



changing lives  
reducing crime

# Prevalence, patterns and possibilities

The experience of people from black and  
ethnic minorities with mental health problems  
in the criminal justice system

## About the author

---

### Professor Eddie Kane

Professor Eddie Kane is director of the Centre for Health and Justice at the Institute of Mental Health, University of Nottingham and professor in the Division of Psychiatry and Applied Psychology, School of Medicine, University of Nottingham. He led the University of Nottingham team that developed the National Knowledge and Understanding Framework; the national personality disorder (PD) workforce development and training programme. He currently leads teams delivering major national and international research programmes covering both the development of evidence-based interventions at the health justice interface and policy review programmes in forensic services.

Professor Eddie Kane was previously the Department of Health's principal adviser on PD services where he led the development of the national PD strategy including the Capabilities Framework workforce and training development plan. He was the national director of high security psychiatric services. He also worked as the director of NHS performance and mental health for London and as director of mental health for the North West and West Midlands regions of England. He has been an NHS Trust CEO and held board-level positions in a variety of public, private and voluntary organisations. He was formerly a trustee of Lifeline Project, a national alcohol and drug services charity, and Shape Up North, an arts access programme for people with disabilities.

### Acknowledgement

**Professor Cecile Wright** is professor of sociology and visiting fellow at the Centre for Advanced Studies, University of Nottingham. She is also honorary associate professor at the School of Sociology and Social Policy and professorial fellow at the Institute of Mental Health, University of Nottingham. Her research and teaching interests include youth, race, social inclusion and ethnocultural diversity in intersection with other markers of social location, such as gender, class, age, alongside complex outcomes (both individual and social structural). She has extensive experience of conducting research projects and project evaluation and has published many books, book chapters and articles.

© Nacro 2014

This paper is the background reader for the conference *Race, mental health and criminal justice: solutions for better practice*.

This paper has been undertaken as part of the Health and Care Voluntary Sector Strategic Partner Programme. It has been produced by Nacro in partnership with the Centre for Health and Justice at the Institute of Mental Health, University of Nottingham, the Men's Health Forum, the Mental Health Providers Forum and the Race Equality Foundation.



# Prevalence, patterns and possibilities: the experience of people from black and ethnic minorities with mental health problems in the criminal justice system

## Introduction

---

This paper sets the context for exploring solutions which address the different experiences people from black and minority ethnic communities with mental health problems in contact with the criminal justice system face. It draws on both readily available open source data as well as national and international literature which were reviewed using a rapid evidence assessment approach (Ganaan, Ciliska and Thomas, 2010). Whilst endeavouring to ensure completeness, there are always caveats when reporting on an area where data has not been specifically collected and where research effort has not been expended and funded.

As this paper illustrates, this is very much the case for those who are experiencing mental health problems and who are in contact with the criminal justice system. The most up-to-date open source data available at the time of writing has been used. The *Rapid Evidence Review* (Kane, Brown and Farhad, 2014) concentrated on literature and policy documents published after *the Bradley Report* (Bradley, 2009). This approach has been taken because Lord Bradley's report carried out a wide-ranging review of the whole topic of the interaction of the criminal justice system with individuals experiencing problems with their mental health. The search has, however, been extended back over earlier years to ensure any literature or policy papers that specifically referred to the black and ethnic minority filter had been accessed.

In April 2014 the Department of Health announced an investment to test a new national model of Liaison and Diversion (L&D) in ten locations across England commissioned by NHS England. The L&D programme is a cross-government initiative with partners from the Bradley Review Group, Department of Health, Her Majesty's Courts and Tribunal Service, Home Office, Ministry of Justice, National Offender Management Service, NHS England, Offender Health Collaborative, Public Health England and Youth Justice Board.

L&D services aim to decrease health inequalities and improve health outcomes for people in contact with the criminal justice system who have mental health problems, learning disabilities, substance misuse problems or other vulnerabilities. The new national model will be rolled out further to cover 50% of the population in England from 2015/16 prior to full rollout by 2017/18 subject to a full business case approval by HM Treasury.

# A Background

## A.1 Prevalence and patterns

There are no consistently collected national data sets that specifically target or can be triangulated to accurately describe the combination of ethnicity, experiencing mental health problems and contact with the criminal justice system. However, it is clear that individuals from black and minority ethnic groups are disproportionately represented within the criminal justice system at all levels of contact from stop and search, arrest, sentencing, through to prison and subsequent release on probation (see tables 1-3 below).

