Ethnic Disparities in Sentencing in England and Wales: Review of Recent Findings

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Abstract

Following the 2017 Lammy Review, research into ethnic disparities in sentencing in England and Wales has intensified. This article reviews the main findings from recent studies, focusing on the robustness of evidence, areas where disparities are most prevalent, gaps in the literature, and potential solutions.

Ethnic disparities are less severe and more offence-specific than previously reported. There are no substantial differences in custodial sentence length, while for the probability of receiving a custodial sentence, disparities are concentrated primarily among drug offences. However, such disparities cannot be fully explained by statistical bias, suggesting a degree of sentencing discrimination.

Sentencing disparities appear consistent across most minority groups. However, intersectional analyses reveal nuanced patterns; for instance, white male offenders require over 50% longer criminal records than black male offenders before crossing the custody threshold, while no significant differences are observed between black and white female offenders. Notably, socioeconomic factors, such as area deprivation, do not seem directly linked to ethnic disparities, although deprivation independently influences sentencing outcomes.

Several gaps remain in the literature. Multivariate analyses focused on magistrates' courts, where most sentences are imposed, are lacking. Qualitative research is also needed to explore disparities in areas like drug offences, male ethnic minority offenders, and assessments of mitigating factors.

Current efforts to mitigate disparities should be expanded to include more structural solutions, such as increasing funding for legal aid, improving the quality of pre-sentence reports, and ensuring community services for addiction, mental health, and employment are accessible to ethnic minority groups.

1. Background

A recent survey of 373 legal professionals[1], 56% of them report having witnessed one or more judges acting in a racially biased way towards a defendant (Monteith et al., 2022). These subjective perceptions are congruent with the scientific evidence most widely shared. The Lammy Review (2017) documented ethnic disparities throughout the criminal justice system. In relation to sentencing, they referred to a study conducted by the Ministry of Justice (Hopkins, 2016), highlighting how the odds of receiving a custodial sentence are 240% higher for ethnic minority offenders compared to white offenders charged with the same drug offence and equivalent criminal histories and propensities to plead guilty.

Odds ratios are notoriously difficult to interpret, but a 240% disparity is simply huge. To put this in context, and assuming a baseline probability of custody of 0.50 for white offenders, 240 higher odds for ethnic minority offenders would represent a probability of custody close to 0.77, i.e., a custody rate differential of 27 percentage points. This shocking data point has been extremely influential in signifying the presence of vast ethnic disparities in sentencing in England and Wales. Specifically, the above odds ratio has been referred to in almost every discussion on the topic following the Lammy Review. See for example responses to the Lammy Review (Neilson, 2017), the House of Commons debates (2021) on the Police, Crime, Sentencing and Courts Bill, as well as other publications on ethnic disparities in England and Wales (Institute of Race Relations, 2024; Clinks, 2020).

Understandably, criminal justice agencies have been pressed to respond to this problem[2], while perceptions of discrimination have widened amongst the ethnic minority population. In reference to the 2015 Crime Survey for England and Wales, the Lammy Review indicated how 51% of the ethnic minority population believe 'the Criminal Justice system discriminates against particular groups and individuals'. According to the 2023 version of the crime survey, that figure has risen to 65%.

The sense of urgency is clear. How to respond to the problem, however, is not. As correctly identified by the Lammy Review, the evidence base documenting the presence of sentencing disparities in England and Wales was practically non-existent. Ironically, to a great extent, the dearth of evidence available to criminal justice agencies to provide effective responses to the crisis stemmed from their own inability to share their data with researchers outside their organisations.[3] With the exception of Hopkins (2016), all we knew relied on Ministry of Justice aggregate statistics (Roberts & Bild, 2021), limiting the types of analyses that could be carried to explore the causal mechanisms behind the observed disparities, or assessments of the robustness of the available evidence.[4]

This impasse was overcome in 2021 through two momentous developments: i) the publication of the Sentencing Council for England and Wales first report on sentencing disparities, equality in their guidelines, and, subsequently, some of their underlying data; and ii) the release of the first magistrates' and Crown Court datasets from the Data First project.[5] A new wave of studies have followed the release of these official datasets, providing a fresh and more complete perspective about the prevalence and origin of ethnic disparities in England and Wales. Here, we review this nascent body of research and in so doing evaluate

[1] This survey was based on a combination of convenience sampling (the questionnaire was distributed to a variety of organisations and individuals within the legal profession) and voluntary response sampling (the questionnaire was also hosted on the research project's website and advertised via social media).

