions within the review which have potential race equality implications and signposts a set of actions for future work as a result. The document also highlights policies which have already been assessed as part of previous policies or legislation.

### **Process**

#### **Data**

The review drew on data collected under Section 95 of the Criminal Justice Act which reveal that people from minority ethnic backgrounds are disproportionately represented throughout the Criminal Justice process. As examples the document cites the fact that black people are six times more likely to be stopped and searched and three more times more likely to be arrested than white people. This is not necessarily evidence of discrimination

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<sup>1</sup> As set out in "Cutting Crime, Delivering Justice – A strategic plan for Criminal Justice 20004-8" - July 2004

(there may be other factors that explain the disproportion) but does underline the importance of carefully considering and monitoring the impact of criminal justice initiatives on different communities.

## **Engagement**

The document was based on a review conducted inside government informed by experience and research and by a programme of ministerial visits to gather ideas from the front line. The document sets out a range of areas where we want to consult to ensure that we will work closely with all communities on how to take forward this work.

The Home Secretary and Ministers will hold a series of consultation events over the next six months to consult on the proposals outlined here. The intention will be to have events which allow meaningful debate and engagement and through that process we will ensure that all communities and interested groups have the opportunity to properly engage with the development of new proposals.

## **Assessment**

A number of policy areas have the potential to impact on the experience that people from black and other minority ethnic backgrounds have of the CJS. A full race equality impact assessment will be carried out before decisions on implementation are made.

In particular, we will carefully screen proposals to accelerate court processes, tackling low level offending, public disorder and anti-social behaviour and prolific, serious and violent offending to ensure that they do not contribute to any unjustified disproportionality in the system.

A number of the proposals are likely to have a significant positive impact on the ability of criminal justice agencies to deliver their duty to eliminate unlawful racial discrimination; and to promote equality of opportunity and good relations between persons of different racial groups.

In particular:

- Neighbourhood policing has the potential to positively impact on the perception that people from minority ethnic communities have of the police and to build stronger links that allow them to meet the needs of all the communities they serve
- We will implement a fundamental reform of the current ethnicity statistics collected under Section 95 of the Criminal Justice Act 1991 and use them to drive performance. This will help us identify and address the causes of the disproportionate representation of people from some minority ethnic communities in the criminal justice system.

- We will improve the response to race hate crime by implementing the recommendations of the report recently presented to the Attorney General by the “Race for Justice” task force.

Annex A gives further details of the assessment, together with proposed actions.

## **Conclusion**

There are some areas of work in the programme which will require REIAs and others where they have already been completed. The needs of all communities will also be considered through the consultation process launched to discuss these proposals and the implementation of a number of measures which will improve the capacity of the Criminal Justice System to respond to the needs of all the communities they serve.

## Annex 'A'

### REBALANCING THE CRIMINAL JUSTICE SYSTEM IN FAVOUR OF THE LAW-ABIDING MAJORITY

An ambitious and practical plan to further re-balance the Criminal Justice System presents opportunities and possible risks for race equality. In implementing our actions and consultations we are determined to make the most of the positive opportunities and to mitigate potential risks. This document is concerned with race equality impacts but as we move forward we will also be carrying out a broader equality impact assessment. The Rebalancing the Criminal Justice System in Favour of the Law-Abiding Majority published on 20 July is a review outlining the progress to date and the action that needs to be taken to accelerate change. There is more work to be done to flesh out the detail on this.

WORKSTREAMS	INITIAL ASSESSMENT	CURRENT POSITION	ACTION
<b><u>PUTTING LAW ABIDING PEOPLE AND COMMUNITIES FIRST</u></b>			
<b>Treating Victims and Witnesses better</b>			
Introduce a Victim's Voice in the most serious cases before the Parole Board	RELEVANT Opportunity to improve involvement of minority ethnic victims in Parole Board	Policy is currently being screened with a view to conducting a REIA	Ensure screening and REIA completed.
Ensure that all members of Parole Board Panels making a decision on a serious sexual or violent offender have direct or indirect experience of being a victim or can demonstrate a strong appreciation of victim issues	RELEVANT Opportunity to improve representation of minority ethnic victims on Parole Board	Policy is currently being screened with a view to conducting a REIA	Ensure screening and REIA completed.

