

Agenda submission to the Lammy Review of BAME representation in the Criminal Justice System

June 2016

Agenda is a new alliance of over 60 voluntary organisations who have come together to campaign for change for women and girls at risk. We believe society is failing to adequately protect and support women and girls who face the most extensive violence, abuse, trauma and inequality. We are calling for systems and services to be redesigned with women and girls at their heart so that they can access the support they need to rebuild their lives and reach their full potential.

BAME women in the criminal justice system

Agenda welcomes the opportunity to respond to this important review. It is well established that there are fundamental differences between male and female offenders and those at risk of offending, and that there is the need for “a distinct, radically different, visibly-led, strategic, proportionate, holistic, women-centred, integrated approach” for women in the criminal justice system, as set out in the Corston Report.¹ Agenda believes it is very important therefore this review considers the experiences of both BAME men and women in the criminal justice system in order to develop effective gender-specific policy responses for both groups.

The Corston Report highlighted that BAME women were “a minority within a minority” in the criminal justice system and it is critical therefore that they are not overlooked in this review.

Over-representation of BAME women in prisons

Whilst there has been a decrease in the number of BAME women in prison in recent years, it is still the case that 20% of female prisoners are BAME², compared to 14% of the general population³. Within this, some groups of women are particularly overrepresented, most notably Black or Black British⁴ women who make up 9.7% of female prisoners, compared to 3.3% of the general population⁵.

There are however some significant limitations to the available data around BAME women’s experiences of the criminal justice system. It is often the case that data is disaggregated by gender or ethnicity but rarely by both. It is very difficult therefore to get a full picture of how BAME women experience the different parts of the criminal justice system.

¹ The Corston Report, 2007 <http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>

² Ministry of Justice statistics, March 2016 <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-october-to-december-2015>

³ Office of National Statistics, 2011: <http://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/ethnicityandnationalidentityinenglandandwales/2012-12-11>

⁴ 371 of the 3826 female prisoners were black or black British (Prison Statistics, 31 March 2016)

⁵ Office of National Statistics, 2011: <http://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/ethnicityandnationalidentityinenglandandwales/2012-12-11>

We would like the review to look into what more could be done to get a better picture of the experiences of BAME women at different points within the system to address important questions including how sentencing differs for BAME women; are they more or less likely to have legal representation; is there an over-representation of BAME women being supervised in community sentences; what is their uptake of liaison and diversion services; and what proportion of prison receptions over the year are BAME women?

Sentencing

What we do know is that gender has an impact on sentencing decisions and outcomes. Women tend to serve shorter prison sentences than men and for less serious offences. 26% of all women in prison had no previous convictions, compared to 12% of men.⁶ Women are also more likely to be remanded in custody and then not receive a custodial sentence than men.⁷

As we know that ethnicity also has an impact on sentencing, it is important the review considers how the combination of being a woman and being BAME effects sentencing decisions.

Experiences of BAME women in prison

Women in prison have often experienced extensive abuse and are likely to have complex mental health, addiction and other needs. 46% of women in prison report having suffered domestic violence and 53% report having experienced emotional, physical or sexual abuse during childhood.⁸

Corston highlighted that BAME women were “more likely to be living in a deprived area, more likely to be subject to poverty, have experienced care and been excluded from school. They are also more likely to be remanded in custody than white offenders and their disadvantages continue in the criminal justice system where they are further marginalised. These women face the same barriers in accessing services to help them alter their lives and in resettlement on release from prison as white women but they are further disadvantaged by racial discrimination, stigma, isolation, cultural differences, language barriers and lack of employment skills.” All of these issues remain true for BAME women in the criminal justice system.

