CPS decision-making and defendant characteristics

- The data is for 2018/2019. It is based on CPS management information for defendants, including age, gender and ethnic background. Data on religion, disability and sexual orientation is not available. Data for victims is also unavailable at the standard required for meaningful analysis. The CPS is working with the police to improve the equality data on victims and defendants captured in the police Digital Case File, which is then transferred to the CPS. This is a long term project, which will lead to significant improvements in the capacity of the CPS to understand disproportionality in CPS decision-making across defendants, victims and all protected characteristics.

- The CPS is demand-led, taking decisions on cases referred by the police. When cases are referred to the CPS, decisions are taken in accordance with the Code for Crown Prosecutors. The CPS has very little control over its caseload, and consequently, disproportionality in arrest rates will affect CPS data.

- There is inherent disproportionality in the CPS caseload. The 18/19 police arrest data compared with the most recent (2011) census data confirms this:

	2011 Census[1]	2018/19 Arrests[2]
Black	3%	10%
Asian	7%	7%
White	87%	77%
Mixed ethnicity, Chinese or other	2.9%	6%

Ethnicity

- The ethnic background of many defendants is not captured by the police in many cases referred to the CPS. There is, consequently, a portion of cases for whom the ethnic background is 'unknown'. Depending on the specific breakdown, the proportion of defendants where the ethnicity is 'unknown' undermines the ability of the CPS to draw any firm conclusions regarding disproportionality.

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[1] The 2011 Census provides the most reliable demographic data. The next census takes place in 2021.
[2] https://www.gov.uk/government/statistics/police-powers-and-procedures-england-and-wales-year-ending-31-march-2019

- The data demonstrates that, although there are clear differences in the charge rate, conviction rate and rate of dropped cases across ethnic groups, there is little evidence for disproportionality. The charge rate for ethnic minority groups ranges from 62.5 – 70.5%. It is lower than the White charge rate which is 69.3%, with the exception of Mixed at 70.5%, which is higher than any other group. The rate of dropped cases is also higher for ethnic minority groups, ranging from 11.7 – 12.7%, with White lower at 8.8 %.

  A lower charge rate is a result of the CPS not charging cases which have been referred by the police which are not considered by prosecutors to meet the Code Test.

- Conviction rates are also lower for ethnic minority groups than White, ranging from 79.0 – 83.3%. White is higher, at 86.3%. Cases involving ethnic minority defendants are therefore slightly less likely to result in a conviction. This does not necessarily mean that the CPS was wrong to bring charges in these cases, as it may be that although they met the Code Test, they did not meet the standard for a criminal conviction. The caseload for ethnic minority defendants and White defendants also varies, which will affect the headline figures.

- Overall, where there is some variation in the charging and conviction rates, this may at least in part be explained by the fact that ethnic groups fall unevenly between offence categories, and different offences have significantly different charging and conviction rates (a prosecution for theft being much more likely to result in a conviction than a prosecution for rape, for example).

Table 1 – overall 18/19 decision-making and outcomes by ethnic category

	Referrals		Charged		No Prosecution		Administratively Finalised [3]		Completed		Convicted		Prosecutions Dropped	
	Volume	% (vol category /vol total referrals)	Volume	% charge rate	Volume	% NFA rate	Volume	% Administratively Finalised rate	Volume	% (vol category/ vol total completed)	Volume	% Conviction rate	Volume	% Dropped rate
Black	16,674	6.8%	11,011	66.0%	3,052	18.3%	2,511	15.1%	33,243	6.8%	26,884	80.9%	4,096	12.3%
Asian	11,549	4.7%	7,202	62.4%	2,471	21.4%	1,800	15.6%	22,041	4.5%	17,824	80.9%	2,787	12.6%
Mixed	5,209	2.1%	3,674	70.5%	800	15.4%	685	13.2%	10,787	2.2%	8,988	83.3%	1,257	11.7%
White	132,375	54.3%	91,697	69.3%	24,086	18.2%	15,513	11.7%	288,563	58.7%	249,047	86.3%	25,394	8.8%
Chinese or Other	2,445	1.0%	1,606	65.7%	479	19.6%	332	13.6%	4,907	1.0%	3,877	79.0%	623	12.7%
Unknown	75,609	31.0%	45,458	60.1%	17,742	23.5%	11,477	15.2%	131,992	26.9%	105,171	79.7%	15,814	12.0%
Total	**243,861**	**100.0%**	**160,648**	**65.9%**	**48,630**	**19.9%**	**32,318**	**13.3%**	**491,533**	**100.0%**	**411,791**	**83.8%**	**49,971**	**10.2%**

[3] Cases are administratively finalised where the police have not responded to an action plan or where the police have decided not to pursue the investigation following early advice from prosecutors. A case which is administratively finalised will not always be at an end. An administratively finalised case which has not been NFA'd by the police could be reopened by the CPS if the police provided a response to the action plan.

- There is disproportionality evident in the caseload, when broken down by offence category. For example, 19.3 % of all completed prosecutions for robbery offences and 14.8 % of completed prosecutions for drugs offences involve Black defendants. This caseload is a reflection of the cases sent to the CPS by the police.

- However, there are also some differences in conviction rates across ethnic groups, when broken down by offence category. For example, the conviction rate for Black defendants in homicide cases is 73.6%, in comparison with 84.9% for White defendants.

