

# Ethnicity and the fairness of jury trials in England and Wales 2006-2014

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Journal Article

[Criminal Law Review](#)

Crim. L.R. 2017, 11, 860-876

## Subject

Criminal procedure

## Other related subjects

Penology and criminology

## Keywords

Convictions; Crown Court; Juries; Minorities

\*Crim. L.R. 860 *Government statistics show that members of Black, Asian and Minority Ethnic ( BAME) groups are disproportionately stopped and searched, arrested, charged and in prison. However, until the 2010 study Are Juries Fair? there was no reliable evidence to say whether BAME defendants were also disproportionately convicted by juries in England and Wales. The 2010 study provided the first large-scale quantitative analysis of all jury verdicts in the Crown Court over an 18-month period in 2006-2008, and found that, contrary to popular belief, BAME defendants were not more likely than White defendants to be convicted by juries in England and Wales. This article provides a substantially updated and expanded analysis of ethnicity and jury trials in England and Wales, covering all jury verdicts against all defendants in the Crown Court over an eight-year period from 2006-2014 and comprising a dataset of over three million charges and almost 400,000 jury verdicts. It finds that BAME defendants are disproportionately charged with offences tried in the Crown Court and BAME defendants plead not guilty to these charges consistently more often than White defendants and are therefore over-represented amongst defendants facing a jury verdict. However, BAME defendants are not disproportionately convicted by juries in England and Wales. For offences that make up over three-quarters of all jury verdicts, jury conviction rates were either similar for White and BAME defendants or White defendants were convicted substantially more often than BAME defendants. There has also not been any substantial change in the overall jury conviction rates for BAME (or White) defendants over the eight-year period. This new and more extensive analysis confirms one of the most important indications of the 2010 study: that one stage in the criminal justice process in England and Wales where members of BAME groups appear not to be treated disproportionately is when a jury reaches a verdict by deliberation.*

## Examining jury fairness in England and Wales

In 2010, the first large-scale quantitative analysis of all jury verdicts in the Crown Court in England and Wales was published as part of a detailed examination of the fairness of the jury system in this jurisdiction in the report *Are Juries Fair?* <sup>1</sup> That study included an in-depth analysis of data from the official Crown Court \*Crim. L.R. 861 database,<sup>2</sup> which covered all charges against all defendants in the Crown Court for the period October 2006–March 2008; it encompassed over half a million charges which in turn resulted in over 16,000 jury verdicts. That study revealed that a number of widespread and negative assumptions about juries in England and Wales were in fact false. It revealed, for example, that contrary to popular belief there were no courts where juries were more likely to acquit than convict the

accused<sup>3</sup> and that juries convicted defendants more often than they acquitted them in rape cases.<sup>4</sup> One of the main issues examined in depth in the 2010 study was the relationship between the ethnicity of the defendant and the outcomes of jury verdicts on these charges. The 2010 study found that Black, Asian and Minority Ethnic (BAME) defendants were not more likely than White defendants to be convicted by juries in England and Wales. This, along with all the other evidence from the 2010 study, indicated that "one stage in the criminal justice system where BME<sup>5</sup> groups do not face persistent disproportionality is when a jury reaches a verdict".<sup>6</sup>

This article presents a substantially updated and expanded analysis of the 2010 quantitative study of jury verdicts in relation to the specific issue of defendant ethnicity.<sup>7</sup> It covers all charges against all defendants in all Crown Court cases in England and Wales over the eight-year period October 2006–September 2014, and it examines how, if at all, a defendant's ethnic background is related to charges faced, pleas entered and the outcome of jury verdicts by deliberation. By covering a much longer time period than the 2010 study (eight years compared with 18 months) and a much larger dataset (over three million charges compared with just over 500,000 and almost 400,000 jury verdicts by deliberation compared with 16,000), it provides a more robust analysis of this issue than was possible in 2010. Given the eight-year timeframe, this new analysis was also able to explore whether there have been any substantial changes in the outcome of jury trials based on defendant ethnicity in recent years. In addition, this new analysis covers a time period in which the official census showed a substantial increase in the BAME population of England and Wales,<sup>8</sup> and it examines how, if at all, this change in the population dynamics of England and Wales may be reflected in Crown Court jury trials.