**Table 1**

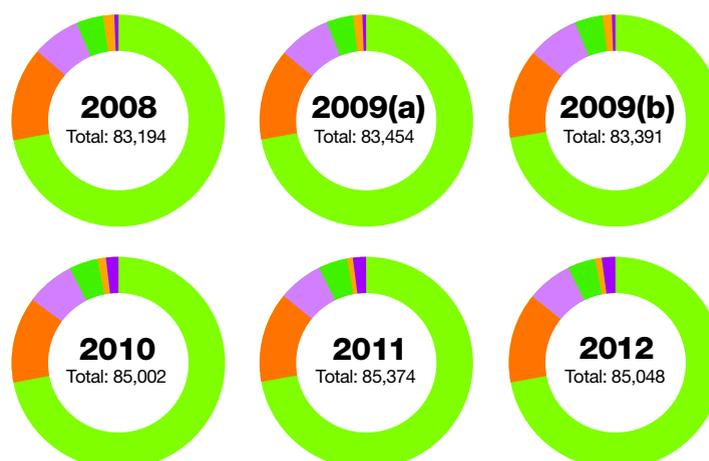
Proportion of individuals in the criminal justice system by ethnic group compared to general population, England and Wales (Ministry of Justice, 2013)



(1) The mixed category is not included as ethnic categorisation is based on appearance only.

**Table 2**

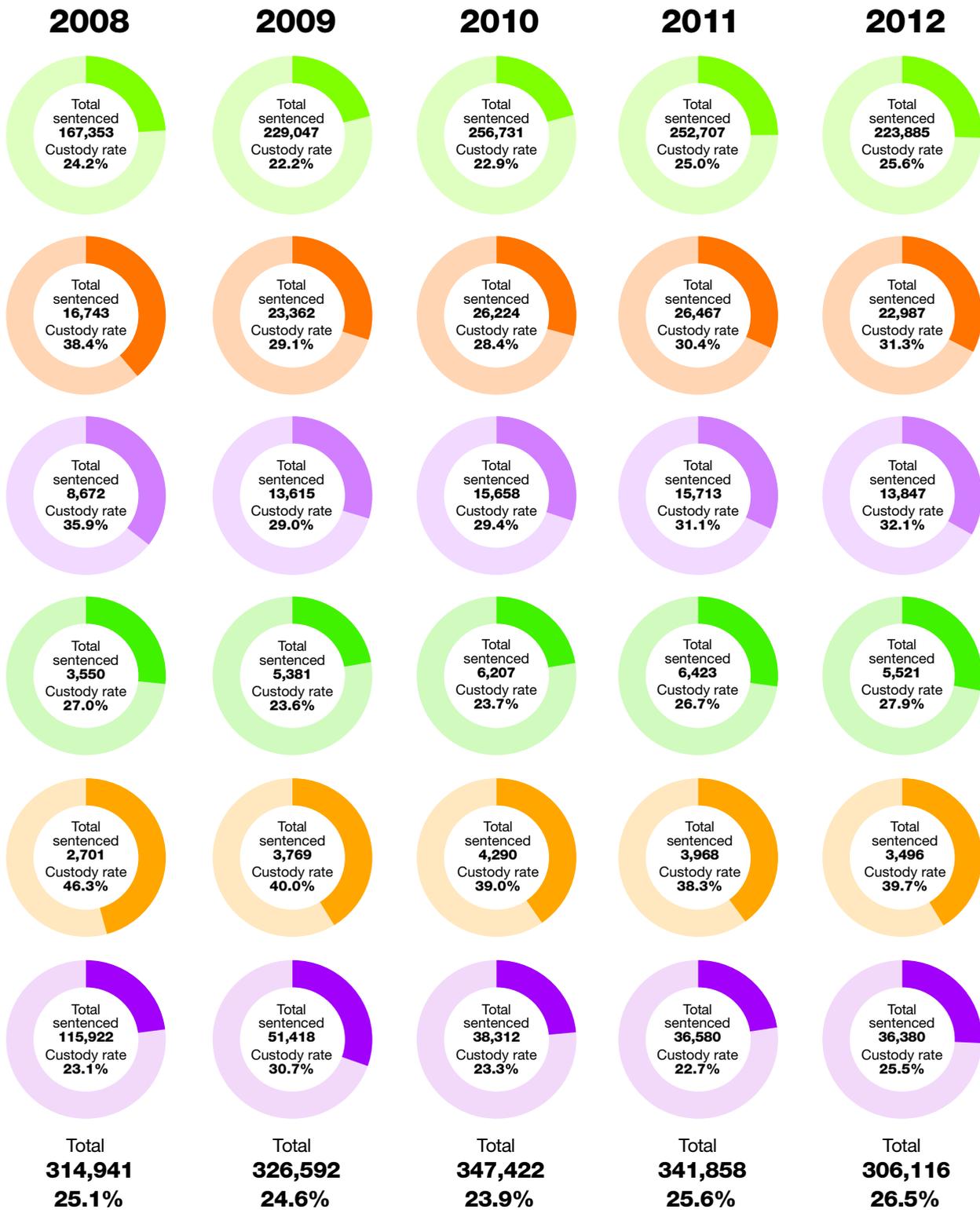
Total prison population (including foreign nationals) by self-identified ethnicity, England and Wales as at 30 June 2008 to 2012 (Ministry of Justice, 2013)



