



**Written Response to the Root and Branch Review of Race and the CJS
Statistics
by The Runnymede Trust, 15 November 2006**

We welcome the opportunity to submit our thoughts and views on the Root and Branch Review of the statistics published under s95, as well as the government's response. This is a timely and important review and we have read its recommendations with interest, but do have some concerns and recommendations that we outline below.

CHAIR
Dr Samir Shah OBE

TRUSTEES
Dr Claire Alexander
Lady Brittan CBE
Barbara Cohen
Shaheed Fatima
Dr Kate Gavron
Farzana Hakim
Clive Jones
Hitesh Patel
Dr Richard Stone
Seamus Taylor
Patrick Young

A Company
Limited by Guarantee
Registered Company
(England)
No. 3409935

Registered Charity
No. 1063609

The Runnymede Trust is an independent policy research organisation focusing on equality and justice through the promotion of a successful multi-ethnic society. Our mandate is to promote a successful multi-ethnic Britain – a Britain where citizens and communities feel valued, enjoy equal opportunities to develop their talents, lead fulfilling lives and accept a collective responsibility, all in the spirit of civic friendship, shared identity and a common sense of belonging. The criminal justice system (CJS) has long been of special concern to us.

We recognise the importance of publishing statistics under s95 in highlighting BME groups' experiences of the CJS, and identifying areas within the CJS of possible discrimination against ethnic minorities. After considering the issues raised in the review and the government's response, we would like to comment on the following:

- The minimum dataset and data collection practices:
 - The inclusion of race statistics on Anti-Social Behaviour Orders (ASBOs) in the minimum dataset.
 - The implications of regional diversity on the use of the 16+1 ethnic classification system.
- Making s95 statistics relevant to policy and practice:
 - The importance of commissioning qualitative research to explain and make relevant the statistics published under s95.
 - Recommendation 1, where it is suggested that local criminal justice boards (LCJBs) should take the strategic lead in promoting local statistics in their own area, and the government's response to this recommendation.

Anti Social Behaviour Orders and Race Statistics

1. We were pleased to see that the review recommends that statistics on ASBOs should be included in the minimum dataset. We strongly support this recommendation. Runnymede has recently published a research report on ASBOs and race equality,¹ where the lack of statistics on ASBOs is highlighted as an issue of specific concern. The use of ASBOs has risen exponentially since they were first introduced in 1999.² Yet central government holds no records relating to ethnicity, neither of recipients of ASBOs, nor the nature of the anti-social behaviour for which ASBOs are given.³
2. The lack of data on ASBOs broken down by ethnicity is worrying, as there is no certainty that institutional racism is not having an effect on how to tackle anti-social behaviour generally and the use of ASBOs in particular. Indeed, this data deficiency makes it impossible to determine a) the value and usefulness of ASBOs in dealing with racial harassment and b) their potential or actual negative impacts on black and minority ethnic groups. This clearly makes it unattainable for 'persons engaged in the administration of justice' to honour their statutory duty – as stipulated in s95 – to 'avoid discriminating against any persons on the ground of race or sex or any other improper ground' where ASBOs are concerned.
3. The problem, it appears, is that agencies in charge of applying for ASBOs generally do not consider the recording of ethnicity of recipients to be a statutory requirement. Furthermore, where agencies *do* monitor ethnicity this is often done without the necessary knowledge of how it should be done. In other words, there is great discrepancy across criminal justice areas, not only on how ethnicity should be monitored, but also whether it should be monitored at all. Even a basic routine data gathering exercise such as the total numbers of ASBOs served is inconsistent between areas. Our research illustrated this in that the numbers published by the Home Office did not match total numbers provided by those local authorities who replied to our survey.⁴
4. The review seems to suggest that ASBO ethnicity data should be collected by the police. Indeed, our research indicates that ethnic monitoring of ASBO recipients is more likely to have taken place when the defendant has been in contact with the police. However, we have some reservations about the general applicability of this. Currently, even within a single criminal justice area there are variations in practice, and although most local authority areas have an anti-social behaviour unit, it is sometimes located within the local authority, sometimes with the police. One of the main problems in collecting data

¹ Isal, Sarah (2006). *Equal Respect: ASBOs and Race Equality*. London: Runnymede Trust.

² 323 ASBOs were issued in 2001, while 2679 were issued between January and September 2005 (ibid.: 9).

³ The only data routinely gathered on ASBOs is on age, sex, and total number of ASBOs issued (ibid.: 2).

⁴ In appendix 3 of our report (ibid.: 28) we compare public figures on ASBOs (published by the Home Office) to figures collected through questionnaires. The figures do not match in any single local authority area. The reason for this is twofold: a) Local areas collect data on ASBOs differently. In some areas an Interim ASBO and a Final ASBO served on the same individual will count as two ASBOs, in other areas they will count as one; b) Many agencies have the powers to apply for an ASBO, and while in some areas there is a certain level of information-sharing, in others there will be agencies who are unaware of the ASBO already applied for by organisations in the same locality (ibid.: 18).