HM Inspectorate of Prisons also noted that BAME women are more likely to experience isolation when in prison leading to increased levels of depression, whilst at the same time they may be less likely to seek help from health care staff.⁹

12% of female prisoners are foreign nationals, and around half of these are BAME¹⁰. Foreign national women are often particularly vulnerable with many the victims of trafficking, although often not recognised as such. Research by the University of Cambridge found that 41% of female foreign prisoners were victims of trafficking and their experiences included being forced into

⁶ Women in Prison <http://www.womeninprison.org.uk/research/key-facts.php>

⁷ Ministry of Justice, Statistics on Women in the CJS, 2013

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380090/women-cjs-2013.pdf

⁸ Women In Prison <http://www.womeninprison.org.uk/research/key-facts.php>

⁹ HM Inspectorate of Prisons, The Mental Health of Prisoners, 2007

<https://www.justiceinspectors.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/07/Mental-Health.pdf>

¹⁰ Information from meeting with David Lammy on 8th June 2016

prostitution, cannabis production, domestic servitude and theft. The author summarised, “the message is clear: the powerlessness of these women in the hands of their traffickers is terrifyingly replicated within the criminal justice system”.¹¹

Gender and trauma-informed support services are essential to help women rebuild their lives. BAME women are likely to face particular additional challenges and so need tailored support which is culturally and religiously sensitive and responds to their emotional and practical needs.

Family and community impact of custody

For women from some BAME groups, attitudes to offending within families and communities, arising from cultural or religious beliefs, may result in an additional stigma and strain on family relationships. Research by Muslim Hands highlights exceptional levels of stigma, taboo, rejection and family and community isolation faced by Muslim women in prison and on release.¹²

Female offenders are often the primary or sole carer for children¹³, and custodial sentences can have a very negative impact on those children¹⁴. Overall, it is estimated that more than 17,000 children are separated from their mothers by imprisonment. Only 9% of children whose mothers are in prison are cared for by their fathers in their mothers' absence and only 5% stay in own home.¹⁵

The family impact of custodial sentencing is particularly acute for black mothers as more than half of black African and black Caribbean families in the UK are headed by a lone parent, compared with less than a quarter of white families and just over a tenth of Asian families.¹⁶

The review must therefore consider both the experiences of BAME women in the criminal justice system and the wider impact on their families and communities.

Recommendations

Given that both gender and ethnicity impact on people's experiences of the criminal justice system, it is critical the review considers how these two characteristics intersect for BAME women. We look forward to working with the review team as the work progresses.

In particular Agenda recommends:

1. The review should specifically look into the representation and experiences of BAME women across the criminal justice system,

¹¹ Gelsthorpe, The Criminalisation of Migrant Women, 2012

http://www.crim.cam.ac.uk/people/academic_research/loraine_gelsthorpe/criminalreport29july12.pdf

¹² Muslim Hands and HPCA, Muslim Women in Prison, 2014

https://muslimhands.org.uk/ui/uploads/kqe5a9/MWIP_Report.pdf

¹³ Liebling, A. & Maruna, S., The effects of imprisonment Devon: Willan, 2005

¹⁴ Sheehan R and Flynn C, Women prisoners and their children, in What Works with Women Offenders, ed Sheehan R, Mcivor and Trotter C, Willan Publishing, UK, 2007

¹⁵ Prison Reform Trust, 2010

<http://www.prisonreformtrust.org.uk/uploads/documents/Women%20in%20Prison%20August%202010.pdf>

¹⁶ Prison Reform Trust, 2012

<http://www.prisonreformtrust.org.uk/Portals/0/Documents/WomenbriefingAug12small.pdf> and HM Chief Inspector of Prisons, Race relations in prisons, 2009

including foreign nationals. There needs to be better data and understanding of how BAME women are sentenced and their experiences of the criminal justice system. The review should consider the impact on them and their families including their role as mothers.

2. Most women have committed non-violent crimes and most do not need to be in prison. Over-representation in prisons could be addressed in part by reviewing how sentencing is working and by a greater use of community based support and supervision. Trafficked women should only be imprisoned in exceptional circumstances and full consideration should be given to women's role as mothers in sentencing decisions
3. Staff across the criminal justice system should receive training about the realities of women's lives and particularly the likelihood of histories of abuse and violence. Community and prison services should be gender and trauma-informed.
4. Culturally and religiously sensitive support should be available to meet the emotional and practical needs of BAME women.

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