## **BAME defendants in all Crown Court jury trials 2006-2014**

### ***Disproportionality***

There is good evidence that members of BAME groups are over-represented at virtually every stage of the criminal justice process in England and Wales relative \*Crim. L.R. 862 to their representation in the general population.<sup>9</sup> This is referred to as "disproportionality" in the criminal justice system, and concern over this disproportionality has led to a recent government-ordered review.<sup>10</sup> Statistics show that members of a BAME group are more likely than their White counterparts to be stopped and searched,<sup>11</sup> arrested,<sup>12</sup> charged<sup>13</sup> and in prison.<sup>14</sup> What had not been known until the 2010 study, *Are Juries Fair?*, was whether BAME defendants were also disproportionately convicted by juries. That study revealed that jury conviction rates showed few differences based on defendant ethnicity, and for the types of offences that make up over two-thirds of all jury verdicts by deliberation, jury conviction rates were almost identical for White and BAME defendants.<sup>15</sup> The 2010 study also showed that White and BAME defendants are charged most often with very different types of offences, and that BAME defendants pleaded not guilty consistently more often than White defendants.<sup>16</sup> It was this evidence, along with additional empirical research reported in *Are Juries Fair?*, that led to the conclusion in the 2010 report that one stage in the criminal justice process where members of BAME groups appear *not* to be treated disproportionately is when a jury reaches a verdict. The current analysis of all charges against all defendants in all Crown Courts in the period 2006-2014 examines whether there have been any changes in these findings in subsequent years, and it provides some additional, more detailed findings on

the issue of how the ethnicity of defendants is related to charges, pleas and jury verdicts in the Crown Court. \*Crim. L.R. 863

### *The dataset*

The current study analysed data from CREST, the HMCTS case management and reporting system for the Crown Court in England and Wales. The dataset covers all Crown Court cases at all courts in England and Wales that concluded between 1 October 2006 and 31 August 2014. It comprised a total of 3,137,857 charges, which represents all charges against all defendants in all Crown Court cases in England and Wales that were resolved in this eight-year time period. These charges resulted in a total of 392,706 jury verdicts. The dataset is therefore sufficiently large to conduct reliable analyses of correlations between charges, pleas and jury verdicts by deliberation and case factors such as defendant ethnicity, offence type, gender and year.

It is important to note that the analysis of conviction rates conducted in *Are Juries Fair?* and in this current study are the only published data on *jury* conviction rates in England and Wales: that is the proportion of guilty verdicts returned by a jury after the jury has deliberated to reach a verdict. This study’s analysis of jury conviction rates differs from government statistics on Crown Court conviction rates in several respects. Most importantly, government statistics on Crown Court conviction rates do not distinguish jury verdicts by deliberation from convictions that result from guilty pleas and directed verdicts.<sup>17</sup> In addition, the analysis of jury verdicts in this study was conducted at the charge level, whereas government Crown Court conviction rates are calculated at the defendant level.<sup>18</sup> A charge-based analysis was adopted in this study (as it was in *Are Juries Fair?*) because juries are required to reach verdicts on individual charges. Finally, in this study offences were categorised according to 12 offence types drawn from *Blackstone’s Criminal Practice*,<sup>19</sup> which differ slightly from and provide more offence categories than those used in government Crown Court statistics. As a result, this study’s findings on jury conviction rates in the Crown Courts will not be directly comparable to government statistics on Crown Court conviction rates. This study provides the only source of evidence for jury conviction rates in England and Wales and whether differences in the actual verdicts of juries returned following deliberation are associated with factors such as the ethnic background of the defendant.

### *Charges and defendant ethnicity in the Crown Court 2006-2014*

CREST data on all charges against all defendants in all Crown Court trials in England and Wales from 2006-2014 show that members of a BAME group are just over one and half times more likely to be charged in the Crown Court relative \*Crim. L.R. 864 to their representation in the population. Table 1 shows that BAME defendants make up 20% of all charges dealt with in the Crown Court (or 22.8% of all charges where ethnicity is known) compared to their 14% representation in the population<sup>20</sup>

Table 1: Crown Court charges for White and BAME defendants: 2006-2014

Defendant Ethnicity	All Crown Court Charges 2006-2014				Population England & Wales (ONS 2011 census)
	number	%	number	%	
White	2164198	67.8%	2164198	77.2%	86%
BAME	639475	20.0%	639475	22.8%	14%

Unknown	389316	12.2%			
Total	3192989	100%	2803673	100%	100%

Examining BAME defendants facing charges in the Crown Court in more detail, (Table 2) shows that Black persons are much more likely than members of another BAME group to be disproportionately charged with a criminal offence in the Crown Court. Black persons are three times more likely to be charged in comparison to their representation in the population in England and Wales, comprising 11.1% of all charges where ethnicity is known compared to 3.3% of the population (Table 2). Asian persons are not disproportionately charged, comprising 7.5% of all charges and 7.5% of the population. Those defendants identified as of Mixed or Other ethnicity combined comprise 4.2% of all charges and 3.2% of the population.

