

## **EQUALITY AND DIVERSITY IMPACT ASSESSMENT OF CPS STATUTORY CHARGING: ENGLAND AND WALES: SEPT 2004 – FEB 2005**

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### **1. Introduction**

1.1 This equality impact assessment has been prepared to enable the Crown Prosecution Service (CPS) meet their obligations under the Race Relations (Amendment) Act. Its main purpose is to assess the impact of statutory charging and discover if charging decisions vary with the gender and the ethnicity of the suspect.

1.2 This assessment has been prepared by a consultant who is independent of CPS. It is based on a statistical report of data produced from the CPS case management system, COMPASS, produced in May 2005. This statistical report was discussed with an independently facilitated focus group of voluntary and community organisations during the summer of 2005. A summary of this consultation is given at Appendix A. The equality impact assessment was drafted following this consultation. A summary of the statistical process is given at Appendix B.

1.3 This equality impact assessment is not able to cover all the issues raised during the consultation exercise, for reasons that are given below, mainly the current availability of additional data. However, all the points made in the consultation have been taken into account. Where issues have not been answered this assessment raises further questions for exploration and consideration and proposes that plans are now put into operation to meet many of these points when the next impact assessment is carried out.

### **2. Background**

2.1 In October 2002, Lord Justice Auld's *Review of the Criminal Courts* recommended the CPS should be given greater legal powers to determine the decision to charge in all but minor cases. Pilot schemes were conducted in Kent, Avon and Somerset, Essex, West Yorkshire & North Wales over a 6-month period during 2002 and found to be very encouraging.

2.2 As a result of these - during 2003 – CPS, in partnership with the Association of Chief Police Officers (ACPO) developed shadow<sup>2</sup> charging arrangements to enable each Area to develop, trial, and roll out its approach to meeting the principles of statutory charging. By December 2003, charging arrangements were in place in at least one site across all 42 Areas.

2.3 The statutory scheme begins to operate as the Director of Public Prosecutions (DPP) issues 'statutory' guidance to the area. A Commencement Order under the CJA 2003 was issued on 29 January 2004, allowing the DPP to issue his guidance when areas are ready to progress to the statutory scheme. Under the Statutory Charging Scheme local arrangements are complemented by the implementation of an out of hours service, CPS Direct. CPS Direct, staffed by experienced Prosecutors, operates from 5pm to 9am Monday to Friday and all day at weekends and public holidays enabling the CPS to offer round the clock coverage.

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<sup>2</sup> The term "shadow" is used to denote that charging is operating on a non-mandatory basis, as closely as possible to the Statutory Charging arrangements. These shadow arrangements run between the hours of 9am to 5pm, Monday to Friday only.

2.4 Statutory charging was first implemented in the Government's 13 Priority Areas<sup>3</sup>, and Cleveland. All the Priority Areas successfully migrated to the statutory scheme by November 2004. Statutory charging has to be delivered in the remaining shadow areas by March 2007 and plans are in place to achieve this. Hampshire was the first of these non-priority Areas to move to the statutory charging scheme with effect from 18 April 2005.

2.5 This impact assessment is based on data for the six months from September 2004 for 42 CPS areas. Data were drawn from COMPASS, the CPS computerised case management system, in the form of an EXCEL spreadsheet that included area, gender, ethnicity, month and result of the charging process.

2.6 The data set drawn from the COMPASS system did not include other variables, such as type of offence, age of suspect, any disability of the suspect, or sentence given. This assessment is therefore not able to comment on the effect of any of these variables.

2.7 A draft impact assessment was produced in June 2005. This was discussed with an independently facilitated focus group of community and voluntary organisations during July 2005 (see Appendix A). This revised impact assessment was prepared during August 2005 and placed on the CPS web site in September 2005.