[2] The Lammy Review advocated for the introduction of an 'explain or reform' principle i.e. if an evidence-based explanation for apparent disparities between ethnic groups cannot be provided, then reforms should be introduced to address any observed disparities.

[3] Following the publication of the Lammy Review the first author of this article submitted separate data access applications to the Judicial Office, the Ministry of Justice, HM Courts and Tribunals Service, and the Sentencing Council for England and Wales. All were either rejected or ignored.

[4] Notably, aggregate data cannot be used to conduct the type of multivariate analysis that allow conditioning on legal factors such as guilty plea or previous convictions. This is key to approximate estimations of unwarranted disparities, and it is only possible through individual-level data.

[5] Data First was created as a collaboration between the Office for National Statistics, the Ministry of Justice, and Administrative Data Research UK, tasked with making administrative government data available to accredited researchers through secure data access protocols. The first datasets released covered all sentences imposed since 2016 for the Crown Court and 2011 from the magistrates' courts, capturing key case characteristics (such as the most serious offence, whether the defendant was placed in remand, or whether they plead guilty), but also important offender characteristics, crucially amongst them, their ethnic background.

the robustness of the evidence base, highlight particularly problematic areas, identify gaps that should be addressed by future research, and speculate about the relative effectiveness of different policies that could be enacted to minimise the problem.

2. Setting the Record Right

Before reviewing the latest findings from the literature, it is crucial to address a common misconception. The claim of 240% higher odds of incarceration for ethnic minority offenders, cited in the Lammy Review and echoed in subsequent publications and debates, is factually incorrect. This figure does not appear in the original study referenced by the Lammy Review (Hopkins, 2016). Instead, the study reported an odds ratio of 2.37 for ethnic disparities among drug offenders - approximately 2.4 for simplicity - which equates to a 140% increase in odds, not 240%.

While these disparities are deeply concerning and merit further investigation, it is essential to recognise that the actual magnitude of the reported disparities is nearly half of what has been claimed. This error is likely an innocent mistake; however, we are less sympathetic to how this evidence has been framed in subsequent reports and official discussions. Most repeat the 240% higher odds for ethnic minority drug offenders but fail to mention that the same study found no significant disparities in sentencing for sex or violent offences. This omission appears to be an example of selective reporting, which is more problematic as it reflects a deliberate choice.

Accurate interpretation of these findings is vital for framing the issue correctly and guiding effective responses. Without delving further into our review, one of our key conclusions is already apparent: ethnic disparities in sentencing are not as profound, nor as widespread, as is often assumed. Furthermore, the original study referenced by the Lammy Review has notable limitations; most significantly, it does not adequately approximate 'like with like' comparisons, raising questions about whether the reported disparities are truly unwarranted.

3. Warranted or Unwarranted Disparities?

Disparities in sentencing do not necessarily indicate judicial prejudice. Variations in guilty plea rates or the types of offences committed by different ethnic groups can naturally lead to disparities, which we might classify as warranted. To identify unwarranted disparities, researchers rely on statistical models that account for relevant legal factors. However, this process is challenging because many legal factors influencing sentence severity are either not recorded with sufficient precision or not recorded at all.

For example, while Hopkins (2016) controlled for guilty plea and offence category, the analysis overlooked key factors outlined in sentencing guidelines, such as harm, culpability, and aggravating or mitigating circumstances. Additionally, the legal factors that were considered were addressed only imprecisely. Critical details - like the timing of the guilty plea or specific offence types within broader offence categories - were excluded, further limiting the validity of her findings.