5. on the ethnicity of ASBO recipients is that the alleged perpetrator is in contact with a variety of agencies at the early stages of the ASBO process. A number of different agencies have the power to apply for ASBOs, and so there is generally no single point of contact in any given area who meets all of those against whom an ASBO is applied.
6. Bearing in mind the substantial variations of local practices concerning ASBOs – which in itself reflects differences in problems experienced in various local authority areas – the collection of ethnicity data needs to be responsive to these variations. Thus, Crime and Disorder Reduction Partnerships (CDRPs) would be the most appropriate agency to take responsibility for data collection and monitoring. However, it is also apparent that CDRPs would need, from central government, clear and distinct guidelines on how this is best done. If, as we found during the course of our research, local authorities monitor ethnicity without the necessary knowledge of how it should be done, this would lead to an inconsistent approach to data gathering and subsequently compromise the validity of the results.
7. Although many practitioners consider ASBOs to be a potentially powerful tool to combat racism, the continued lack of research into and monitoring of its impact create difficulties for those wanting to make positive recommendations regarding its use. In other words, the statutory duty on government departments to assess and consult on “the likely impact of its proposed policies on the promotion of race equality and monitoring its policies for any adverse impact on the promotion of race equality” (p.14) is clearly neglected where ASBOs are concerned.
8. **Therefore, we strongly urge the government to include ASBOs in the minimum dataset.**

The 16+ 1 Ethnic Classification System

9. We were pleased to see that the 16+1 classification system receives special attention both in the review and the government’s response. The shift from the 6+1 system to 16+1 on the Police National Computer (PNC) is pertinent indeed given the central role of the police in CJS data collection. In light of the points made above, the discrepancy between PNC data collection practices and those of other CJS agencies poses an acute problem where race statistics on ASBOs are concerned.⁵
10. For s95 statistics to be valid, there must clearly be a consistent and congruent approach to data collection practices between different CJS areas as well as different CJS agencies. We would like to stress, however, the importance of the aspect of Recommendation 26 which states that “Areas that wish to collect more detailed information should do so as long as this can be grouped into the 16+1 classification” (p.57).
11. There is a danger that ethnic groups not included in the 16+1 system – such as Latin American or Middle Eastern communities – are forgotten as users and clients of the

⁵ (ibid.: 16).

12. CJS, and their needs and concerns will therefore be overlooked. As the Policy Action Team on Better Information rightfully points out, “some groups in society, who are the most vulnerable to becoming victims of social exclusion, are forgotten because simply not enough is known about their particular circumstances.”⁶
13. It is therefore of utmost importance that LCJBs not only receive detailed ONS guidance on how to collect 16+1 ethnicity data, but that they are urged either to expand on existing categories,⁷ or include those that have no specified place in the 16+1 system,⁸ to adequately reflect and respond to the local landscape.
14. We have recently argued that the nature of ethnic diversity in Britain is rapidly changing, but still our policy discourses and frameworks concerning ethnic diversity have been slow to come to grips with these developments.⁹ Thus, while the 16+1 classification system may be useful nationally, it must be flexible enough to reflect ethnic diversity locally. Only through acute and detailed awareness of the different needs of all ethnic groups in their area can local authorities be receptive and responsive to those needs.
15. **While consistent data collection practices on a national level are vital for reliable s95 statistics, the diversity within local areas must be recognised for s95 statistics to be relevant on a local level.**

s95 Statistics and Qualitative Research

16. A central concern of the review is how to make statistics published under s95 relevant to local CJS agencies. The authors make it clear that local agencies generally do not use s95 statistics to make organisational decisions, which is a matter of great concern. There are a number of reasons for this, one of which is the abstract nature of statistical data. As is rightly pointed out in the review, statistics can only provide partial answers to the problems of race equality in the CJS. While statistical analyses can answer questions of ‘who’ and ‘how many,’ they are not well suited to reveal the dynamics of social interaction or the motivations of social actors. A clear understanding of this is vital for local CJS agencies and practitioners to make sense of, take seriously, and act on s95 statistics.
17. For this reason, we welcome the government’s positive response to recommendation 09. However, we are concerned that qualitative research will continue to be conducted on a haphazard basis, and that dissemination practices of research reports do not allow them to reach the relevant audience.

⁶ Policy Action Team (2000). *Report of Policy Action Team 18: Better Information*. London: The Stationary Office, p. 21

⁷ For instance augmenting the heading ‘B2 – Black/Black British – African’ with various African subgroups in areas of high concentration of different African communities. The London Borough of Southwark, for example, has a large and diverse African population which even constitutes the majority in some areas. There is no reason to assume that Somalis and Nigerians living in Southwark have same or similar experiences of the CJS.

⁸ Such as including Latin American groups under the heading ‘O9 – Other’ in areas with high concentration of Latin American communities.