Gender

- In regards to gender, the CPS receives far fewer referrals from the police for cases involving female defendants. The charge rate for female defendants is also lower – 57.6% in comparison with 67.1 % for males – though the conviction rates are the same at 84%.

- When broken down by offence category, there is some difference in the conviction rates for male and female defendants in a number of categories. The conviction rate for female defendants is slightly higher for offences against the person, sexual offences, theft and handling and motoring offences. However, there are significantly less female defendants in these categories.

Table 2 – overall 18/19 decision-making and outcomes by gender

	Referrals		Charged		No Prosecution		Administratively Finalised		Completed		Convicted		Prosecutions Dropped	
	Volume	% (vol category /vol total referrals)	Volume	% charge rate	Volume	% NFA rate	Volume	% Administratively Finalised rate	Volume	% (vol category/ vol total completed)	Volume	% Conviction rate	Volume	% Dropped rate
Female	27,498	11.3%	15,829	57.6%	6,998	25.4%	4,139	15.1%	70,774	14.4%	59,341	83.8%	7,392	10.4%
Male	215,348	88.3%	144,409	67.1%	41,281	19.2%	27,938	13.0%	418,157	85.1%	350,692	83.9%	42,087	10.1%
Unknown	1,015	0.4%	410	40.4%	351	34.6%	241	23.7%	2,602	0.5%	1,758	67.6%	492	18.9%
Total	**243,861**	**100.0%**	**160,648**	**65.9%**	**48,630**	**19.9%**	**32,318**	**13.3%**	**491,533**	**100.0%**	**411,791**	**83.8%**	**49,971**	**10.2%**

Age

- Almost 90% of referrals relates to defendants aged 18-24 (20.5%) and 25-59 (68.7%). For under 18s, the charge rate is much lower (59.9% for 14-17 year olds). This is likely to reflect the public interest factors which tend towards diversion rather than the prosecution of youths. Similarly, the charge rate for elderly defendants (aged 60+) is lower.

- The conviction rate is steady for all age brackets, ranging from 85.2% for 18 -24 year olds, to 78.5% for 70-79 year olds. For those at the youngest and oldest ends of the spectrum, the conviction rate is lower.

- In a similar pattern, the rate of dropped prosecutions is relatively steady, ranging from 9.4 – 11.0 % for those in the middle of the spectrum. However, the dropped prosecution rate is higher for those at the younger and older ends of the spectrum (22.4% for 10-13 year olds, and 17.7% for 80+).

- This pattern is, broadly speaking, replicated in offence category data, though it is less pronounced. Conviction rates by offence category are relatively steady across age bands, though the conviction rates for the youngest and oldest defendants in some categories are occasionally lower. There are higher numbers of convictions in relation to motoring offences and sexual offences for 10-13 year olds. However, the number of defendants is significantly lower.

Table 3 – overall 18/19 decision-making and outcomes by age

	Referrals		Charged		No Prosecution		Administratively Finalised		Completed		Convicted		Prosecutions Dropped	
	Volume	% (vol category /vol total referrals)	Volume	% charge rate	Volume	% NFA rate	Volume	% Administratively Finalised rate	Volume	% (vol category/ vol total completed)	Volume	% Conviction rate	Volume	% Dropped rate
10-13	1,310	0.5%	637	48.6%	332	25.3%	293	22.4%	2,076	0.4%	1,544	74.4%	464	22.4%
14-17	15,806	6.5%	9,460	59.9%	3,124	19.8%	2,861	18.1%	26,998	5.5%	21,894	81.1%	4,222	15.6%
18-24	49,957	20.5%	33,467	67.0%	9,008	18.0%	6,958	13.9%	95,906	19.5%	81,757	85.2%	9,028	9.4%
25-59	167,447	68.7%	112,307	67.1%	33,710	20.1%	20,222	12.1%	349,434	71.1%	293,709	84.1%	33,958	9.7%
60-69	5,501	2.3%	3,229	58.7%	1,357	24.7%	854	15.5%	10,454	2.1%	8,421	80.6%	1,155	11.0%
70-79	1,743	0.7%	936	53.7%	469	26.9%	319	18.3%	2,859	0.6%	2,245	78.5%	342	12.0%
80+	405	0.2%	192	47.4%	116	28.6%	96	23.7%	803	0.2%	503	62.6%	142	17.7%
Not Provided	1,692	0.7%	420	24.8%	514	30.4%	715	42.3%	3,003	0.6%	1,718	57.2%	660	22.0%
Total	**243,861**	**100.0%**	**160,648**	**65.9%**	**48,630**	**19.9%**	**32,318**	**13.3%**	**491,533**	**100.0%**	**411,791**	**83.8%**	**49,971**	**10.2%**

Conclusions and next steps

- The CPS published an Inclusion and Community Engagement strategy in May 2018. In accordance with commitments made in this strategy, the CPS will continue to monitor disproportionality in decision-making. Data will be published on an annual basis, and where the CPS identifies 'unexplainable' disproportionality, action will be taken to understand and address it.

- The CPS will continue to work with colleagues in the Criminal Justice System to improve the quality and breadth of equality data available to the CPS, in regards to both defendants and complainants. This will improve the ability of the CPS to identify and address disproportionality. Further data on ethnicity and the criminal justice system is available here.