



# Report of the Race for Justice Taskforce

June 2006

CRIMINAL JUSTICE SYSTEM





Attorney General's Office

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Report of the taskforce created to take forward recommendation 8 of the report by the Gus John Partnership entitled "*Race for Justice*" (a review of CPS decision making for possible racial basis at each stage of the prosecution process).

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# Executive Summary

1. The report of the Gus John Partnership, entitled *Race for Justice*, was commissioned by the Crown Prosecution Service (the “CPS”) to consider the decision-making process within the CPS for any sign of racial bias. In summary, although the report found no evidence of racial discrimination in prosecution decision-making, it did point to a number of trends and worrying indications about the way in which racist crimes were prosecuted. Particular concerns were raised about the way in which such offences were not always recorded early on and how the racial aspect would sometimes be neglected or dropped as part of a “plea bargaining” process. Our taskforce was set up by the Attorney General in response to one of the specific recommendations made in that report. It was created to assist in establishing a holistic approach across the Criminal Justice System (CJS) in this area, particularly regarding the handling of racist and religious crimes by the police, the CPS and the courts. We were asked to analyse the context in which these crimes occur; to consider improvements in training, to devise strategies for the promulgation of good practice and to evaluate the need for future monitoring.
  
2. Whilst we identified a number of notable gaps and failings in the handling of race crimes which led us to make a series of recommendations that are summarised below, we were highly impressed by both the substantial progress that has been made in this area over the last few years and the levels of commitment and sheer hard work that have been devoted to the investigation and prosecution of racist and religious crimes. There is no doubt in our view that, against the background of the positive approach that now generally exists within the Criminal Justice System, a number of important practical steps should be taken to improve the manner in which these pernicious crimes are tackled:
  - We suggest that cross-agency training is established for dealing with racist and religious crimes, in order to ensure there is a consistent and targeted approach. We propose that a core joint training scheme should be developed and used across the Criminal Justice System, which has real flexibility in order to accommodate individual agency needs. There is a strong case for such a “joined-up” approach. The training package should develop an understanding of the impact on communities of racist and religious crime, describe clearly the reasons for this training and involve local members of ethnic minority communities. All criminal justice agencies should be given a clear concept of what they should be seeking to deliver and a set of minimum standards should be established for dealing with these offences.
  - Our work revealed that there are varying levels of performance monitoring by Criminal Justice System agencies in respect of handling these crimes. The problems include a significant failure to record these crimes accurately and different ethnicity classification systems being used by the various agencies, which in turn speak a different statistical language. We consider it necessary that all the agencies track cases from the receipt of an allegation until the end of the court process using some core, common terminology. As a minimum this should include shared definitions of crimes and victims, shared ethnicity monitoring categories and an ability to share, access and update relevant data by, not least, the creation of on-line reporting and information forms.

- Within the police, because of the diverse approach that exists across the various forces, nationwide protocols should be established to ensure that these cases are investigated consistently, whilst accommodating the needs and resources of individual Chief Officers.
- Finally, to the extent that our recommendations are accepted, we suggest that the Office for Criminal Justice Reform (the Criminal Justice System Race Unit) may be the body best placed to oversee the strategic implementation of these recommendations.

# Contents

Page

<b>Executive Summary</b>	<b>iii</b>
<b>Chapter 1 – The Issue</b>	<b>1</b>
<b>Chapter 2 – The Police</b>	<b>3</b>
<b>Chapter 3 – The Crown Prosecution Service</b>	<b>6</b>
<b>Chapter 4 – The Courtroom</b>	<b>8</b>
<b>Chapter 5 – Conclusions and General Recommendations</b>	<b>11</b>
<b>Annex 1 – List of Taskforce Members</b>	<b>14</b>
<b>Annex 2 – List of those who provided information</b>	<b>15</b>