The Sentencing Council for England Wales set out to replicate the analysis in Hopkins (2016) using their own survey data, which was originally collected to assess the impact of their sentencing guidelines. Crucially, this dataset includes most factors listed in the sentencing guidelines, such as harm (e.g., the type and quantity of drugs supplied), culpability (e.g., the offender's role), and other aggravating or mitigating factors (e.g., whether the offence was committed while on license or whether the offender showed remorse).

As far as we know, the resulting study by Isaac (2021) is unmatched in terms of the number of legal factors controlled for; including harm, culpability, aggravating, and mitigating factors. Nonetheless, the study found that black offenders had 40% higher odds of receiving a custodial sentence compared to equivalent white offenders. While this disparity is much smaller than that reported by Hopkins (2016), it remains significant. For instance, assuming a custody rate of 50% for white offenders, this translates to a custody rate of 58.3% for black offenders charged with the same crime, criminal history, and personal circumstances.

However, the Sentencing Council cautioned that these findings might still reflect unobserved factors, such as recommendations recorded in pre-sentence reports, which could not be controlled for. This leaves us with the question: are these unwarranted disparities or not? At present, it seems that the data can be

interpreted to support differing positions. Unfortunately, open-ended conclusions on politically sensitive and complex issues like this often trigger confirmation bias, leading readers to default to their pre-existing beliefs. To move beyond this impasse, we need to shed more light on the problem by delving deeper and adopting a more technical approach.

It is true that the Council's survey does not capture all potentially relevant factors considered by the judge. As pointed by Isaac (2021), many of these are recorded in the pre-sentence reports, but are not recorded in the Council's survey, e.g. risk assessment, or potential for rehabilitation. Furthermore, whether a pre-sentence report is available or not is itself a relevant factor as is the quality of the pre-sentence report. Both are expected to affect sentence severity, and both are potentially unevenly distributed across ethnic groups (HM Inspectorate of Probations, 2021). Besides legal factors considered in pre-sentence reports, there are other relevant factors that were not captured in the survey for reasons of confidentiality, most importantly, whether the offender assisted with the prosecution of other cases. Lastly, some key factors are unduly oversimplified, the best example being the number of previous convictions, which is interval-censored and fails to consider the *relevance* of the previous convictions, which is ultimately what a judge assesses in determining the impact previous convictions should have on the current sentence being imposed.

However, failing to control for all relevant legal factors is not a sufficient condition to claim that the reported disparities are due to quantitative bias. For such a claim to hold, these unobserved factors must not only exist but also be disproportionately distributed across ethnic groups and remain unexplained by the factors already controlled for in the model. In our view, both conditions are unlikely.

For instance, while the Sentencing Council study could not directly account for factors like the offender's dangerousness or rehabilitation potential (e.g., through the offender's risk assessment score in the pre-sentence report), it did control for many of their constitutive elements. These include the offender's criminal history, whether they targeted a vulnerable victim, their role in the offence, and whether the judge believes that the offender is addressing or has the potential to address their addiction/offending behaviour. As a result, aspects of dangerousness or rehabilitation potential are indirectly accounted for.[6]

Even if we disregard that point entirely, for the observed disparities to be nothing more than statistical bias we would still need those missing factors to be unevenly distributed across ethnic groups. To quantify the likelihood of such scenarios, Pina-Sánchez et al. (2023) conducted an analysis based on simulated data. Since the original dataset was unavailable, the study recreated a dataset approximating the key statistical properties of the one used by the Sentencing Council, as reported in Isaac (2021). These properties included metrics such as the custody rate for white and black offenders and the estimated effect of ethnicity on custody probability. It then tested for hypothetical factors strong enough to account for the observed disparities. The findings indicate that for a missing factor to eliminate the reported disparities, it would need to meet a set of stringent conditions. For example, in one of the four scenarios identified, the unobserved legal factors would need to: i) increase the probability of custody by at least 10%; ii) be present in at least 70% of the reference group (white offenders); and iii) be at least 20% more prevalent in the treatment group (i.e., present in at least 84% of Black offenders). While we cannot entirely rule out the existence of such a factor, it is highly improbable.[7] Therefore, and despite the complexity of the question[8], we conclude that the reported ethnic disparities among drug offenders are unwarranted.