Table 2: All charges by defendant ethnicity in Crown Court 2006-2014

Defendant Ethnicity	All Crown Court charges 2006-2014					Population England & Wales (ONS 2011 census)
	number	%	number	%		
White	2164198	67.8%	2164198	77.2%	86%	
Black	311559	9.8%	311559	11.1%	3.3%	
Asian	211579	6.6%	211579	7.5%	7.5%	
Other	100177	3.1%	100177	3.6%	1%	
Mixed	16160	0.5%	16160	0.6%	2.2	
Unknown	389316	12.2%				
<i>Total</i>	<i>3192989</i>	<i>100%</i>	<i>2803673</i>	<i>100%</i>	<i>100%</i>	

However, as found in the 2010 study, *Are Juries Fair?*, this disproportionality of charging for BAME persons varies by offence type (Table 3). \*Crim. L.R. 865

Table 3: Defendant ethnicity in Crown Court charges by offence type

Offence type (Blackstone's)	Defendant ethnicity in Crown Court charges 2006-2014					
	White number	BAME number	Unknown number	White %	BAME %	Unknown %
Sexual	490035	57119	47919	82.3%	9.6%	8.1%
Theft, handling	452062	131523	71406	69.0%	20.1%	10.9%
Non-fatal against person	365126	91706	44254	72.9%	18.3%	8.8%
Drugs	300538	135924	41636	62.9%	28.4%	8.7%
Public order	238201	76796	36218	68.2%	21.4%	10.4%
Deception, fraud	99249	49381	48717	50.3%	25.0%	24.7%
Damage to property	55919	9295	6797	77.6%	13.0%	9.4%
Administration of justice	55824	15537	9131	69.4%	19.3%	11.3%
Falsification, forgery	31976	30123	50807	28.3%	26.7%	45.0%
Proceeds of Crime	30002	18715	9953	51.1%	31.9%	17.0%

Homicide-related	20871	7978	4562	62.5%	23.8%	13.7%
Customs and excise	1006	346	1205	39.3%	13.6%	47.1%
<i>Totals</i>	<i>2140809</i>	<i>624443</i>	<i>372605</i>			

Based on *Blackstone's* offence categories, members of a BAME group are more likely than their White counterparts to be charged with 9 of the 12 types of offences dealt with in the Crown Court. Members of a BAME group are two times more likely to be charged with a drugs offence (accounting for 28% of all drugs offence charges compared with their representation of 14% of the population), proceeds of crime offences (32%), deception and fraud offences (25%) and falsification, forgery and counterfeiting offences (27%). They are slightly more likely than White defendants to be charged with most other offence types except sexual offences, damage to property offences and customs and excise offences. BAME defendants are under-represented amongst those charged with sexual offences, making up only 9.6% of all sexual offence charges compared with their representation of 14% of the population. BAME defendants are just slightly under-represented amongst those facing offences related to damage to property (13%) and proportionately charged in relation to customs and excise offences (13.6%). <sup>21</sup>

### ***Charges by individual BAME groups and offence categories***

The extent to which members of an individual BAME group are disproportionately charged in the Crown Court also varies substantially according to which specific BAME group a defendant belongs to and the type of offence (Table 4). \*Crim. L.R. 866

\*Figures in italics represent disproportionate charges relative to representation in the population.

Table 4: Charges in Crown Court 2006-2014 by BAME ethnic group

<b>Offence type (Blackstone's)</b>	<b>Defendant ethnicity</b>					
	<b>Black</b>		<b>Asian</b>		<b>Mixed/Other</b>	
	<b>number</b>	<b>%</b>	<b>number</b>	<b>%</b>	<b>number</b>	<b>%</b>
Homicide-related	3933	<i>11.8%</i>	2931	8.8%	1114	3.3%
Non-fatal against person	43666	<i>8.7%</i>	32148	6.4%	15892	3.2%
Sexual	22280	3.7%	22140	3.7%	12699	2.2%
Theft, handling	71452	<i>10.9%</i>	35413	5.4%	24658	3.8%
Deception, fraud	19798	<i>10.0%</i>	19811	<i>10.0%</i>	9772	<i>5.0%</i>
Falsification, forgery	15310	<i>13.6%</i>	7729	6.8%	7084	<i>6.3%</i>
Damage to property	4282	<i>5.9%</i>	3041	4.2%	1972	2.7%
Public order	37719	<i>10.8%</i>	24912	7.1%	12165	3.4%
Administration of justice	5851	<i>7.3%</i>	7157	<i>8.9%</i>	2529	3.2%
Customs and excise	53	2.1%	125	4.9%	168	<i>6.6%</i>
Drugs	72088	<i>15.1%</i>	42785	<i>8.9%</i>	21051	<i>4.4%</i>

Proceeds of Crime	7801	13.3%	7947	13.5%	260	0.4%
Totals	288923		206139		108364	

Members of a Black ethnic group comprise 3.3% of the population of England and Wales and are disproportionately charged with all 12 types of criminal offences except sexual offences (3.7%), and customs and excise offences (2.1%). The greatest disparity for Black defendants is in relation to drugs offences, where they are five times more likely to be charged (15%) compared with their representation in the population, as well as proceeds of crime offences (13.3%) and falsification offences (13.6%) where they are four times more likely to be charged in comparison to their representation in the population. Black persons are three times more likely to be charged with homicide-related offences (11.8%), theft/handling offences (10.9%), public order offences (10.8%); and more than two times more likely to be charged with non-fatal offences against the person offences (8.7%) and offences related to the administration of justice (7.3%).