## Chapter 1:

# The Issue

### Introduction

1. The Lawrence Inquiry was a watershed in the way in which race crimes are dealt with by the Criminal Justice System (CJS). No examination of any aspect of the topic can ever be untouched both by the conclusion of that inquiry and by the tragedy that lay behind it. Race crimes do more than bring harm, or even tragedy, to an individual and their family: they create fear within an entire community and, unless dealt with openly and effectively, create resentment and disconnection between the communities of the victims and the Criminal Justice System as a whole.
2. In the summer of 2001 the Crown Prosecution Service commissioned a report by the Gus John Partnership to examine their decision-making process for any sign of racial bias. Whilst the subsequent report, *Race for Justice*, found no significant evidence of racial discrimination in prosecution decision making, it did, however, point to a number of trends and worrying indications about the way in which racially aggravated offences were prosecuted, with particular concerns about the way in which such offences were not always recorded early on and how the racial aspect would sometimes be neglected or dropped as part of a “plea bargaining” process. That report concluded with a number of specific recommendations for the CPS, including the following:

#### **Recommendation 8**

*The CPS through the good offices of the Attorney General should take the lead in establishing a holistic approach, across the Criminal Justice System to the issues highlighted by this research, not least in respect of the handling of race crimes by the police, the CPS and the Courts.*

*While most partners in the criminal justice system have been receiving training in respect of race and criminal justice, including judges and magistrates, the evidence emerging from this research would suggest that all operators in the CJS need to have their awareness raised with respect to race charge attrition, its effects on people’s perceptions of the seriousness with which the CJS treats the issue of racist and religious crime and to take joint action to prevent such attrition.*

3. The Attorney responded to that recommendation by appointing a task force from people with experience of many of different parts of the system. This is our report, which has addressed the following terms of reference:

#### **Terms of Reference**

- *analyse the context in which these crimes occur in order to enable the consistent and successful prosecution of racially/religiously aggravated offences;*

- *consider whether there is a need for further training and guidance for all partners in the criminal justice system (including police, CPS, courts, judges, magistrates and the Bar) in respect of racially aggravated or religious offences, and the impact of race charge attrition and to make recommendations;*
- *devise a strategy for the promulgation of good practice with Criminal Justice System partners and diverse communities;*
- *evaluate whether there is a need for regularly monitoring the progress of such improvements with a view to making future recommendations as and where necessary.*

## Method

4. We conducted no empirical research, but sought views from representatives of all of the agencies and bodies who play some role in the “chain” between the incident in the street and the end of the court case; thereafter, we applied our own collective experience to the information gathered to reach our conclusions.

## Terminology

5. Recommendation 8 of the Race for Justice report (set out above) refers to race crimes. The taskforce’s terms of reference refer to racially and religiously aggravated crimes. Each of these terms easily encompasses both the specific offences that are in various statutes in a racially or religiously aggravated form (such as racially or religiously aggravated criminal damage under section 30 of the Crime and Disorder Act 1998) and the commission of any number of other offences, such as causing grievous bodily harm with intent or murder, which do not exist in a racially aggravated form, but where the punishment for such offences ought to be increased when there is a racist motive (under section 145 of the Criminal Justice Act 2003). Our report at times focuses more closely upon the narrower category of racially aggravated offences, but the two are inevitably intertwined and the great majority of our work and recommendations are applicable to both categories of offences. Similarly, recent legislation has extended certain statutory provisions to crimes that are motivated by the victim’s perceived religion and they are so closely connected that most of our recommendations encompass them as well. For the sake of ease of reference, this report mostly uses the term “race crimes”.

## Thanks

6. During the course of our work we have consulted and sought information from groups, organisations and individuals who we list at the end of our report; we express our profound thanks to all who have responded. Obviously, the fact that we have consulted many groups does not suggest they will necessarily agree with our conclusions.

## Conclusion

7. It is a matter of basic decency for a society to ensure that all its members are treated fairly and equally, and a failure to do so undermines faith both in the Criminal Justice System and in society as a whole. We do not pretend for a moment that our report contains any magic formula for the creation of a perfect system for the investigation, prosecution and handling in court of racially motivated offences, but we hope it may be of some help in improving the manner in which the whole Criminal Justice System tackles these pernicious crimes.