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[6] To further illustrate, Pina-Sánchez et al. (2024a) demonstrated that only a few major legal factors significantly influence sentence severity. Specifically, in custody decisions for shoplifting offences, sentence severity could be accurately predicted 80.7% of the time using just the top 10 most important factors outlined in the guidelines. Expanding to the top 20 factors only marginally increased predictive accuracy to 81.2%. For context, Isaac (2021) controlled for over 30 legal factors in their analysis.

[7] For example, Isaac (2021) did not control for whether the defendant was placed on remand, which could be taken as a proxy for offenders' dangerousness. However, according to the latest statistics on ethnicity and the criminal justice (Ministry of Justice, 2024), the remand rate in the Crown Court is 53%, and in the most extreme comparison only 13.5% more prevalent in black than white offenders. Hence, it is not possible that having failed to control for remand is on its own exerting a strong enough bias to explain the estimated ethnic disparities in custody.

[8] It is worth nothing that we have not consider further assumptions commonly violated that are likely affecting the validity of our findings, such as when missing data is not at random (Stockton et al., 2024), or the fact that most studies misclassify the reference group in their measures of ethnicity by adding ethnic minority categories such as gypsy travellers in the UK, or white Hispanics in the US.

Acknowledging this reality means we cannot ignore the problem. Even if sentencing disparities are highly localised and smaller in size than previously considered, they still appear to indicate a violation of the principle of equality under the law – a breach of a fundamental expectation in liberal democracies that simply cannot be accepted. In Section 5, we propose potential solutions. However, to implement them effectively, it is critical to understand the exact sources of these disparities. In the following section, we examine where these disparities are most pronounced, aiming to uncover their causal mechanisms and better inform the design of targeted and effective interventions.

4. Where Are Disparities Coming From?

As noted, Hopkins (2016) only found disparities in one of three offence groups considered. Using more recent data covering sentences imposed in the Crown Court from 2018 to 2020, Pina-Sánchez et al. (2025) corroborated that finding. Specifically, it explored eight offence groups but only found evidence of substantive disparities amongst drug offenders. In that category, and after conditioning on guilty plea, previous convictions, age and gender, ethnic minority offenders have an average 0.65 probability of custody compared to 0.58 for white offenders. The second largest disparities were for assault, where the study observed only a three-percentage point difference against ethnic minority offenders. For all other six offence groups considered the disparities were even smaller, failing to meet the threshold of statistical significance.

These findings reinforce the idea that ethnic disparities in sentencing in England and Wales are not widespread but heavily concentrated amongst drug offenders, and consequently, by having focused the discussion entirely on that offence group we might have contributed to perpetuate a view of widespread disparities.

In that same study it also set out to test whether ethnic disparities in sentencing might in fact be reflecting class disparities. It did not find evidence to support that claim, the estimates of ethnic disparities were not affected by the level of deprivation of the neighbourhood of residence of the offender. Nonetheless, it did find important disparities in account of that factor. For instance, after controlling for offence and offender characteristics, it estimates that the probability of receiving a custodial sentence for a breach offence in the Crown Court is 0.51 for offenders from the top 10% of the most affluent neighbourhoods, compared to 0.63 for those from the bottom 10%. That is, class disparities appear to be as significant as ethnic disparities. However, they appear to be independent of each other since the former does not explain the latter.