WORKSTREAMS	INITIAL ASSESSMENT	CURRENT POSITION	ACTION
Increase the compensation that offenders pay, requiring violent offender to meet the medical expenses of victims, and new powers to allow the court to reopen cases beyond current limitation periods, allowing victims to sue, for example if the offender later received a windfall. We will consult on how this is to be done.	RELEVANT	Currently screening for the impact of offender payments to victims (including collecting future income, benefits to victims)	Ensure screening and REIA completed.
<b>Rules that don't privilege the offender over the victim</b>			
Restrict the ability of the plainly guilty to have their convictions quashed because of a procedural irregularity	RELEVANT Risk that appeal test may have disproportionate effect on minority ethnic community but numbers involved will be small	Currently screening for the impact of this action. Will use consultation to assist completion of an REIA.	Ensure screening and REIA completed.

WORKSTREAMS	INITIAL ASSESSMENT	CURRENT POSITION	ACTION
<p>Issue robust, practical, myth-busting advice to practitioners on how rights should be balanced between offenders and the wider community.</p> <p>Set up a web-based legal hotline for frontline staff (like the Police) to get clear advice on the application of competing rights</p> <p>Challenge judgements (especially the Chahal judgement) which stop us from properly balancing individual rights against protecting the public)</p> <p>(Clarify that all relevant Criminal Justice Agencies have a duty to protect the public)</p>	NOT RELEVANT	Policy has been screened and found not to be relevant as the policy involves internal web based advice to CJS practitioners	Continue to monitor impact to ensure that guidance promotes balance of public protection, individual and collective rights
<b>Fairer sentencing, meeting the needs of the community</b>			
Give judges discretion to end the automatic one third discount given for an early guilty plea	RELEVANT	Policy is currently being screened with a view to conducting a REIA	Ensure screening and REIA completed.
<b>Compliance and Enforcement</b>			

<b>WORKSTREAMS</b>	<b>INITIAL ASSESSMENT</b>	<b>CURRENT POSITION</b>	<b>ACTION</b>
Introduce an integrated enforcement service nationally by 2007/08	RELEVANT	Her Majesty's Court Service (HMCS) are responsible for screening the impact on the creation of an integrated enforcement service	OCJR will press for HMCS to screen and complete an REIA is deemed necessary.
Speed up the recall to prison of offenders who break their bail licence with a tough new target  Speed the return to court of bailed defendants who fail to appear by restricting the use of "warrants with bail".	RELEVANT	An initial screening will be conducted during consultation to assess whether this will have any impact on race or equality	Ensure screening and REIA completed.
Begin phased implementation of presumption against bail for those who abscond or offend while on bail.	RELEVANT	Policy is currently being screened with a view to conducting a REIA	Ensure screening and REIA completed.
<b>Community Justice</b>			
Extend Community Payback, which gives communities the chance to choose what unpaid work offenders do	RELEVANT	The impact of unpaid work was included within the CJA 2003 REIA. This will continue to be monitored.	Review existing REIA and continue to monitor impact
DCA Roll out the community justice approach to more areas	RELEVANT Opportunity to ensure that communities are more involved in justice process	DCA are responsible for screening the impact of Community Justice proposals.	Work with DCA to complete a screening and REIA.