### **3. History of Statistics on Gender and Ethnicity**

3.1 Statistics on the position of Women and of Black and Minority ethnic communities within the Criminal Justice System have been collected and published since 1992 under the provisions of S95 of the 1991 Criminal Justice Act (CJA)<sup>4</sup>. The reason for this legislation was to produce statistics that would facilitate the performance of members of the criminal justice agencies in their duty of non-discrimination on grounds of gender or ethnicity. The collection of such statistics has been mostly through criminal justice agencies and the most visible evidence of publication has been through the annual S95 publications of the Home Office<sup>5,6</sup>. For ethnicity this was supplemented in 2004 by a published commentary on the statistics (Hearnden and Hough, 2004)

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<sup>3</sup> Avon & Somerset, Greater Manchester, Humberside, Kent, Lancashire, London, Merseyside, Northumbria, Nottinghamshire, South Yorkshire, Thames Valley, West Midlands and West Yorkshire. Together with Cleveland these cover 60 per cent of CPS business.

<sup>4</sup> S95 of the 1991 CJA says that:

(1) The Secretary of State shall in each year publish such information as he considers expedient for the purpose of: (a) enabling persons engaged in the administration of justice to become aware of the financial implications of their decisions; or (b) facilitating the performance of such persons of their duty to avoid discriminating against any person on the ground of race or sex or any other improper ground.

(2) Publication under subsection (1) above shall be effected in such a manner as the Secretary of State considers appropriate for the purpose of bringing the information to the attention of the persons concerned.

<sup>5</sup> See, for example, *Race and the Criminal Justice System: a publication under Section 95 of the Criminal Justice Act 1991*. Home Office, London, downloadable from [www.homeoffice.gov.uk/rds/publications](http://www.homeoffice.gov.uk/rds/publications)

<sup>6</sup> See, for example, *Statistics on Women and the Criminal Justice System 2002: a Home Office publication under the Criminal Justice Act 1991*. Home Office, London, downloadable from [www.homeoffice.gov.uk/rds/publications](http://www.homeoffice.gov.uk/rds/publications)

3.2 The Race Relations Act 2001 introduced the concept of equality impact assessments of policies and practices within the criminal justice system. Since then many of these statistics have been used when making these impact assessments.

3.3 A quality statistical review of the statistics of race and the criminal justice system was conducted for the Office of Criminal Justice Reform in 2004, making recommendations for the future development of statistics on Black and Minority ethnic communities and the criminal justice system. (Lewis and Ellis (forthcoming))

#### **4. Key Points of Data analysis**

4.1 There is little variation of charging decision by gender except that female suspects are slightly more likely to receive a decision to take No Further Action (NFA) on evidence grounds rather than a decision to charge.

4.2 There are one or two data quality issues to do with ethnicity but conclusions can still be drawn: in particular, there is no variation of charging decision by the main ethnic group of the suspect except that non-White suspects are slightly less likely to receive a decision to NFA on evidence grounds.

4.3 The variation in charging decision by ethnic classification was much greater for female cases than for male cases. Some issues remain that cannot be fully covered by the data available to this impact assessment

4.4 There are variations between results in the Priority areas for statutory charging and those in shadow areas. In particular there is a higher proportion of cases in priority areas finalised by a charge and a lower proportion with NFA on evidence grounds for both male and female and for all main ethnicity groups.

4.5 Although not covered in any detail in this assessment there are some variations in all results across the CPS areas and regions. More details can be obtained from the author.

4.6 Because the data set analysed did not include age of suspect, offence with which Charged, disability, sentencing or previous criminal history, it is not able to answer questions that include these variables: eg. is the charging process different for young black males, for female shoplifters or for non-white males charged with burglary.

4.7 Future impact assessments could attempt to remedy this by including some such Variables from COMPASS or by examining a sample of case files. Planning should ensure that, following the statutory priorities of the CPS, data and the resources would be available for such extended impact assessments in the future.

#### **5 Data on which this impact assessment is based**

5.1 CPS has previously carried out an initial equalities impact assessment in Bethnal Green and Forest Gate (CPS PB045, 2004.) That exercise was based on a small amount of data but formed an important building block in ensuring equality in charging decision-making. The main findings of that assessment were that:

- The charging decision that was made about a suspect was not independent of his/her gender: male suspects were more likely to receive a decision to charge and female suspects were more likely to receive a decision to NFA on evident grounds.
- The available data provided insufficient evidence to judge whether charging decisions vary according to the 16+1 ethnicity of the suspect. However, within some broad, combined 16+1 categories, there was no correlation between different types of charging decision and ethnicity.