In another study using the new Crown Court datasets, Lymperopoulou (2024) explored disparities across a wider range of ethnic minority groups (fifteen in total). Her findings reveal relatively consistent ethnic disparities, with no single ethnic minority group being markedly worse off. The only notable exceptions are white Irish and white-Asian mixed offenders, who do not appear to be sentenced differently from their white British counterparts. However, adopting an intersectional approach to enquire the same dataset, Sorsby (2023) noted that ethnic disparities can vary substantially by gender. Specifically, she found that white male offenders are allowed over 50% longer criminal records than black male offenders before being sentenced to custody, whereas no significant differences were detected between black and white female offenders. This is an interesting finding that helps us identify male offenders as a trait where ethnic disparities are most prevalent.

It is worth noting that all the disparities reported so far relate to differences in the probability of receiving a custodial sentence. When we consider differences in custodial sentence length we find much scarcer evidence of ethnic disparities. For example, in her study of drug offenders, Isaac (2021) found that the average sentence length after controlling for legal factors listed in the sentencing guidelines was only 4% longer for Asian than for white offenders, and not significantly different for offenders from a black or other ethnic background. Similarly, Lymperopoulou (2024), found no significant disparities in sentence length across most ethnic minority groups after controlling for offence characteristics. The main exceptions being Bangladeshi, and other white offenders, who receive 11.6% longer, and 14.8% shorter sentences than white British respectively.

To understand the potential mechanisms behind the observed disparities we should also scrutinise disparities in the legal factors that determine the final sentence. The latest Ministry of Justice (2024) 'Statistics on Ethnicity and the Criminal Justice System' report, indicates how disparities in guilty plea rates

remain relatively wide. For example, in 2022, the guilty plea rate in the Crown Court is 68% for White offenders, reaching only 60% amongst Asian offenders. All studies mentioned so far condition on guilty plea, however, they do not always capture the timing of the guilty plea, or the specific reduction allowed by the judge, which might be explaining some of the disparities observed. The same report showed the percentage of sentences corresponding with pre-sentence recommendations of custody appeared to be equally distributed across ethnic groups. However, that report did not indicate whether custody was a more common recommendation for one ethnic group over another nor the coverage of pre-sentence reports across ethnic groups. A recent inspection by HM Inspectorate of Probation (2021) found that the quality of pre-sentence reports on ethnic minority individuals were insufficient in 21 of the 51 reports inspected, with not enough consideration of the service user's diversity and it conduced '*poorer quality reports that fail to consider all relevant factors run the risk of service users receiving more punitive sentences'* (p29).

Relying on Sentencing Council data obtained through a 'freedom of information' request, Guilfoyle and Pina-Sánchez (2024) showed how most factors listed in the sentencing guidelines are markedly uniformly distributed across ethnic groups. The main exception being personal mitigating factors. For example, considering drug offences, white offenders where 45% more likely to be found of good character and 47% more likely to be deemed remorseful than black offenders. Therefore, it is possible that some of the observed disparities noted in the literature might be stemming from upstream decisions relating to how the case was constructed by the probation officer and the magistrate/judge.

In summary, reviewing the latest evidence on the subject we have learnt that disparities are mostly present in: i) male offenders; ii) drug offences; iii) decisions of custody and; iv) personal mitigating factors. Similarly, disparities *do not* appear to vary substantially across ethnic minority offenders, be the result of deprivation related disparities, or be present amongst: i) female offenders; ii) non-drug related offences; iii) decisions of sentence length, iv) objective sentencing factors listed in the guidelines. In the next and final section, we reconcile this new information with known gaps in our understanding to review ongoing initiatives seeking to redress the problem and additional ones that could be cautiously conceived.

5. Policy Solutions

Ethnic disparities in sentencing are not as widespread as previously thought. A series of new studies made possible by the release of sentencing datasets from the Ministry of Justice and the Sentencing Council have shown how unwarranted disparities are far smaller in size, and heavily concentrated around drug offences.