WORKSTREAMS	INITIAL ASSESSMENT	CURRENT POSITION	ACTION
<p>Reform the way the Criminal Justice System is held to account for the way it treats people from all ethnic communities, and will implement a programme of work to improve the response to crimes motivated by racist and religious hatred</p>	<p>RELEVANT Opportunity to improve both the CJS treatment of all ethnic communities and its response to racist and religious crimes.</p>	<p>Will improve data collection of ethnicity statistics collected under section 95 of the 1991 Criminal Justice Act and consult widely with all communities on what more can be done to improve performance and how to best implement the recently-published report by the "Race for Justice Taskforce" which examined the handling of crimes motivated by racist and religious hatred.</p>	<p>Ensure data collection is improved and used to monitor performance.</p> <p>Ensure implementation of the recommendations of the Race for Justice Taskforce</p>
<p><b>Visible, responsive and accountable policing</b></p>			
<p>Witness Charter</p>	<p>RELEVANT</p>	<p>Witness Charter has been initially screened and an REIA is being conducted alongside current consultation.</p>	<p>Ensure full REIA of Witness Charter is conducted as a part of consultation</p>
<p>Police Community Support Officers (PCSOs)</p>	<p>RELEVANT</p>	<p>A full REIA for increasing the number of PCSOs is currently underway.</p>	<p>Ensure completion of REIA Police Community Support Officers</p>
<p>Provide a dedicated neighbourhood policing team for every area by April 2008</p> <p>Put in place improved service standards in all forces by this November</p> <p>Introduce a 'Community Call for Action' to trigger response from police (or other agencies) where communities feel that their concerns are not being addressed.</p>	<p>RELEVANT Opportunity to have positive impact on minority ethnic communities' perception of the police and the service they provide</p>	<p>These policies have already been assessed for their impact on race equality including Neighbourhood Policing, the improvement of service standards (within Police Reform White Paper RIA) and the Community Call for action (Police and Justice Bill REIA)</p>	<p>Review existing REIAs and continue to monitor impact.</p>
<p><b><u>GRIPPING OFFENDERS TO CUT CRIME, REDUCE RE-OFFENDING, AND PROTECT THE PUBLIC</u></b></p>			

<b>WORKSTREAMS</b>	<b>INITIAL ASSESSMENT</b>	<b>CURRENT POSITION</b>	<b>ACTION</b>
<b>Low-level offending, public disorder and anti-social behaviour</b>			
Consult on the potential for new summary powers to tackle low-level offending.	RELEVANT	Prime Minister's Strategy Unit are developing proposals for new summary powers for anti social behaviour, this will be screened for impact once it has transferred to the Home Office (or relevant Department responsible)	Ensure that REIA is conducted by the policy area responsible, once the fact-finding by PMSU has been completed.
Introduce Parental Compensation Orders in ten areas from this summer to make sure parents take responsibility for the damage their children cause.	RELEVANT	An REIA was completed on the Serious Organised Crime and Police Bill.	Ensure screening and REIA completed on Parental Compensation Orders.
<b>Reducing re-offending, tackling repeat offenders and drug users</b>			
Combine our priority and prolific offenders programme (PPO) with our drug interventions programme (DIP). Overhaul our approach to high-harm drug users, with tougher conditions, tougher enforcement, and new follow-up assessments)	RELEVANT	As the DIP and PPOs Programmes are aligned a new joint REIA will be prepared which will include where appropriate impacts of specific provisions such as the follow up assessment	Ensure joint REIA is conducted and effective monitoring is put in place

WORKSTREAMS	INITIAL ASSESSMENT	CURRENT POSITION	ACTION
<p>Probation Performance <b>and</b> Contestability &amp; Resource targeting in probation</p> <p>Work with the Lord Chief Justice and sentencers to ensure that probation resources are targeted on those who most need them.</p> <p>Bring in expertise from the private and voluntary sectors to drive up the quality and performance of community punishments.</p>	RELEVANT	<p>An REIA will be completed in early Sept 2006 to assess the impact of the introduction of 3 month performance audits of Probation Boards.</p> <p>Currently screening the impact of targeting probation resources on those who most need them.</p> <p>An REIA of contestability in Probation is being developed in relation to the NOMS bill.</p>	<p>Ensure that an REIA is produced for Probation performance audits in September 2006.</p> <p>Ensure REIA takes place alongside consultation and development.</p> <p>Ensure that an REIA is produced for contestability alongside NOMS bill</p>
<b>Protecting the public from serious, violent and dangerous offenders</b>			
<p>Take tough action on alcohol, with new powers for trading standards officers to act against those selling alcohol to children or those who are drunk; and consider introducing an 'alcohol intervention programme'</p>	RELEVANT	<p>Evidence suggests that minority ethnic groups are proportionately less likely to be involved in alcohol-related crime and disorder (in very general terms). A further screening will consider whether there will be a race equality impact on small to medium enterprises.</p>	Ensure screening and REIA completed.
<p>Increasing penalty for carrying a knife to up to 4 years</p>	RELEVANT	Currently preparing an REIA.	Ensure REIA is completed.