Due to the introduction of a new prison IT system the 2010 prison population data were taken from a different source. The 2009 figures from both the old and new systems have been presented to aid comparison.

**Table 3**

Number of offenders sentenced for indictable offences at all courts and percentage sentenced to immediate custody by self-identified ethnicity, England and Wales, 2008 to 2012 (Court Proceedings Database; Ministry of Justice, 2013)



**Key**

- White
- Black
- Asian
- Mixed
- Chinese/Other
- Not stated/unknown\*\*

\*\* Also includes 1991 Census ethnicity codes.

These data show that individuals over the age of criminal responsibility from some minority ethnic groups are disproportionately stopped and searched, arrested, taken to court and given custodial sentences when compared to the white population. For example, in the latest complete open source data available the black population (the category name used in the data set) over the age of ten (age of criminal responsibility) was 3.1% of the total population yet they represented 14.2% of stop and searches, 8.3% of arrests, 7% of cautions, 7.8% of indictable court proceedings and 8.9% of immediate custody sentences.

As well as being disproportionately represented in the criminal justice system, research studies point to there being other potentially important issues to consider. Differences are reported in relation to the rate of occurrence of mental health problems between individuals from different minority ethnic groups and white British individuals. Reasons given for such differences include:

- migration and the experiences associated with this; including trauma in country of origin, trauma of the migration process, and hostile responses in host country
- material and socio-economic disadvantage; reduced access to employment and housing, for example, leading to poorer mental health outcomes
- experience of racism and/or exclusion impacting upon mental well-being.

(Nazroo and Iley, 2011 and Rogers and Pilgrim, 2010)

## A.2 Accessing health

Studies show differential access to health services including different rates of help-seeking and different responses from healthcare services; including different rates of diagnosis, prescribing of medication, use of compulsory detention and access to treatment.

These studies suggest that such differential access contributes significantly to the disproportionate representation of black and minority ethnic individuals within the criminal justice system. Explanations relating to culture – including different understandings of what constitutes a mental health problem, different cultural expressions of distress including the way symptoms are expressed, and differing expectations of services – have all been put forward as reasons for failure to seek mental healthcare at an earlier point in the progress of a person's illness.

Other explanations – relating to cultural difference on the part of the onlooker (the person witnessing distress or distressed behaviour) – have been put forward to explain why distressed individuals' behaviour might be more likely to be viewed as criminal rather than relating to a mental health problem and have been applied to members of the public and police alike. The result being that this use of the criminal justice system rather than the healthcare system represents a failure to understand culture and, at worst, may reflect racist views (Nazroo and Iley, 2011 and Rogers and Pilgrim, 2010).

## A.3 Data

There have been calls from regulatory bodies such as Her Majesty's Inspectorate of Prisons to collect data that would help understand the nature and extent of inequalities more fully. Despite these calls there is still a lack of data and breadth of high-quality studies that address the combination of ethnicity, experiencing mental health problems and contact with the criminal justice system within the UK. Nevertheless, it would not be unreasonable to suggest from the existing data and research studies that it is highly likely that individuals who meet these criteria experience challenges and inequalities disproportionate to others who do not. Indeed, the needs of black, Asian and minority ethnic groups who are experiencing mental health problems and are in contact with the criminal justice system have been highlighted as potentially complex and requiring attention in a number of reports. In relation to minority ethnic groups some key areas of inequality identified were:

- more likely than white British individuals to enter mental healthcare via the criminal justice system (Healthcare Commission, 2007)
- difficulties in identifying the true extent of inequalities that may exist (Bradley, 2009)
- under-represented on prison mental health teams caseloads (Bradley, 2009 and Nazroo and Iley, 2011)
- different access to healthcare within prison, levels of suicidality and self-harm and rates of reoffending post-release (HM Chief Inspectorate of Prisons, 2009 and Ministry of Justice, 2013).