Despite their narrower scope, these disparities should be interpreted as genuinely unwarranted as it is unlikely they are simply the result of differences in legal characteristics defining criminal cases committed by different ethnic groups. As such, all of the ongoing initiatives seeking to redress them, such as those carried out so far by the Judicial College (unconscious bias training) and the Sentencing Council (reminders in sentencing guidelines to consult the equal treatment handbook, amending the expanded explanations in sentencing guidelines for certain mitigating factors, as well as the inclusion of a new mitigating factors of 'difficult and/or deprived background or personal circumstances')[9], are well justified. Recent findings might be used to further enhance some of these efforts. For example, the reminder/note in drug offence sentencing guidelines highlighting there is evidence of ethnic disparities in sentencing outcomes could be updated to specifically state that the evidence of ethnic disparities relates to decisions of custody for male offenders being sentencing for drug offences. This additional specificity might help focus attention on cases where the research evidence has shown disparities are mostly likely to arise.

In addition, based on recent findings, we argue there is scope to go even further and broaden these efforts. Increasing the availability and quality of pre-sentence reports is one policy option that could significantly mitigate disparities. Ensuring the availability of comprehensive pre-sentence reports would allow judges to consider personal mitigating factors more thoughtfully. It would also allow judges to better consider and impose non-custodial sanctions for ethnic minority offenders. As recent findings have shown, ethnic disparities likely stem, at least in part, from the judicial assessment of personal mitigating factors and disparities are mostly present in decisions of custody rather than sentence length. It is the decision regarding

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[9] Many of these recent reforms stem from a review commissioned by the Sentencing Council to assess equality and diversity within its work (Chen et al., 2022). The final report presented a range of recommendations, a significant number of which were accepted and acted upon by the Sentencing Council.

custody where pre-sentence reports are most influential. As well as improving the availability and quality of pre-sentence reports, it is also important that suitable programmes and services are available in the community for ethnic minority groups. Research has shown that ethnic minority groups face additional barriers in accessing drug and alcohol treatment (Fountain 2009). This can include language barriers, stigma and cultural differences, mistrust of mainstream services and experiences of racial prejudice. These barriers can prevent ethnic minority groups from engaging with treatment services which in turn can impact risk assessments and rehabilitative potential.

In 2021, HM Inspectorate of Probation found that there were very few treatment programmes available specifically for ethnic minority users (p29). It found there was no coherent national approach to assess the differing needs/barriers for ethnic minority users, to identify any disproportionality in service delivery or to improve how services are delivered to these groups (p8). The inspectorate recommended the development of a national race equality strategy for probation service delivery, supplemented by strategic needs assessments in each probation region, to ensure that ethnic minority service users are not disadvantaged (p12). At the time of writing, a national race equality strategy for probation service delivery has yet to be published. It is unclear if one has been developed. HM Inspectorate of Probation in a follow up review in 2023 stated that race equality in probation remains 'a work in progress' (2023). Developing a national race equality strategy addressing the issues identified by HM Inspectorate of Probation, in our view is a policy option worth pursuing.

Another policy option would be to restore legal aid to their pre-austerity levels. Improving legal aid access could help enhance ethnic minority defendants' trust in the justice system, increase guilty pleas where appropriate, and address potential issues of courtroom demeanour. Currently, there remains a relatively wide disparity in guilty pleas across ethnic groups (Ministry of Justice, 2024). Additionally, the expanded explanations in sentencing guidelines could be used to warn about potential biases in attributing 'good character' or 'remorse' to ethnic minority offenders, with similar reminders given to probation officers writing pre-sentence reports. Doing so could help to reduce the uneven distribution of these impactful mitigating factors across ethnic groups which was observed by Guilfoyle and Pina-Sánchez (2024) and identified as likely sources of ethnic disparities in sentencing outcomes.

6. Research Gaps and a Plea for Open Data

Despite these insights, evidence remains incomplete. Most notably, no multivariate analyses have addressed disparities in magistrates' courts, where over 90% of sentences are imposed. This is a major gap in our current knowledge and understanding of ethnic disparities in sentencing. Differences in offence types and sentencing procedures between the Crown Court and magistrates' courts caution against generalising Crown Court findings.