<b>WORKSTREAMS</b>	<b>INITIAL ASSESSMENT</b>	<b>CURRENT POSITION</b>	<b>ACTION</b>
Introduce violent offender orders to provide tough new powers to manage dangerous violent offenders beyond the period of their sentence with penalties of up to five years for breach of conditions	RELEVANT	Currently screening impact of introduction of violent offender orders	Ensure screening and REIA completed.
Building new prison places	RELEVANT	Currently screening impact of creating extra 8,000 prison places	Ensure screening and REIA completed.
Change the rules for parole decisions, so that any decision to release an offender into the community must be made unanimously	RELEVANT	Currently screening the impact of unanimous parole board decisions.	Ensure screening and REIA completed.
<b><u>A SIMPLER, SWIFTER, FAIRER SYSTEM WITH STRONG ENFORCEMENT TO SUPPORT REBALANCING</u></b>			
<b>Police bureaucracy</b>			
Introduce a new, simplified performance framework for crime, drugs and policing by 2007/08	RELEVANT Opportunity to monitor equality and fairness using the new framework for crime, drugs and policing.	Proposals are currently out for consultation with partners (including CRE). It is a requirement of the single framework that <u>all</u> key areas of policing and community safety have appropriate measures to monitor and/or assess equality and fairness. A REIA has already conducted for the policing framework.	Will consult partners on which specific measures for equality and fairness should be introduced or revised, once the structure of the single framework is agreed.

WORKSTREAMS	INITIAL ASSESSMENT	CURRENT POSITION	ACTION
<p>Issue a consultation paper this summer to seek views on improvements to the Police and Criminal Evidence Act, to improve practice and cut bureaucracy</p>	<p>RELEVANT</p>	<p>An REIA will be completed for all proposals for inclusion in the consultation process. Evidence on Stop and search powers under PACE currently show that a Black person is six times more likely to be stopped and an Asian person twice as likely to be stopped as a White person. In terms of arrest, Black people are three times more likely to be arrested than White people.</p>	<p>Ensure that full REIA is conducted. In addition, bilateral discussions will take place with community groups already engaged in scrutiny of PACE-related powers</p>
<p><b>Simple, Fast and Fair justice</b></p>			
<p>DCA (Speeding up, Bulk processing &amp; reducing high cost cases)  Develop 'bulk processing' by the court for non-contested cases for regulatory offences like TV licences, to free up local court capacity</p> <p>Work with the judiciary to take steps to reduce the length and costs of very high cost cases in the Crown Court and we are consulting on sanctions to address where the defence fail to follow court orders</p>	<p>RELEVANT</p>	<p>DCA will be responsible for screening the impact of speeding up Magistrates and Crown Court proceeding including bulk processing and reducing high cost cases.</p>	<p>Work with DCA to ensure screening takes place on improving speed and efficiency of Magistrate and Crown court cases.</p>

WORKSTREAMS	INITIAL ASSESSMENT	CURRENT POSITION	ACTION
Expand the use of Conditional Cautions – bringing forward provisions enabling punitive conditions in the Police and Justice Bill currently in Parliament	RELEVANT	A REIA has already been completed for expansion of conditional cautioning and will be published by Winter 2006. Monitoring of the REIA will be completed using the statistics gathered for data collection under our statutory obligations, which will require us to ensure that the scheme is not disadvantaging particular groups.	Ensure that REIA is published and monitor to ensure the scheme is not disadvantaging particular groups.