## Chapter 2:

# The Police

### The Current Position

8. There are 43 police forces in England and Wales and together they represent the crucial first stage in how any racially aggravated offence will be investigated and prosecuted. Although the diversity of the forces and the areas they police makes generalisations difficult there are, to a degree, consistent policies and consistency of monitoring through the Association of Chief Police Officers (ACPO) and Her Majesty's Inspectorate of Constabulary (HMIC). Our examination of the present system begins with a consideration of the roles and activities of these two bodies.
9. HMIC is independent of the Police and the Home Office, and is staffed by both seconded police officers and representatives of the Home Office. As such they do not have any responsibility for investigating race crimes, but they do have an inspection function relating to performance as regards hate crime for all police forces.
10. One of the important tasks of HMIC in assessing the work of all police forces is to conduct a "Baseline Assessment" of the forces on an annual basis, and an examination of how hate crime (in which category race crimes would fall) is conducted under the heading of "Operational Performance". These assessments consist of pre-visit document analysis, structured interviews and evidence-based checks that include the use of focus groups. This all forms the assessment of the baseline grading, which is followed by an inspection, a visit and final grading. The grades range from "poor, fair, good to excellent" and HMIC can direct remedial action where it is shown to be needed.
11. ACPO have recently issued a good practice and tactical guidance to all police forces in England, Wales & Northern Ireland in the investigation of race crimes and other forms of hate crime, which are contained within the 'ACPO Hate Crime Manual'. The overall aim is to establish high corporate standards of response, action and quality of service to victims across 43 forces. The document is essentially a good practice guide and contains definitions for all hate crime, which obviously includes racist incidents. There is a section on legislation relating to hate crime, including advice on the recording of hate crime and how the police can support the victims of crime and witnesses.
12. There are several chapters which deal with the step-by-step investigation of hate crime and a detailed chapter which outlines the procedure for the charging and prosecution of offenders. This section includes details on statutory charging, police bail (and the conditions that can be imposed), case paper preparation, attendance at court and retraction of support for a prosecution. There are clear links to documents published by the CPS.
13. The ACPO Hate Crime Manual provides definitions for 'Racist Incidents' and 'Hate Crimes'. ACPO Policy dictates that Chief Officers should make attendance at such incidents mandatory and good practice is advocated within the guidance that hate crime reports should not be taken by telephone



unless victims clearly state that they prefer to report it thereby. It is a matter for individual police services to determine the most effective system for recording hate incident reports; however, ACPO guidance is that command and control systems should have the ability to monitor, retrieve and review information on all hate crime incidents.

14. The National Centre for Policing Excellence (NCPE) is the leading organisation with responsibility for the training of police. We are told that it is anticipated that the revised ACPO Hate Crime guidance will be incorporated into future NCPE professional doctrine for the prevention, investigation and detection of hate crime.
15. The Home Office Research and Development Unit has conducted a study into the effectiveness with which the police are pursuing the policies and plans as set out in the ACPO guidance and as encapsulated in the legislation creating racially aggravated offences. This has been a wide-ranging study, but amongst the provisional findings are:
  - (a) The acknowledged problem of under-reporting of such offences is perceived by police officers as stemming, most commonly, from, first, a fear of reprisals; second, a belief that nothing can or will be done; and third, a reluctance to go to court.
  - (b) Understanding was sometimes more limited amongst operational officers (as opposed to diversity specialists). They were mainly unsure whether the provisions applied either to white victims or when incidents involved different minority groups.
  - (c) Some officers did not always understand why a racist incident could be defined as such by someone other than the victim (e.g. by the diversity units when the victim had not said it was a racist incident).
  - (d) Others felt the definition was too wide and encompassed too many incidents.
  - (e) There was also some confusion between the definition of a racist incident and a racially aggravated offence.
  - (f) Recording procedures differ from area to area and between the different agencies, with some areas using forms that meet the Home Office's requirement, and some that do not. Where different forces or different agencies use different forms, the sharing of information is obviously made much more difficult.
  - (g) Under-recording was most often attributed to officers failing to ask the victim or witness if the incident was racist, possibly because of a perception amongst some operational officers that racist incidents require a greater response on their part and more work.
  - (h) Several respondents reported problems with the CPS dropping or downgrading race crimes in line with the previous research undertaken by the Crown Prosecution Service Inspectorate in 2002 and 2004.
16. Overall the evidence suggests that the Code of Practice on Reporting and Recording of Racist Incidents and the Lawrence Inquiry have helped to improve and increase reporting and recording of race crimes, and that the Code has improved the level of detail recorded about racist incidents and ensured some level of consistency between forces. All forces have adopted the Lawrence Inquiry definition of a racist incident although there are still questions over how this is used on the ground. The importance of keeping victims informed and treating them with respect has been emphasised. There are still further improvements to be made, notably in tackling the difference in opinion and attitudes between specialist and operational officers.