In contrast, members of an Asian ethnic group are disproportionately charged with only a few types of offences. In relation to their representation in the population (7.5%), they are almost two times more likely to be charged with offences related to proceeds of crime (13.5%), and almost one and a half times more likely to be charged with deception/fraud offences (10%). There is a slight over-representation of Asians amongst defendants charged with drugs offences, homicide-related offences and offences related to the administration of justice, but otherwise Asian people are under-represented amongst those charged with all other offences. \*Crim. L.R. 867

Mixed and Other ethnic groups combined are only disproportionately charged with a few offences in relation to their representation in the population (3.2%): customs and excise (6.6%), falsification/forgery (6.3%), deception/fraud (5%) and drugs (4.4%), although customs and excise and falsification charges have a very high proportion of charges where the defendant's ethnicity is unknown.

### ***Ethnicity and gender in charging***

Looking at both ethnicity and gender of those charged, the greatest difference in any one ethnic group is amongst Asian defendants, where Asian women are very substantially under-represented amongst those women facing charges in the Crown Court (3.6% of charges) in relation to their ethnic group's representation in the population (7.5%). Black women (8.9% of charges against women), like Black men, are over-represented in relation to their ethnic group's representation in the population (3.3%). White women (64.5%), like White men, are under-represented amongst those charged in relation to their group's representation in the population (86%).

*Figure 1: Proportion of male and female defendants charged by ethnic group*

## **Pleas and defendant ethnicity in the Crown Court 2006-2014**

Overall, a larger proportion of all BAME defendants pleaded not guilty to charges (40%) than White defendants (31%). This reinforces the 2010 findings on this issue in *Are Juries Fair?*. Table 5: Defendant pleas on all charges in Crown Court 2006-2014 by ethnicity

Defendant ethnicity	All charges in the Crown Court 2006-2014	
	Guilty Pleas	Not Guilty Pleas
White	69.4%	30.6%
BAME	60.0%	40.0%
Unknown	62.5%	37.5% *Crim. L.R. 868

There were only small differences between the not guilty plea rate for most BAME groups: Black defendants (41%), Asian defendants (40%) and Other defendants (39%) had almost identical not guilty plea rates. Mixed ethnicity defendants had a lower not guilty plea rate (32%), which was very similar to the rate for White defendants (31%).

Figure 2: Not guilty pleas on all charges in the Crown Court by defendant ethnicity

## Pleas by ethnicity and offence type

The 2010 analysis looked at whether this difference in not guilty pleas occurred across all offence types (covering all pleas in 2006-2008), and found that BAME defendants were consistently more likely than White defendants to plead not guilty for all offence types except one (falsification, forgery and counterfeiting). The updated analysis of all pleas over the longer time period of 2006-2014 showed little change in this finding. BAME defendants pleaded not guilty more often than White defendants in all offence type categories except one: drugs offences. Here the not guilty plea rate by ethnicity was virtually the same: with BAME defendants pleading not guilty to drugs offences 22% of time compared with 23% of the time for White defendants. \*Crim. L.R. 869

Figure 3: Defendant Not Guilty pleas by ethnicity and offence type: Crown Court 2006-2014  
Table 6: Defendant not guilty plea rates by ethnicity: 2006-2014

Offence type (Blackstone's)	Not guilty plea rate	
	White defendants	BAME defendants
Falsification, forgery, counterfeiting	20%	21%
Drugs	23%	22%
Deception, fraud	21%	32%
Public order	29%	39%
Theft, handling	28%	40%
Administration of justice	33%	41%
Customs and excise	29%	45%
Damage to property	43%	46%
Non-fatal offences against the person	46%	54%
Proceeds of crime	28%	54%
Sexual	38%	67%
Homicide-related	32%	82%

There were no offence categories where White defendants pleaded not guilty more than half the time (Figure 3 and Table 6). But in four different offence categories BAME defendants pleaded not guilty more than half the time: non-fatal offences against the person and proceeds of crime (54% not guilty pleas), sexual offences (67%) and homicide-related offences (82%). The greatest differences in not guilty plea rate by ethnicity and offence type was for proceeds of crime (28% for White defendants compared with 54% for BAME defendants), sexual offences \*Crim. L.R. 870 (38% for White defendants, 67% for BAME defendants) and homicide-related offences (32% for White defendants, 82% for BAME defendants). BAME defendants were two times more likely than White defendants to plead not guilty to charges on these types of offences.