5.2 The data on which this current impact assessment is based are the 225,000 cases finalised nationally in the six months from September 2004. This greatly increases the robustness of the assessment. However, there are a few small concerns about data that should be recalled when interpreting the results.

5.3 In a large administrative system there will always be a number of cases when data has not been recorded or been recorded inaccurately. Also, as the COMPASS case management system is relatively new initial difficulties are being gradually ironed out: eg, the assessment cannot consider cases not entered on COMPASS, although a very small number of areas were slow in entering data. Another point to be recalled is that the assessment looks at CPS processes only and is not an assessment of the impact of the criminal justice system as a whole: eg. CPS can only prosecute cases brought to it by the police.

5.4 However, the quality of the data from this case management system is generally very good and, along with the Prison Service, which has a much smaller system to manage, CPS now has access to the best equality data in the criminal justice system.

5.5 COMPASS records gender very well indeed, and over 99% of all records include a gender code. Thus, there are no concerns about the quality of data on gender.

5.6 COMPASS records ethnicity better than other CJ agencies and national analyses are possible for all ethnic categories. However, two areas for improvement of data quality exist:

- An ethnicity code was available for 65% of the 225,000 cases recorded. In an additional 17% of cases ethnicity the suspect chose not to provide his/her ethnicity. This leaves 18% of cases where ethnicity was not recorded. The reasons for this are more likely to lie with the police and the solution is a medium-term one<sup>7</sup>.
- CPS inadvertently used the main headings *White, Black, Asian, Mixed, Other*, as well as 16+1 classification of the 2001 Census, thus effectively using a 21+1 classification. However, this applied to only 3.6 of cases, CPS has already addressed this problem and improvements in quality can be seen during the six months of the data analysis.

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<sup>7</sup> Recommendations on how to improve the proportion of cases where an ethnicity code is passed on by the police have been made in a recent report to OJCR on the Fundamental Review of Statistics on Race and the CJS: see Lewis & Ellis, 2005(forthcoming). In broad terms these recommendations would involve setting quality recording thresholds for the police, as the main agency collecting data on the ethnicity of suspects.

## Data on results of charging process

5.7 The raw data from the COMPASS Case management system consists of 15 classifications, Codes A to O<sup>8</sup>. These have been grouped into six categories for clarity of presentation in the tables and figures in this report.

1. **Charge** (This includes Code A- Charge and a request for the full file, Code B- Charge and a request for the expedited file)
2. **Finalised by decision** (This includes Code C- simple caution, Code D- conditional caution, Code E-Reprimand, Code F-Final warning, Code G- Taken into consideration))
3. **Finalised administratively** (This includes Code H - Further information requested including the evidential file, Code I – Further information requested including the expedited file, Code J- Request for further investigation followed by resubmission)
4. **NFA Evidence** – Code K - No further action on evidential grounds.
5. **NFA Public interest** - Code L - No further action on public interest grounds.
6. **Residual Category: Result not available, etc,** (This includes Code M - Other, Code N – Not given, and Code O - Undefined)

5.8 The use of these codes is itself changing. Initial snags in the case management system have been ironed out and areas have become more familiar with the requirements of statutory charging. In particular, cases **finalised administratively** are falling to a lower level during 2005-6: and **residual category** cases are being reduced by modifications to software.

5.9 There is no significant variation by gender in the proportion of cases **finalised administratively or the residual category**. The main variation by ethnicity is a significantly lower proportion of cases **finalised administratively** where ethnicity is not available.

## **6. Comparison between by Priority areas and Shadow areas**

6.1 The overall impact of ‘statutory charging’ can be seen in a comparison between the results of the charging process for the priority areas and the shadow areas. These are shown in the tables and charts in section 6. In summary, these results show the following:

- For all suspects, a higher proportion of cases were finalised by a charge in priority areas than in shadow areas. (Tables 6.1, 6.2, Figs. 6.1, 6.2, 6.3)

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<sup>8</sup> These 15 categories are:

- A- A charge is to be made and there is a request for the full file.
- B- A charge is to be made and there is a request for the file to be expedited.
- C- The case is to be finalised by a simple caution
- D- The case is to be finalised by a conditional caution
- E- The case is to be finalised by a reprimand
- F- The case is to be finalised by a final warning
- G- The case is to be finalised by the offence being taken into consideration in relation to another charge
- H- Further information is requested and a request made for the evidential file
- I- Further information is requested and a request made for the file to be expedited
- J- Further information is requested and a request is made for further investigation to be made followed by resubmission.
- K- No further action is to be taken on evidence grounds
- L- No further action is to be taken on public interest grounds
- M- Other result of the charging process
- N- The result of the charging process is not given on the system
- O- The result of the charging process is undefined on the system

- There was no clear pattern of cases finalised by a decision. (Tables 6.1, 6.2, Figs. 6.1, 6.2, 6.4)
- For both male and female suspects, a lower proportion of cases were finalised with NFA on evidential grounds. (Tables 6.1, 6.2, Figs. 6.1, 6.2, 6.5)
- For each main ethnicity grouping these results show a higher proportion of cases finalised by a charge in priority areas than in shadow areas. (Table 6.2, Fig. 6.3)
- There was no clear pattern to be seen by main ethnicity grouping in the proportion of cases finalised by a decision. (Table 6.2, Fig. 6.4)
- For each main ethnicity grouping these results show a higher proportion of cases finalised by NFA on evidence grounds. (Table 6.2, Fig. 6.5)

Table 6.1 National Results of the charging process by gender and priority area:

	Charge	Finalised by decision	Finalised administratively	NFA Evidence	NFA Public Interest	Other	No of cases
<b>Priority Areas</b>							
Male	44.6%	3.0%	8.3%	27.2%	2.4%	14.4%	129807
Female	34.8%	5.3%	7.7%	35.7%	3.6%	13.0%	17290
<b>Shadow areas</b>							
Male	29.7%	3.9%	8.0%	41.3%	3.4%	13.7%	68180
Female	28.3%	5.3%	7.3%	42.0%	4.3%	12.8%	11001

Fig. 6.1 Result of charging process for males:  
Percentages finalised by priority areas and shadow areas

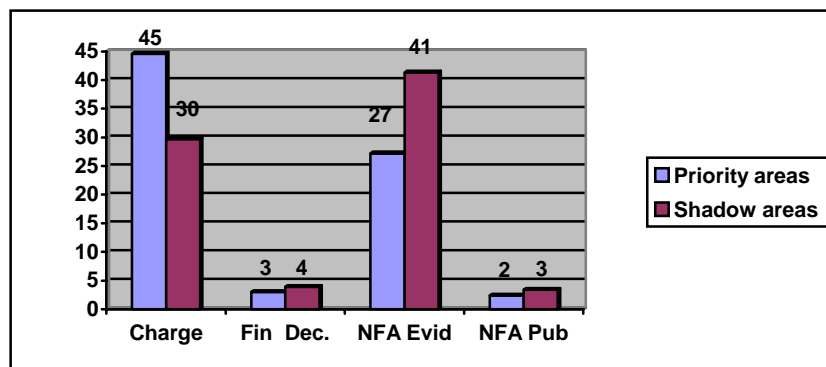


Fig. 6.2 Result of charging process for females:  
Percentages finalised by priority areas and shadow areas

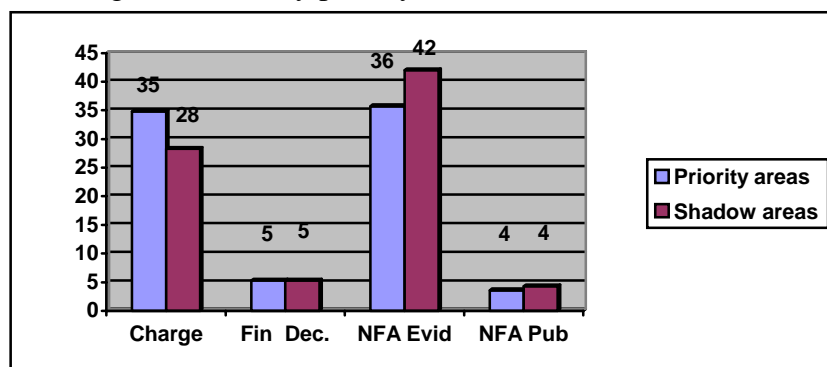


Table 6.2 National Results of the charging process by ethnicity and priority area:

	Charge	Finalised by decision	Finalised administratively	NFA Evidence	NFA Public Interest	Other	No. of cases
<b>Priority Areas</b>							
White	48.5%	2.9%	7.6%	23.2%	2.1%	15.7%	87088
Asian	45.5%	3.0%	9.4%	25.2%	1.8%	15.1%	6352
Black	49.8%	2.7%	6.0%	19.2%	1.6%	20.8%	8925
Mixed	50.0%	2.1%	6.5%	17.6%	1.2%	22.6%	2333
Other	46.6%	2.1%	6.1%	18.0%	1.3%	25.8%	1225
<b>Shadow areas</b>							
White	38.0%	3.2%	6.6%	30.2%	2.6%	19.4%	38556
Asian	36.2%	1.5%	6.8%	33.3%	2.3%	19.8%	867
Black	41.3%	2.4%	7.6%	25.7%	1.9%	21.0%	1079
Mixed	39.2%	3.5%	7.2%	24.6%	2.9%	22.6%	625
Other	31.6%	2.8%	5.7%	39.7%	4.5%	15.8%	247

Fig 6.3 Result of charging process by main ethnicity grouping  
Percentages of cases finalised by a charge

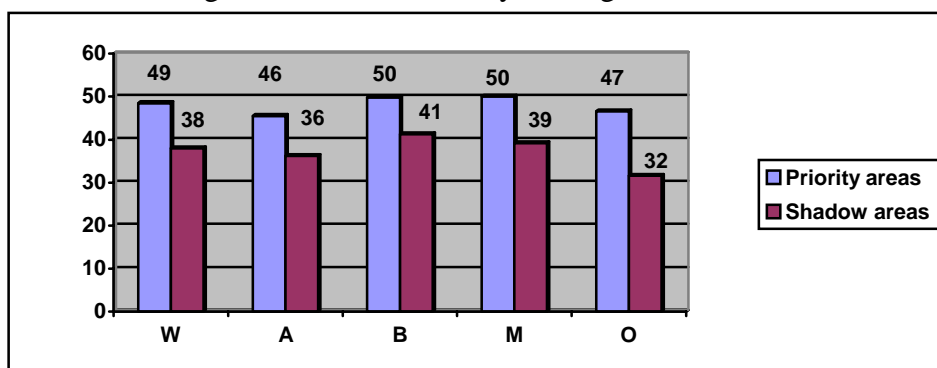


Fig 6.4 Result of charging process by main ethnicity grouping  
Percentages of cases finalised by a decision

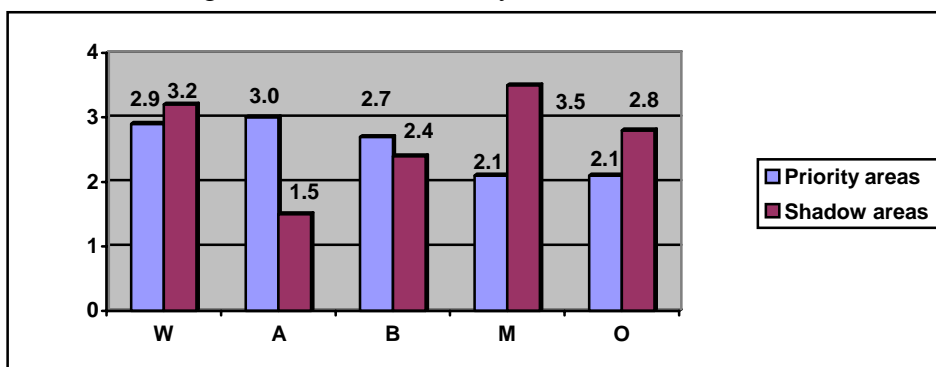
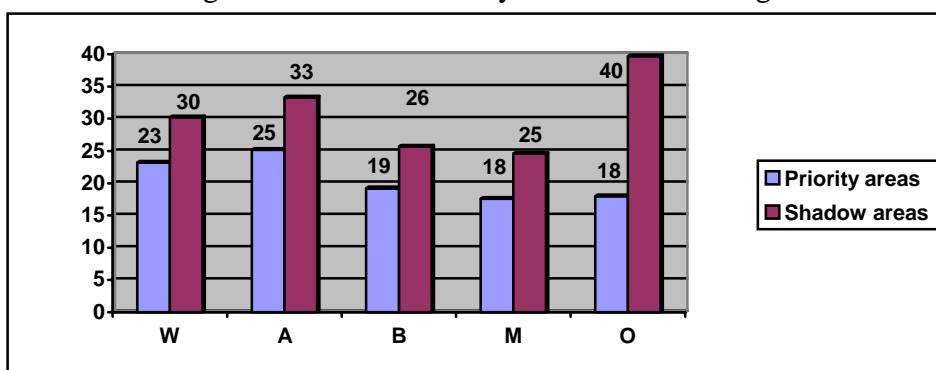