17. The experience of some members of the Task Force lends some weight to the suggestion, as found within the research set out above, that whilst the leadership of the police in the UK are highly committed to the effective investigation, prosecution and monitoring of race crimes, there is a weakness amongst the rank and file, some of whom lack the necessary knowledge and commitment.
18. A further point made by members of the Task Force is that of all the agencies involved in the criminal justice system, the police are likely to have the strongest and most established relationship with local and national media, which relationship could be of use in this area.

## Recommendations

19. Irrespective of our overall conclusions as set out in the final chapter, in order to further the consistent and effective investigation, prosecution and monitoring of the treatment of race crimes, the police forces across England and Wales should:
  - (a) Develop a common reporting method or methodology, or at least a core content for each force's forms, that includes use of the same categories and definitions across all forces. We consider that it is no longer satisfactory or in any sense necessary to ask individual police services to determine the most effective system for recording hate incidents. This information would be incalculably more useful if its recording was standardised.
  - (b) Develop national on-line reporting forms.
  - (c) Evaluate training to ensure it is both effective and, where possible, common to all forces. We would, in any event, welcome the early incorporation of the ACPO hate crimes guidance into the NCPE guidance and training material.
  - (d) Ensure that the training of police officers in these matters is not confined to the newly recruited and those making up specialised squads dealing with such offences; it is equally important that established officers understand the issues.
  - (e) Ensure that training clearly demonstrates both that officers' views, knowledge and experience can influence decisions on whether or not to prosecute alleged race crimes and that officers should be prepared to be involved in discussion or consultation in this regard.
  - (f) Ensure that training encompasses not just the investigation of such offences, but the handling of victims once a prosecution has been launched through to its conclusion.
  - (g) Seek to involve local communities in such training; this could both improve the training and reap the benefit of demonstrating to those representatives of the local communities who become involved the extent of the commitment in this area by the police.
  - (h) Whatever other decisions are made as regards this issue generally, link training and monitoring to that of the CPS (see the last chapter).
  - (i) Establish nationwide key protocols, to be adopted by all forces for the investigation of these offences, whilst at all times ensuring these are sufficiently flexible to allow for the needs and resources of individual Chief Officers.
  - (j) Establish effective links with the local media to ensure there is more comprehensive reporting of the high numbers of defendants who are prosecuted for these offences.