#### A.4 Commentary

These data and reports illustrate the crudity of current ethnic categorisation in the criminal justice system and that credible, publicly available data relating to ethnicity, experiencing mental health problems and contact with the criminal justice system is sparse to non-existent. HM Inspectorate of Prisons noted that less than a third of mental health teams were collecting data relating to ethnicity (HM Inspectorate of Prisons, 2009) and the Prison Reform Trust highlights the need for recording in relation to health service use in particular (Prison Reform Trust, 2013). The lack of data in this area could be indicative of a failure to act on or even to realistically acknowledge the importance of issues relating to culture and ethnicity, and in particular of the need to provide services that are culturally appropriate. It certainly points to the need for more detailed recording, investigation and intervention.

Given that there is no consistently collected data and no large, high-quality design research studies that focus on the triangulation of ethnicity, mental health problems and contact with the criminal justice system, it is unsurprising that the same gaps apply to ways of dealing with possible inequalities. There are a number of critical areas where current gaps point to a need for urgent action and a small but useful body of evidence that points to some possibilities for change and a series of lessons that can be learnt from approaches taken to addressing inequalities in related fields.

## B Critical issues

---

### B.1 Addressing awareness and trust

Whilst efforts have been and continue to be made, the barriers of racism and the lack of linguistic and cultural awareness are still evident in the experience of many individuals (Cooper, Spiers et al, 2013). In addition *a real and potent fear exists within some communities that involvement with mental health services could eventually lead to their death* (Keating, Robertson and Kotecha, 2003). These issues and the resulting concerns lead to help being sought late and often only coming in the form of crisis and intervention in a crisis. The situation is often then made worse when combined with the involvement of the criminal justice agencies.

**Action:** The initiatives that have been taken in some areas to address these pressing problems should become the norm and not the exception. Local health and criminal justice agencies need robust encouragement to work alongside community groups generally and particularly with individuals who have direct experience of the current way services work. There is no one size fits all remedy but progress is unlikely unless a mature debate based around local realities and experiences can be developed. The government's mental health strategy (HMG/DH, 2011) and the recent initiatives around street triage and L&D point to the need for this process (Centre for Health and Justice University of Nottingham, 2011). They also offer real opportunities to develop financial investment in initiatives focused on improving outcomes for those who are experiencing mental health problems and are in contact with the criminal justice system.

## B.2 Pathways to care

*The Bradley Report* suggested that black and minority ethnic communities are 40% more likely than white Britons to access mental health services via the criminal justice system. The Bradley Commission was set up to review the implementation of *the Bradley Report's* recommendations and recommended that more work be done to expand the understanding of the experience of black and minority ethnic groups who experience mental health problems and have contact with the criminal justice system (Saunders, Browne, and Durcan, 2013).

The experience of individuals points to ethnic variations in access into care pathways, including differing responses from healthcare services (in the same way as mentioned earlier in reference to accessing health services). This differential access has been identified as a significant source of disparity in relation to the disproportionate representation of black and minority ethnic individuals within the criminal justice system.

**Action:** There is an urgent need on a national basis to understand and address these inequalities through sensitive but robust pathway redesign including pathways to primary care. There is no high-quality and specific existing research that could underpin rapid redesign but there are a number of redesigned pathways in other areas that point to some common components. These include:

- specialist services for minority ethnic groups
- cultural and linguistic relevance and connection including culture-specific advocacy
- inter-sector collaboration both between statutory services but also with third sector and independent organisations
- structured facilitation of referral routes between services as a bridge between services and across sectors
- outreach to facilitate access into mental healthcare
- culturally and linguistically supported access to rehabilitation services.

Evaluated services based on these principles already exist in other sectors and lessons from their development could and should be applied in this field as a good starting point for change.

## B.3 Measuring and understanding inequalities

Current indicators point to the experiences of individuals from black and minority ethnic groups with mental health problems and in contact with the criminal justice system being different to those of the white British population. However, there is no sound evidence on which to base policy changes or design action plans since there is little data and what exists does not focus on understanding the link between these three variables.

**Action:** The immediate start of data collection in all parts of the criminal justice system that allows the relationship between these three variables to be accurately assessed both on a day-to-day basis but also to understand trends over time. Given the disproportionate contact with the criminal justice system, higher levels of psychiatric morbidity and the criminal justice system frequently being the route into mental health treatment, the development and collection of a relevant minimum data set should be a clear priority. Unless this is achieved, the current position, which at best means the real level of inequality is unknown and at worst means that many vulnerable individuals are suffering a level of discrimination that would not be acceptable in any other field of public service, will continue.