Examining guilty pleas in more detail shows that BAME defendants were more likely than White defendants to change their plea from not guilty to guilty later in the process: that is not at the time of charge but prior to a jury being sworn. This type of guilty plea comprises 20.2% of all BAME defendant guilty pleas compared with 16.8% of all White defendant guilty pleas. But there were no other differences found between BAME and White defendants in terms of whether they changed their plea to guilty after a jury was sworn or pleaded guilty to a lesser or alternative offence (Table 7).

Table 7: Type of defendant pleas on all charges by ethnicity in Crown Court: 2006-2014

Guilty Pleas	Defendant ethnicity					
	BAME		White		Unknown	
	number	%	number	%	number	%
Guilty	270972	75.7%	1119788	79.2%	172797	76.8%
Change of Plea: Not guilty to guilty (no jury sworn)	72396	20.2%	237615	16.8%	44341	19.7%
Change of Plea: Not guilty to guilty (after jury sworn)	3005	0.8%	7147	0.5%	1525	0.7%
Guilty to lesser offence not charged	9615	2.7%	39922	2.8%	5298	2.4%
Guilty to alternative offence not charged	2138	0.6%	9591	0.7%	1179	0.5%
<i>Totals</i>	<i>358126</i>	<i>100%</i>	<i>1414063</i>	<i>100%</i>	<i>225140</i>	<i>100%</i>
<b>Not Guilty Pleas</b>						
Not guilty	237939	99.8%	622687	99.8%	134896	99.8%
Change of Plea: Guilty to not guilty	342	0.2%	1098	0.2%	242	0.2%
<i>Totals</i>	<i>238281</i>	<i>100%</i>	<i>623785</i>	<i>100%</i>	<i>135138</i>	<i>100%</i>

## Population changes and BAME defendants 2006-2014

As the proportion of BAME people in the population of England and Wales increased from 8.7% in the 2001 census to 14% in the 2011 census, BAME representation amongst defendants and those facing a jury verdict did not increase proportionately. For cases completed in 2006-2008, BAME defendants made up 19% of all charges and this showed little change when all charges from 2006-2014 were examined (20%). In the same time



period, the proportion of charges against White defendants increased over five percentage points. As Table 8 shows, these increases reflect a corresponding fall in the proportion of charges where the ethnicity of the defendant is "unknown". \*Crim. L.R. 871

Table 8: Charges by ethnicity: 2006-2008 and 2006-2014

Defendant ethnicity	All charges in Crown Court			
	2006-2008		2006-2014	
	number	%	number	%
BAME	104992	19.0%	639475	20.0%
White	343960	62.4%	2164198	67.8%
Unknown	102717	18.6%	389316	12.2%
<i>Total</i>	<i>551669</i>	<i>100%</i>	<i>3192989</i>	<i>100%</i>

Similarly, BAME defendants made up 24% of all jury verdicts during 2006-2008 and that percentage had only increased two percentage points to 26% of all jury verdicts when all jury verdicts from 2006-2014 were examined. In the same time period the proportion of jury verdicts for White defendants also increased over two percentage points. These increases reflect a corresponding fall in just over four percentage points in the proportion of jury verdicts where the ethnicity of the defendant is "unknown" (Table 9).

Table 9: Jury verdicts by ethnicity: 2006-2008 and 2006-2014

Defendant ethnicity	All jury verdicts by deliberation			
	2006-2008		2006-2014	
	number	%	number	%
BAME	16445	23.9%	102908	26.2%
White	40082	58.2%	237966	60.6%
Unknown	12347	17.9%	51832	13.2%
<i>Total</i>	<i>68874</i>	<i>100%</i>	<i>392706</i>	<i>100%</i>

These findings indicate that a growth in the BAME population in England and Wales has not led to any corresponding growth in prosecutions for criminal activity amongst the BAME population in this jurisdiction.