## Chapter 3:

# The Crown Prosecution Service

### The Current Position

20. In recent years the CPS has put in place policies and procedures for handling race and diversity issues; some specifically focused on how racist and religious crime is handled by the CPS and some are more generic (e.g. the CPS Diversity Awareness Training).
21. As a national organisation the CPS monitors issues from a national level and it has developed a programme to measure the outcomes of hate crime prosecutions; this monitoring includes the Racist Incident Monitoring Scheme that has been in existence since 1995, although information on the ethnicity of defendants and victims is not captured by this scheme. In this context it is to be noted that the CPS are reliant upon the police for monitoring information of this kind because they do not have direct contact with defendants; furthermore, the police do not always record the relevant data and different ethnic classification systems are used. Generally, however, there is an issue of CPS under-recording of ethnicity at the point where police data is entered onto the COMPASS Case Management System.
22. Cases seen as having an unsuccessful outcome are reviewed on a quarterly basis as part of the Area Performance Review System. It is clear, therefore, that the CPS approach is to focus not only on policy development and awareness training but also on policy implementation and performance.
23. Whilst there is no room for complacency and we will go on to make several recommendations for improvements, it would be wrong not to acknowledge the huge effort put into this area within the CPS; indeed, our group was only set up as a result of the CPS commissioning the Gus John Partnership report.
24. The CPS is monitored by Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) whose purpose is to improve how the CPS operates through a process of inspection and evaluation.
25. At present HMCPSI is undertaking an overall performance assessment of all CPS Areas, and one of the aspects of that review is the handling of sensitive cases and hate crimes. The process consists of inspecting documents, interviewing CPS Area management and, where appropriate, reviewing the evidence in specific cases.
26. The CPS has consulted widely both with external black and ethnic minority groups and, internally (including with the National Black Crown Prosecutors Association) to produce both a public policy statement on prosecuting racist and religious crime and guidance on prosecuting cases of racist and religious crime. At the level of formulating corporate policy the CPS has expressed its wholehearted commitment to pursuing the prosecution and monitoring of these offences. What follows must be set against this particular background.

27. It has been the experience of the Task Force members from within the CPS that specific targeted training for prosecuting racist and religious crimes has been much more positively received than general equality and diversity awareness training which is often seen to lack an appreciation of the “business context”. The CPS has, to date, provided training to approximately 1,600 prosecutors on the prosecution of racist and religious crimes and this training appears to have been positively received.
28. A continuing problem is the interrelationship with other parts of the Criminal Justice System; if two separate agencies work together but lack a common view or analysis of the issues, there is inevitably a risk that one agency’s aims are diluted or lost. For example, a barrister instructed to prosecute may not share the corporate values of the CPS. We examine the role of such advocates in the next chapter.
29. The CPS has some experience of flexible training that can meet the needs of a range of audiences in different parts of the Criminal Justice System: an example is the current domestic violence training programme developed by Centrex (the Central Police Training and Development Authority) and the CPS. This “e” and “hard copy” based learning programme consists of a series of modules on domestic violence. The opening module is targeted at both police and prosecutors and seeks to build a common understanding of the nature and dynamics of domestic violence amongst staff in both agencies. There follow specific modules for the police, together with a specific module for prosecutors.
30. We have set out in the final chapter our views on integrated, but flexible, training across the Criminal Justice System. Whatever is ultimately decided in this regard, the central message must be that the handling of race crimes nationwide has to be consistent, effective and fair.
31. One of the difficulties we have identified as regards the CPS is reflected in the chapter dealing with the police: the monitoring of these matters is made difficult by failures to record hate crimes accurately, in part through the different ethnic classification systems used by other agencies and by operational differences in definition between incidents and offences. It is also important to note that the CPS have no direct contact with any defendant and, therefore, are entirely reliant on the police for any monitoring of ethnic classification.
32. We also believe that any reforms need to be sensitive to the concern or perception that these proposals are motivated by a desire to increase conviction rates. It should be made clear that the aim is to tackle attrition rates; we perceive the aim as thorough investigation, effective prosecution, appropriate punishment (when relevant) by the courts, and coordinated and comprehensive recording of such offences.

## Recommendations

33. Irrespective of our general conclusions in the final chapter, we suggest the following discrete reforms:
  - (a) The introduction of systematic victim and defendant monitoring by ethnicity, building on existing CPS monitoring and ensuring, insofar as it is possible, that this is coordinated with other agencies.
  - (b) The development of on-line information forms.
  - (c) Steps should be taken to ensure that training is evaluated to ensure it is effective, and made common to all CPS areas.
34. Otherwise, we consider that any conclusions/recommendations relevant to the CPS are covered by the overarching recommendations set out in the final chapter.