## C Related evidence

---

In the absence of any specific triangulated evidence, the *Rapid Evidence Review* (Kane, Brown and Farhad, 2014) pointed to evaluations and research in related fields that could offer some transferable lessons. The common themes are:

- The need for cultural competence in both the staff of an agency but also in its inclusion and exclusion criteria and relationships with individuals and other organisations. This area is critical if unnecessary and inappropriate criminalisation or pathologisation of behaviours and presentations that are the cultural norm are to be avoided.
- Partnership working with established groups in black and minority ethnic communities. This could include adding resources into third sector services to enhance their capacity around mental health issues or working with local health and criminal justice agencies to help develop a new service or redesign present working arrangements.
- Direct service user involvement in the design of local services and responses including exploring the potential of mentoring schemes. This approach has the power to switch the focus of services so that the position of the service user is understood and incorporated into the design of both their individual service use but also into whole service redesign (McMurrin et al, 2010). The fact that an individual is in contact with the criminal justice system does not change the need for or usefulness of this approach.
- Looking at the whole person rather than only the presenting problem or offence. Like everyone else, individuals from black and minority ethnic groups experiencing mental health problems who are in contact with the criminal justice system lead complex, multi-layered lives. Any intervention needs to recognise this reality and start from where the person is and the complete picture of their needs, problems and strengths if it is to be truly effective in improving outcomes for the individual. This includes recognising the impact of language, culture and experience.
- An extension of both service user involvement and starting with the whole person rather than the offence and immediate presenting problems is the need to recognise that one size does not fit all. Needs, like people and communities, are diverse and often statutory organisations have well-developed exclusion criteria that do not take account of diversity of presentation. The prime purpose of any service or intervention should be to see the person they are involved with as a unique individual. The responsibility for ensuring that their services are sensitive to that fact rests with the service and not the individual who presents with a particular difficulty or problem.

These are values and conditions that if not present are likely to lead to or reinforce inequalities for individuals from black and minority ethnic groups experiencing mental health problems when they are in contact with criminal justice agencies.

## References

---

Bradley K (2009) *The Bradley Report: Lord Bradley's review of people with mental health problems or learning disabilities in the criminal justice system* London: DH

Centre for Health and Justice University of Nottingham (2011) *Liaison and Diversion: Narrative Review of Evidence* London: DH

Cooper C, Spiers N, Livingston G, Jenkins R, Meltzer H, Brugha T, McManus S, Weich S, Bebbington P (2013) 'Ethnic inequalities in the use of health services for common mental disorders in England' *Social Psychiatry and Psychiatric Epidemiology* 48(5) pp.685-692

Ganaan R, Ciliska D and Thomas H (2010) 'Expediting systematic reviews; methods and implications of rapid reviews' *Implementation Science* 5:56

Healthcare Commission (2007), *Count me in: national census of inpatients in mental health hospitals and facilities in England and Wales* London: Commission for Healthcare Audit and Inspection

HM Inspectorate of Prisons (2009) *Race relations in prison: responding to adult women from black and minority ethnic backgrounds* London: The Stationery Office

HMG/DH (2011) *No health without mental health; a cross-government mental health outcomes strategy for people of all ages* London: DH

Kane E, Brown S and Farhad (2014) *Rapid Evidence Review – Minority groups in the CJS and Mental Health presentations* Centre for Health and Justice University of Nottingham commissioned paper

Keating F, Robertson D and Kotecha N (2003) *Ethnic Diversity and Mental Health in London* London: The King's Fund

McMurrin M, Huband N and Overton E (2010) 'Non-completion of Personality Disorder Treatments: A Systematic Review of Correlates, Consequences, and Interventions' *Clinical Psychology Review* 30(3) pp.277-287

Ministry of Justice *Court Proceedings Database* (Accessible at <http://open.justice.gov.uk/sentencing/>)

Ministry of Justice (2013) *Statistics on Race and the Criminal Justice System 2012* London: HMSO

Nazroo J and Iley K (2011) 'Ethnicity, race and mental health' in Pilgrim D, Rogers A and Pescosolido B (eds) *Handbook on Mental Health* London: Sage

Prison Reform Trust (2013) *Bromley Briefings Prison Factfile* London: Prison Reform Trust

Rogers A and Pilgrim D (2010) *A Sociology of Mental Health and Illness* Maidenhead: McGraw-Hill International

Saunders A, Browne D and Durcan G (2013) *The Bradley Commission Briefing 1: Black and Minority Ethnic communities, mental health and criminal justice* London: Centre for Mental Health



**[www.nacro.org.uk](http://www.nacro.org.uk)**

Registered charity no. 226171