## Jury verdicts and defendant ethnicity 2006-2014

Given the disproportionately high rate of being charged and higher rate of not guilty pleas in the Crown Court, it is not surprising that BAME defendants are almost two times more likely to be the subject of a jury verdict relative to their representation in the general population: 26% of all jury verdicts are for BAME defendants, while members of a BAME group comprise 14% of the population of England and Wales. But it is Black defendants that account for most of this disproportionality (Table 10). Black defendants are five times more likely to face a jury verdict relative to their representation in the population (14% of all jury verdicts compared with 3.3% of the population). Asian defendants are only slightly over-represented amongst those facing a jury verdict (comprising 8.2% of all jury verdicts and 7.5% of the population). In contrast to BAME defendants, White defendants make up 61% of all jury verdicts yet comprise 86% of the population of England and Wales. \*Crim. L.R. 872

Table 10: All jury verdicts by deliberation and defendant ethnicity 2006-2014

### All jury verdicts by deliberation 2006-2014

Defendant Ethnicity	number	%	number	%	Population England & Wales (ONS 2011 census)
White	237966	60.6%	237966	69.8%	86%
Black	53470	13.6%	53470	15.7%	3.3%
Asian	32275	8.2%	32275	9.5%	7.5%
Other	15023	3.8%	15023	4.4%	1%
Mixed	2140	0.6%	2140	0.6%	2.2%
Unknown	51832	13.2%			
Total	392706	100%	340874	100%	100%

## Jury conviction rates for BAME defendants 2006-2014

Even though juries are required to reach verdicts for BAME defendants disproportionately more often than would be expected by their representation in the population, *jury verdicts showed little differences between defendants of different ethnic groups*. The analysis found an overall jury conviction rate of 66% for BAME defendants and 64% for White defendants. When the individual ethnic groups comprising the BAME category are examined in more detail (Figure 3), Black, Asian and Other ethnicity defendants had a jury conviction rate of 66% compared to 64% for Mixed ethnicity and White defendants. These results are very similar to the 2010 findings in *Are Juries Fair?*, and these small differences in jury conviction rate by defendant ethnicity are a strong indication that *factors other than ethnicity are likely to be more relevant to jury verdicts*.

Figure 4: Jury conviction rates by defendant ethnicity: 2006-2014 (n=392,706) \*Crim. L.R. 873

These conviction rates differ from government statistics on Crown Court conviction rates by defendant ethnicity,<sup>22</sup> which report that White defendants have a higher conviction rate than BAME defendants for indictable offences. However, as explained earlier, government figures do not distinguish between defendants who plead guilty and those found guilty by a jury. As this study has shown, White defendants are more likely than BAME defendants to plead guilty to almost all types of charges, and this appears to account at least in part for the higher conviction rate for White defendants reported in the government statistics. This study of jury verdicts by defendant ethnicity provides the only analysis that distinguishes between convictions that result from jury deliberations and those that occur for other reasons.

## Jury conviction rates by defendant ethnicity and offence type

To explore whether jury conviction rates were similar for defendants from different ethnic groups across all offence types, CREST data was analysed to determine the jury conviction rate for 12 offence types by defendant ethnicity. The analysis found very little variation in jury conviction rates for White and BAME defendants on almost all offence types (Figure 4). Three-quarters (76%) of all jury verdicts are for four offence types: sexual offences, theft-related offences, non-fatal offences against the person and public order offences. Sexual

offences are the largest single group of offences that juries decide (comprising 34% of all jury verdicts), and jury conviction rates for sexual offences are noticeably higher for White defendants (60%) than for BAME defendants (55%). There was little difference in jury conviction rates for non-fatal offences against the person (BAME 56%, White 54%), which comprise the next largest proportion of all jury verdicts (18%). There was no real difference in jury conviction rates for theft-related offences (White 72%, BAME 71%), which comprise 15% of all jury verdicts; nor was there much difference in jury conviction rates for public order offences (BAME 68%, White 66%), which comprise 9% of all jury verdicts. \*Crim. L.R. 874

*Figure 5: Jury conviction rate by defendant ethnicity and offence type: 2006-2014*

The only offence types where BAME defendants have a noticeably higher jury conviction rate than White defendants are drugs offences (BAME 82%, White 78%), which make up 8% of all jury verdicts, and deception-related offences (BAME 81%, White 77%), which make up 5% of all jury verdicts. White defendants have a higher jury conviction rate than BAME defendants in homicide-related offences (68% White, 62% BAME) which comprise 3% of all jury verdicts; offences related to the administration of justice (62% White, 57% BAME) which comprise 2% of all jury verdicts; and damage to property offences (59% White, 56% BAME) which also comprise 2% of all jury verdicts.

## **Jury conviction rates by defendant ethnicity and year 2006-2014**

The 2010 analysis, based on 18 months' data, was not able to examine whether there were any substantial changes in jury conviction rates by year. The current study, drawing on data covering all jury verdicts over an eight-year period, provided sufficient scope to examine this issue.

\*Only partial year data available for these years (October-December 2006; January-August 2014).