## Chapter 4:

# The Courtroom

### The Current Position

35. As part of our work we have examined the extent to which those who are present in the courtroom when race crime cases are dealt with have been trained as to how they should be handled.

### The Professions

36. In essence, neither the Bar nor the Law Society has any specific training. Both bodies have diversity committees and policies, as well as codes of practice banning discrimination. Most of these policies and the majority of the committees' work, however, are bound up with the laudable, yet different, task of promoting diversity within the professions. In the event, little or no training is undertaken by barristers and solicitors as to how race crimes should be treated.

37. It is right to note, however, that both professional bodies expressed themselves as willing and able to become involved in any scheme that might improve this position.

38. It should be noted that the CPS "Instructions for Prosecuting Advocates" state that advocates should be familiar with CPS policy and guidance and that cases should be prosecuted accordingly.

### Magistrates, Justices' Clerks and Legal Advisors

39. With the recent introduction of Her Majesty's Courts Service, the training of Magistrates has now become the responsibility of the Judicial Studies Board (JSB), though their sheer numbers means that the training tends to be provided as a package which is presented, as hitherto, by the Justices' Clerks. New Magistrates have diversity and race training as part of their introduction, and there has been an attempt to include diversity and race training as an everyday part of the general training that all Magistrates undertake for 2 to 3 days each year.

40. There is no particular training as to the importance of race crimes, and we were cautioned that there are very real sensitivities about Magistrates, who value their independence and local links, being seen to "take sides" between the parties. It is, however, important that those who deal with race crimes are aware of the impact of racist crime within a community. Magistrates who are drawn from their local areas may be well placed in this regard, but experience shows that awareness training as to the corrosive effects that racist crime has on a community is valuable and it ought not to be seen as undermining judicial independence.

41. Justices' Clerks and Legal Advisors have a higher level of general training on account of their role as their court's lawyer. Whilst they were provided with training as to the "mechanics" of the aggravated forms of these offences when they were introduced, as we understand the position there is no

specific training as to the particular value of these offences. In our view there should be additional training in this area which should include encouragement for Legal Advisors (in order to assist the bench) to question and to seek justification for any proposals or submissions that are advanced which may involve the inappropriate dropping of racially aggravated charges.

42. A direct and obvious way in which Magistrates, Clerks and Legal Advisors affect race crimes is in their punishment. The Court of Appeal have made it clear that the courts should both increase any sentence passed where there is racial aggravation and make clear they have done so; we are aware that in at least one CPS area there have been concerns expressed that neither appears to be happening.

## **Professional Judges**

43. District Judges, as professionals, already come directly under the training of the JSB. The professional judiciary are regularly trained in new legislation and, from time to time, in diversity and race issues; here again, the aim is to incorporate these topics as a part of general training where appropriate ("mainstreaming", in the jargon), rather than having "stand alone" training on these issues. Whilst there is specific training on sentencing for racially aggravated offences, there appears to be none on the sensitive issue of how to assess and deal with a proposal/decision by a prosecutor not to proceed with charges in this category, particularly when the judge is concerned that such a course is likely to be inappropriate. There is also the issue that may sometimes arise of judges seeking to persuade or influence prosecutors to accept inappropriate pleas, which training should also address.
44. Additionally, we repeat the self-evident point set out above about sentencing, namely that the Court of Appeal's guidance must be followed.

## **The Possible Effects**

45. The issues that our taskforce has focused upon are the concerns that racially aggravated offences are being dropped too easily; they are too frequently misunderstood; and they are not used as they should. Given particularly that both the CPS and the police have a very high level of training and well developed policies, the role, the training and the monitoring of those who make decisions at court (including members of the Bar and solicitors who are not employed by the CPS) should be the subject of close attention in any reform of the administration of these offences. Professional Judges will often have a role to play in such decisions: having read the papers, they will have both the knowledge and the authority to intervene if they feel, for instance, that a charge is being dropped for a bad or an insufficient reason.
46. In practical terms we do not think it reasonable to expect those who are defending to resist the urge to seek to have charges against their clients dropped; they have a clear and simple professional duty, namely to advance their lay clients' interests as best they can within the rules.