Fig 6.5 Result of charging process by ethnicity  
Percentages of cases finalised by NFA on evidence grounds



## 7. Variations by Gender

### National variations in case decisions

7.1 Over 225,000 cases were finalised during the 6-month period. This is many times the numbers considered in any previous investigation into diversity ( eg Mhlanga(1999), John(2003,2005), CPS (PB045, 2004) This enables a very robust analysis. Summary results for gender are given in Table 7.1 and Figure 7.1.

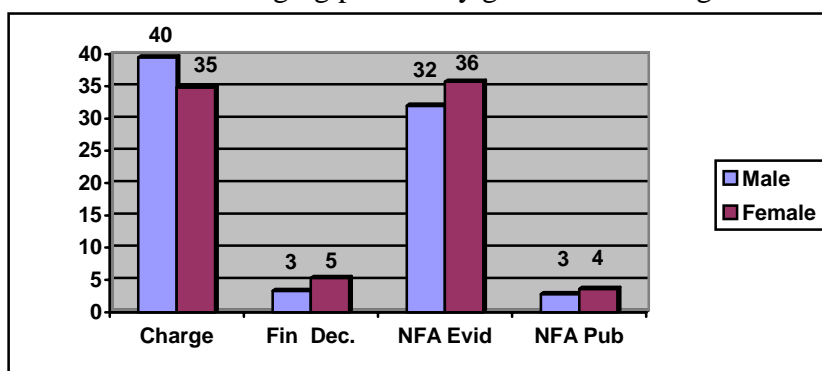
Table 7.1 National Results of the charging process by gender

Gender	Charge	Finalised by decision	Finalised administratively	NFA Evidence	NFA Public Interest	Other	No. of cases
Male	39.5%	3.3%	8.2%	32%	2.8%	14.2%	197987
Female	34.8%	5.3%	7.7%	35.7%	3.6%	13.0%	28290
<b>Total</b>	<b>38.9%</b>	<b>3.6%</b>	<b>8.1%</b>	<b>32.5%</b>	<b>2.9%</b>	<b>14.0%</b>	<b>226277</b>
<b>No. of cases</b>	88047	8092	18392	73527	6516	31704	226278

7.2 The conclusions from Table 7.1 are similar to those in the Bethnal Green study, but they are very much more robust because of the large number of cases studied.

- Male suspects (39.5%) were more likely than Females (34.8%) to receive a decision to charge:
- Females (5.3%) were more likely than Males (3.3%) to have their case finalised by a decision to caution, reprimand or issue a warning:
- Females (35.7%) were more likely than Males (32%) to receive a charging decision of NFA on evidential grounds:
- There was no significant difference in the percentage of cases for which more information was sought or where there was an NFA decision on public interest grounds.

Fig. 7.1 Result of charging process by gender: Percentages finalised



7.3 These results should be considered in the context of wider data on the interaction between gender and the criminal justice system. The best collection of material is published in the Home Office Section 95 publication *Statistics on Women and the Criminal Justice System* (Home Office, 2003.) This shows a large number of aspects of criminal justice where women have different patterns from men:

- Women are far less likely to commit offences than men and their pattern of offending is very different, generally committing less serious offences.
- Women's criminal careers are far shorter than men's
- Women are more likely than men to be cautioned.
- Women are more likely to plead guilty as charged
- Women are less likely to use a lawyer or use their right to silence.
- Women are more likely to be discharged or given a community sentence and less likely to be fined or sentenced to custody.