Table 11: Jury conviction rates by year for White and BAME defendants 2006-2014

Year	Defendant ethnicity		
	White	BAME	Unknown
2006*	62.6%	71.0%	64.1%
2007	63.6%	64.6%	65.9%
2008	63.4%	65.7%	66.2%
2009	62.5%	64.5%	67.6%
2010	63.1%	65.2%	70.2%
2011	64.4%	67.6%	70.0%
2012	64.2%	67.3%	71.1%
2013	64.6%	67.6%	68.9%
2014*	62.2%	64.9%	65.2%
<i>Average</i>	<i>64%</i>	<i>66%</i>	<i>68%</i>

\* Only partial year data available for these years (October–December 2006; January–August 2014) \*Crim. L.R. 876

Table 12: Jury conviction rates by year and defendant ethnicity 2006-2014

Year	Defendant ethnicity					
	White	Black	Asian	Mixed	Other	Unknown
2006*	62.6%	73.6%	67.6%	91.7%	64.5%	64.1%
2007	63.6%	65.3%	63.6%	57.6%	64.8%	65.9%
2008	63.4%	67.0%	63.7%	63.6%	65.6%	66.2%
2009	62.5%	63.5%	65.2%	52.4%	68.0%	67.6%
2010	63.1%	65.0%	65.5%	61.4%	65.7%	70.2%
2011	64.4%	67.5%	67.6%	64.2%	68.6%	70.0%
2012	64.2%	65.0%	71.4%	64.4%	67.5%	71.1%
2013	64.6%	68.0%	67.0%	75.0%	66.7%	68.9%
2014*	62.2%	66.4%	65.0%	63.7%	60.1%	65.2%
<i>Average</i>	<i>64%</i>	<i>66%</i>	<i>66%</i>	<i>64%</i>	<i>66%</i>	<i>68%</i>

Table 11 shows that jury conviction rates may fluctuate by small percentages on a yearly basis for both White and BAME defendants, but there has not been any consistent and substantial change in the overall jury conviction rate for either White or BAME defendants over the eight-year period. The same pattern emerges when the jury conviction rate by year is broken down further by individual BAME group (Table 12).

## Conclusion

This new analysis of Crown Court jury trials shows that over the eight-year period 2006-2014 there was no change in the key findings of the 2010 study *Are Juries Fair?* when the specific issue of defendant ethnicity was considered. This updated and expanded analysis of all charges against all defendants in the Crown Court from 1 October 2006–31 August 2014 found that White and BAME defendants were still charged most often with different types of offences, and that BAME defendants consistently pleaded not guilty more often than White defendants in relation to almost all types of offences. Over this eight-year period it also remained the case that jury conviction rates showed only very small differences based on defendant ethnicity, and that for offences that make up over three-quarters of all jury verdicts, jury conviction rates were either essentially the same for White and BAME defendants or White defendants were convicted more often than BAME defendants. This reinforces and helps to confirm one of the most important conclusions of the 2010 study: that unlike all other stages in the criminal justice process in England and Wales, the one stage where members of BAME groups appear not to be treated disproportionately is when a jury, made up of members of the public, reaches a verdict by deliberation.

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## Footnotes

1

*C. Thomas, Are Juries Fair?, Ministry of Justice Research Series 01/10 (2010).*

2

The database is the Crown Court Electronic Support System (CREST).

3

*Thomas, Are Juries Fair?, (2010), Ch.3, p.33.*

4

*Thomas, Are Juries Fair?, (2010), Ch.3, p.32.*

5

In 2010, "BME" was the accepted acronym in government reporting for Black and Minority Ethnic groups. This has now been replaced in government reporting by the acronym "BAME" for Black, Asian and Minority Ethnic groups, which is used elsewhere in this article.

6

*Thomas, Are Juries Fair?, (2010), Ch.4, p.47.*

7

This article provides an initial analysis of the new dataset and I am grateful to Dr Nigel Blamer (UCL Laws) for his assistance with some of this analysis. A further, more extensive analysis of this dataset by the author and covering more issues than ethnicity will be forthcoming in 2018.

8

*Office of National Statistics, Ethnicity and National Identity in England and Wales: 2011 (2012).*

9

*N. Uhrig, Black, Asian and Minority Ethnic Disproportionality in the Criminal Justice System in England and Wales, (Ministry of Justice, 2016).* There have also been numerous academic studies of the issue of disproportionality in the criminal justice system in England and Wales over several decades; for an overview see *C. Phillips and B. Bowling, "Ethnicities, Racism, Crime and Criminal Justice" in A. Liebling et al, The Oxford Handbook of Criminology, (Oxford: Oxford University Press, 2017).*

10

In January 2016, the Prime Minister asked the Rt Hon David Lammy MP to lead an independent review, sponsored by the Ministry of Justice, to investigate the treatment and outcomes of Black, Asian and Minority Ethnic (BAME) individuals within the Criminal Justice System in England and Wales. See <https://www.gov.uk/government/organisations/lammy-review> [Accessed 28 August 2017].