## Recommendations

47. We believe that the two main groups who should receive more focused training in this area are the barristers who are briefed to prosecute these cases and the professional judiciary, both crown court judges and district judges. Although they are now relatively rarely used, independent solicitors who are still retained as agents should receive similar training.
48. Notwithstanding the sensitivities mentioned above and the limits on their power to influence the dropping of cases, we also recommend the training of magistrates, justices' clerks and legal advisors.
49. The training provided by the JSB has to be distinct and different to that offered to other agencies within the Criminal Justice System, to reflect judges' crucial independence from the rest of the system; such training should include information about the corrosive effects of racially motivated crime and the need for evidence of such offending to be placed before the courts.
50. We note that it is not a complicated or lengthy process to explain and emphasise the importance of racially aggravated offences and to emphasise the undermining of confidence in the system that their neglect can engender. In other words, it is both important and quick to teach. With this in mind, and conscious that the Judiciary already have diversity and race training and the professions are starting to introduce it, we suggest that the issue of racially aggravated offences and how they are prosecuted is introduced, in any event, into existing training.
51. It may well be that continuing professional development requirements, coupled with the knowledge that this training forms part of a Criminal Justice System-wide approach sanctioned by the Lord Chancellor, the Lord Chief Justice and all of the relevant agencies would greatly encourage the professions to undertake this training.
52. We deal with the core content of the training suggested above in our final chapter, but here again we would suggest that the involvement of members of the local ethnic minority communities would have the double benefit suggested above, at paragraph 19(g).
53. There is an obvious need for consistency in sentencing, both by the courts imposing a more severe punishment for an offence with a racist element and by making it clear that this has been done. It is, of course, for the JSB to amend or add to sentencing training as and when necessary.

## Chapter 5:

# Conclusions and General Recommendations

### Introduction

54. There are a number of notable gaps and failings which we feel have been identified as regards the handling of race crimes. First, however, we would wish to stress that the observations and recommendations that follow must be viewed in the context of the substantial progress that has been made in this area over the last few years, as summarised above. Generally, we have been highly impressed by the levels of commitment and sheer hard work that has been devoted to the investigation and prosecution of racist crimes.
55. Virtually all the bodies we have consulted have made the central link between how they deal with these specific problems and the need to foster diversity and equality of opportunity within their own organisations. We unreservedly accept this link and applaud the progress and efforts made by those we have consulted. We have not particularised these submissions in this report as is outside our remit, but that should not be taken as our belittling its importance in any way.
56. The particular background that gives the gaps and failings a high level of importance is provided by the changing attitudes in our society in this area following the Lawrence Inquiry. Principally, it is clear that there is a growing understanding that offences of this kind are wholly unacceptable in our more diverse society; this understanding exists alongside a parallel awareness of the heightened community expectations that these crimes should be dealt with seriously, effectively and consistently by those responsible.
57. Most critically, although many individual agencies have responded commendably to the need for an effective response to these incidents, the usefulness of discrete activity has been undoubtedly impaired by the limited coordinated strategic activity by the various organisations across the Criminal Justice System. Insofar as it is possible to achieve, in our view there needs to be far greater emphasis on establishing a common cross-agency approach to the prosecution of racist and religiously motivated crime, and by way of general recommendations, we would make the following points.

### Specific Recommendations

58. Our specific recommendations are as set out at paragraphs 19 (Police), 33 (CPS) and 47 to 53 (judges, magistrates, justices' clerks, legal advisors and lawyers), above.