⁹ Berkeley, Rob (2005). From Black and White to Glorious Technicolour. *Runnymede Quarterly Bulletin*, 344: p. 16.

18. Many issues outlined in s95 statistics clearly have national relevance. The over-representation of BME groups on all levels of the criminal justice system in all parts of the UK, for instance, has brought up the question whether offenders belonging to minority ethnic groups have distinctively different or greater criminogenic needs than white offenders. An in-depth study conducted by Calverley et al.¹⁰ on Black and Asian offenders on probation demonstrated that this over-representation is more likely to have structural underpinnings (i.e. discrimination within the CJS, social exclusion, economic disadvantage etc.) rather than criminogenic. In-depth research on national s95 issues are particularly apt in providing insight into the complex, subtle, and often contradictory views, experiences, motivations and attitudes of individuals, and are thus of vital importance to the work of local CJS practitioners working with people on a face to face basis.
19. However, the local landscape varies between criminal justice areas where BME populations are concerned, and so detailed studies of particular relevance to individual areas need to be fostered and encouraged. Local CDRPs would be best suited to oversee and keep an account of such studies. CDRPs could either commission research on topics they consider to be of specific local concern, or encourage other CJS agencies (police, probation, YOTs, courts, etc.) to internally commission such studies. CDRPs could then be responsible for making sure that reports reach the OCJR to be included in the annual s95 report, as well as ensuring that they inform the development of local CJ practice.
20. Finally, we would like to point out that some elements of criminal justice are not easily quantifiable. Our research report *Preventing Racist Violence*¹¹ demonstrates the importance of preventative work in dealing with racist violence more broadly. It is, of course, difficult to measure the success of programmes that aim to anticipate and intercept events before they actually happen. This, however, does not mean that such programmes cannot be adequately researched and evaluated. We hope that the focus on statistics under s95 does not exclude aspects of the CJS that do not fit neatly into statistically measurable categories.
21. **Qualitative research – focusing on dynamics and processes – has the potential to a) demonstrate on a local level why data is collected under s95, and b) to make s95 statistics relevant to local practice. As such, it should be given a firmer place within the s95 framework: issues where deeper understanding is required need to be purposively targeted for research; and research must be presented and disseminated in such a way that it reaches and bears relevance to practitioners and policymakers.**

¹⁰ Calverley, Adam et al. (2004). *Black and Asian Offenders on Probation*. London: Home Office.

¹¹ Isal, Sarah (2005). *Preventing Racist Violence: Work with Actual and Potential Perpetrators – Learning from Practice to Policy Change*. London: Runnymede Trust.

Local Ownership of Ethnic Data

22. One of the central recommendations of the review, and, it appears, the most problematic one from the government's point of view, is that LCJBs should take the strategic lead in collecting, using, and promoting local statistics in their own area. The authors of the review make it clear that the main obstacle to local CJS agencies engaging with s95 statistics is their perceived disassociation from the process of using s95 data. Local staff, the review states, "felt that the Home Office was really responsible for policy and the real owner of the statistics collected" (p.50).
23. This is worrying, as it is exactly at a local level – where policy should be implemented in practice – that s95 data has the potentially greatest positive impact. If it is indeed the case that local practitioners are neither fully aware of their statutory duties under s95 to collect ethnicity data, nor using this data to monitor operational policy, make organisational decisions, or inform the development of practice, it is clear that a new approach is needed to make s95 relevant locally.
24. It is our standpoint that Recommendations 01, 10, 11, 12, 13, 15 and 32 of the review should be reconsidered by the government. We support the view expressed by the authors that in order for s95 statistics to be taken seriously – and thus have an impact – on a local level, local ownership of data needs to be strengthened. The argument for giving LCJBs the strategic lead on this is, in our opinion, persuasive. They are small enough to be responsive to local demographics, but large enough to cover all CJS agencies. LCJBs are in a position to work directly with local CJS agencies – which central government is not – and are thus able to address the specific policy concerns of each individual agency on a local level.
25. We find that there is a contradiction between the stated objective to ensure that local CJS agencies use and take seriously s95 data on the one hand, and the rejection of all recommendations of enhanced local responsibilities on the other.
26. **If it is indeed the government's sincere intention to make s95 statistics relevant in real terms (i.e. to local policymakers and practitioners 'on the ground'), we strongly urge the government to reconsider its position on the ownership of ethnicity data.**

If you would like to discuss any aspect of this response, please contact Michelynn Lafèche (Director) or Sarah Isal (Senior Research and Policy Analyst) at the Runnymede Trust, 7 Plough Yard, Shoreditch, London EC2A 3LP Tel: 020 7377 9222.

Thank you for considering our response and the concerns and issues we highlight. We look forward to learning the result of the consultation process and the intentions of government on implementing the much needed changes.

The Runnymede Trust
15 November 2006

Further information about the Runnymede Trust can be found on our website – www.runnymedetrust.org