Moreover, some of the explanations for disparities we have put forward are tenuous. Hypotheses linking the availability or quality of pre-sentence reports to disadvantages for ethnic minority in risk assessments and in evaluations of rehabilitative potential ought to be tested empirically as should the potential that courtroom demeanour might be impacting the assessment of personal mitigating factors. Additional further insights into the reasons behind the large disparities in guilty pleas would be of benefit too. It could also be possible that we are being completely misled and the reason behind the observed disparities is simply that some judicial decisions are consciously or subconsciously biased. For example, recent research carried out by Pina-Sánchez and Lewis for the Crown Prosecution Service (CPS, 2023), identified regional disparities in charge rates, with rural areas displaying greater ethnic biases compared to urban centres like London or Manchester. Similar insights are needed for sentencing disparities. If similar dynamics exist in sentencing, then diversifying the judiciary's ethnic composition should be further encouraged (Veiga et al., 2022).

Intersectional dimensions also demand attention. For instance, Sorsby (2023) found ethnic disparities specific to male offenders, while Pina-Sánchez et al. (2025) highlighted deprivation-related disparities alongside ethnic ones. Additionally, U.S.-based analyses (Pina-Sánchez & Tura, 2024c) suggest factors like nationality and education level may further exacerbate disparities. Addressing these issues will require a combination of qualitative research and better use of existing datasets.

Many of these questions such as evaluations of demeanour in court require qualitative designs, which inevitably will be costly and take a long time to be carried out. They also require the cooperation of the

Judicial Office and members of the judiciary. Other questions like those related to offender's nationality, level of education, or legal aid, represent factual information that could be easily incorporated to future surveys of the Sentencing Council or administrative records from the Ministry of Justice, making them available in the near future at no added substantial cost. While a third group of key questions, such as estimating disparities in the magistrates' courts, the extent to which disparities are concentrated in certain court locations, or - to some degree - the effect of sentencers failing to receive a pre-sentence report, could be explored with data already available.

A key reason we lack answers to many of these questions, despite the availability of relevant data, lies in the numerous hurdles researchers face in accessing and using it. These include: (i) lengthy application processes; (ii) mandatory research accreditation requiring a data security course and examination; (iii) limited access to IT infrastructure, available only at a few selected universities; (iv) reliance on slow servers for analysis; (v) re-application requirements to address research questions not outlined in the original plan; and most frustratingly, (vi) publication clearance from three separate gatekeepers - Office for National Statistics, Ministry of Justice, and Judicial Office - causing unnecessary delays and uncertainty.

To advance our understanding of fairness in sentencing, these stringent data security protocols must be reconsidered. Arguments for maintaining them typically cite confidentiality concerns, but we do not think these are valid. Sentencing occurs publicly, and information about legal and extra-legal factors influencing decisions, as well as the sentencing outcomes themselves, should be treated as public domain. In fact, sentencing's public nature is a feature meant to communicate the consequences of wrongdoing transparently. Other jurisdictions demonstrate that greater transparency is feasible. U.S. Federal Courts and states like Minnesota, Florida, and Pennsylvania have openly shared detailed sentencing data for decades, often including information about the judges involved. More recently, countries like China, the Czech Republic, Slovakia, France, Germany, Russia, Poland, the Netherlands and Finland have adopted similar practices. England and Wales should not remain an exception.

The current barriers severely limit the quantity of researchers equipped to work with these datasets and the quality of their work. In practice, only those with sufficient funding to dedicate their time exclusively to navigating these obstacles have used the data. This not only slows the research process but undermines its integrity, as replication of analyses becomes prohibitively time-consuming or practically infeasible.

The case for facilitating access to sentencing data cannot be overstated. Better data access will lead to a fairer sentencing process by enabling deeper understanding of the disparities and more effective policies to address them. Drawing on our three years of collaboration with the Sentencing Council, Judicial Office, magistrates, and Crown Court, we have observed a genuine commitment among stakeholders to tackle unwarranted disparities. All of them have shown a keen interest in learning about the latest findings on the subject to implement solutions to tackle the issue effectively. We are therefore convinced that by identifying the specific mechanisms through which disparities come to be, we will be able to redress them.

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