## General Recommendations

### Training

59. We suggest that positive steps are taken to establish cross-agency training for dealing with these crimes, particularly given the clear experience highlighted by members of the Task Force that specific targeted training in this area is often more effective than general equality and diversity awareness training. We propose that a core joint training scheme should be developed that would be used across the Criminal Justice System agencies, but which has real flexibility to accommodate individual agency needs. There is a strong case for such a “joined-up” approach.
60. The resources of the Task Force make it unrealistic for us to put together such a training package. However, amongst other things it should:
- (a) Develop an understanding of the impact on communities of hate/religious crime.
  - (b) Describe clearly the reasons for this training (the evils of attrition, the need to inspire public confidence, the historic concerns about the lack of will to pursue such cases and the effectiveness of positive action in this area).
  - (c) Consult and involve local members of the ethnic minority communities in such training.
  - (d) Provide a clear concept of what all criminal justice agencies are seeking to deliver.
  - (e) Establish a set of minimum standards for dealing with these offences.
61. We stress and repeat that the training package should be sufficiently flexible to meet the needs of the different audiences in different parts of the Criminal Justice System.

### Monitoring

62. Our enquiries have revealed that there are varying levels of performance monitoring by criminal justice system agencies in respect of handling these crimes. The particular following problems have been highlighted:
- (a) A level of failure to record these crimes accurately.
  - (b) Different ethnicity classification systems being used by different agencies.
  - (c) Different agencies speak a different statistical language: some count allegations, some offenders, some offences; there needs to be some common counting so that the progress of these cases can be followed, rather than lost when they move from the care of one agency to another.
63. We accept that different agencies perform very different functions, and it would not be possible for all to use identical forms or record identical information. However, for work in this area to be effective it is necessary to ensure that all the agencies that track a case from the receipt of an allegation until the end of the court process have some core, common terminology. As a minimum, this must include:
- (a) Shared definitions of crimes and victims.
  - (b) Shared ethnicity monitoring categories.
  - (c) An ability to share, access and update all relevant data.

## Implementation

64. Our Task Force was set up by the Attorney General, and it is to him that we report, but it is obvious that our recommendations spread far beyond his immediate responsibilities. Although the matters we have considered are often of a technical and even bureaucratic nature, it is crucial not to lose sight of the very real fear, pain and suffering that racist crime inflicts. We hope that the recommendations we have set out will go some way to enabling the criminal justice system to improve its handling of these offences. We trust that there will be sufficient will and energy within the CPS, the Police, the legal professions, all levels of the Judiciary and the Government to bring these changes about. Finally, by way of suggestion only, it seems to us that the Office for Criminal Justice Reform (the Criminal Justice System Race Unit) may be the body best placed to oversee the strategic implementation of these recommendations.

## Annex I

# List of Taskforce Members

Tony Apperley (Office for Criminal Justice Reform, CJS Race Unit)

Joel Bennathan (Tooks Chambers)

Keith Budgen (HM Courts Service)

Sally-Ann Downey (HM Crown Prosecution Service Inspectorate)

The Honourable Mr Justice Fulford (Judicial Representative and Taskforce Chair)

Laurence Gouldbourne (Metropolitan Police Authority, formerly Crown Prosecution Service)

Elizabeth Howe (Crown Prosecution Service)

Detective Superintendent Adrian Maybanks (Metropolitan Police, representing ACPO)

Paul Morrison (Office for Criminal Justice Reform, CJS Race Unit)

Margaret Pinder (HM Magistrates' Courts Inspectorate)

Gilad Segal (Attorney General's Office and Taskforce Secretary)

Seamus Taylor (Crown Prosecution Service)

## Annex 2

# List of those who provided information to the Taskforce

Association of Chief Police Officers

Crown Prosecution Service

Department for Constitutional Affairs

District Judge Timothy Workman

General Council of the Bar for England and Wales (via the Criminal Bar Association)

HM Inspectorate of Constabulary

Home Office Police and Powers Unit

Judicial Studies Board

Justices Clerks Society (and a number Justices Clerks)

The Law Society

Kent Youth Offending Service

National Offender Management Service

Office for Criminal Justice Reform

Youth Justice Board



Criminal Justice System: working together for the public