11

In relation to stop and search, *Home Office, Police powers and procedures England and Wales year ending March 2015 (19 November 2015) s.4.1* reports that: "Those from Black and Minority Ethnic (BME) groups were twice as likely to be stopped and searched as those who were White. In particular, those who were Black (or Black British) were more than 4 times more likely to be stopped than those who were White".

12

In relation to arrest, *Home Office, Police powers and procedures England and Wales year ending March 2015, (19 November 2015) s.3.5* reports that: "...persons from Black and Minority Ethnic groups (BME) were one and a half times as likely to be arrested as those who were White, and those who were Black (or Black British) were 3 times more likely to be arrested than those who identified themselves as White."

13

In relation to prosecutions, *Ministry of Justice, Statistics on race and the criminal justice system 2014: A Ministry of Justice publication under Section 95 of the Criminal Justice Act 1991 (26 November 2015), p.45* reports that: "Relative to the population, the Black ethnic group had the highest rate of prosecutions. The rate of prosecutions for the Black ethnic group was 3 times higher than for the White group. The Mixed group had the second highest

rate, which was 2 times higher than the White group, while C&O had the lowest rate of prosecutions".

[14](#)

In relation to sentencing, *Ministry of Justice, Statistics on race and the criminal justice system 2012: A Ministry of Justice publication under Section 95 of the Criminal Justice Act 1991 (November 2013)*, p.73 reports that between 2009 and 2012: "The most common sentence outcome for White and Mixed ethnic group offenders was a community sentence, whilst for Black, Asian and Chinese or Other offenders the most common sentence outcome was immediate custody." The same report, at p.8, found that "Since 2010, average custodial sentence lengths have risen for all ethnic groups, but remained consistently highest for Asian and Black offenders, and higher for all BAME groups compared with White offenders". However, it should be noted that there are recognised difficulties in reliably assessing whether racial disparities exist in sentencing, given the range of possible case variables, the sentencing process and differences in approach to research methodology. For a discussion of the complexities involved in analysing the relationship between race, ethnicity and sentencing, see O. Mitchell, "A Meta-Analysis of Race and Sentencing Research: Explaining the Inconsistencies" (2005) 21 (4) *Journal of Quantitative Criminology* 439.

[15](#)

*Thomas, Are Juries Fair?*, (2010), Ch.3, p.24.

[16](#)

*Thomas, Are Juries Fair?*, (2010), Ch.3, p.21.

[17](#)

See Table 5.01c: Conviction ratio(1) for indictable offences by year and self-identified ethnicity, England and Wales, 2010 to 2014. *Ministry of Justice, Statistics on Race and the Criminal Justice System 2014: A Ministry of Justice publication under Section 95 of the Criminal Justice Act 1991 (26 November 2015)*, Chapter 5: *Defendants Tables*. These statistical tables can be downloaded at: <https://www.gov.uk/government/statistics/race-and-the-criminal-justice-system-2014> [Accessed 29 August 2017].

[18](#)

In official government statistics, the conviction ratio is calculated by dividing the total number of defendants convicted by the total number of defendants prosecuted in the same period. This means that, unlike this study, government statistics are not calculated by following specific charges against specific defendants all the way through to their final outcome. See, *Ministry of Justice, Statistics on Race and the Criminal Justice System 2014: A Ministry of Justice publication under Section 95 of the Criminal Justice Act 1991 (26 November 2015)*, p.48 fn 55.

[19](#)

The most recent edition is *D. Ormerod and D. Perry (eds), Blackstone's Criminal Practice 2017 (Oxford: Oxford University Press, 2016)*. Blackstone's has been selected by the Judicial Executive Board to be the principal practitioner text used in all criminal courts in England and Wales and provides a reliable basis for the categorisation of offences.

[20](#)

Population figures are based on official statistics from the 2011 census reported in *Office of National Statistics, Ethnicity and National Identity in England and Wales: 2011 (2012)*.

[21](#)

It should be noted that custom and excise offences have a very high proportion of charges where ethnicity is unknown.

[22](#)

For government Crown Court conviction rate statistics in a closely comparable period see Table 5.01c: Conviction ratio(1) for indictable offences by year and self-identified ethnicity,

England and Wales, 2010 to 2014., *Ministry of Justice, Statistics on Race and the Criminal Justice System (2015), Chapter 5: Defendants Tables*. These statistical tables can be downloaded at: <https://www.gov.uk/government/statistics/race-and-the-criminal-justice-system-2014> [Accessed 29 August 2017].