This equality impact assessment does not claim to comment or how these different patterns might influence the result of the charging process.

7.4 This assessment has considered the differences between Priority And Shadow areas in the results of the charging process. Looking at the whole 42 areas one by one, there was a great deal of consistency between them in the variation by gender.

### Decision to charge

- 33 of the 42 areas followed the national pattern that males were more likely to receive a charge
- In 1 area the proportion was the same
- In 8 areas females were slightly more likely to receive a charge

### Decision to take No Further action on evidence grounds

- 33 areas followed the national pattern that females were likely to have NFA on evidence grounds
- 9 areas reversed the pattern with males being more likely to receive NFA on evidence grounds.

## 8. Variations by Ethnicity

### *National variations in case decisions*

8.1 National results for all ethnicity classifications used by CPS are summarised in Table 8.1 below. The differences by ethnicity are not as clear-cut as those by gender. In particular, the 35% of cases lacking an ethnicity classification had a very different set of results of the charging process than the cases in which an ethnicity classification was present. Table 8.1 shows that cases lacking an ethnicity classification were very less likely to result in a charge and much more likely to result in No Further Action on evidence grounds or in the public interest.

Table 8.1 National Results of the charging process by main ethnicity categories  
September 2004-February 2005

Ethnicity	Charge	Finalised decision	Finalised Admin	NFA Evidence	NFA Public interest	Other, not defined, etc	No. of cases
White	45.2%	3.0%	7.3%	25.4%	2.3%	16.9%	125705
Asian	44.1%	2.8%	8.9%	26.5%	2.0%	15.7%	7379
Black	48.9%	2.6%	6.2%	19.9%	1.6%	20.8%	10013
Mixed	47.8%	2.3%	6.6%	19.1%	1.6%	22.6%	2958
Other	45.2%	2.2%	6.2%	20.0%	1.6%	24.7%	1432
Sub-Total	45.5%	2.9%	7.3%	24.9%	2.2%	17.3%	147487
Not Provided	22.8%	5.4%	8.4%	52.8%	7.1%	5.8%	42014
Not Stated	31.0%	4.1%	11.4%	39.8%	3.5%	10.3%	37366
<b>Total</b>	<b>38.9%</b>	<b>3.6%</b>	<b>8.2%</b>	<b>32.5%</b>	<b>2.9%</b>	<b>14.0%</b>	<b>226876</b>

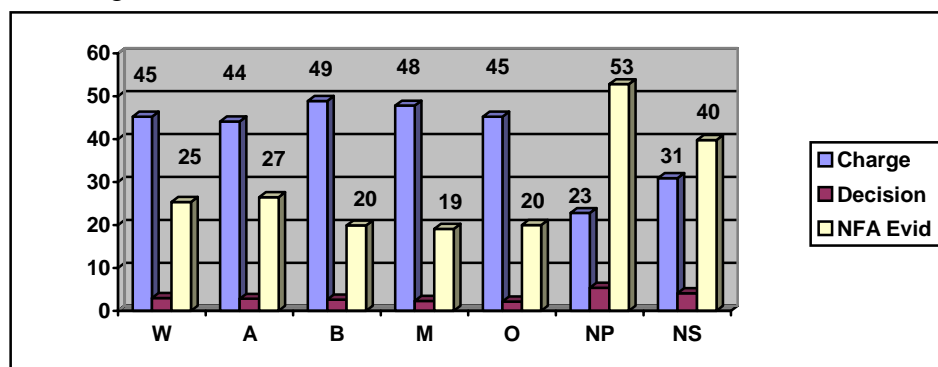
8.2 The main result on ethnicity are:

- There were no significant differences across different ethnic groups in the proportion of cases finalised by a charge. Cases with *Black* suspects were finalised by charge in slightly more cases (48.9%), as were cases with *Mixed* suspects (47.8%). Cases with *White*, *Asian* or *Other* suspects were similar. Looking at the 16+1 classification, there were some small variations within the main categories.

- There were no significant differences across different ethnic groups in the proportion of cases finalised by a decision, although cases with suspects of *Other* (2.2%) and *Mixed* (2.3%) ethnicity were slightly lower than for *White* suspects(3.0%). There were no differences within the wider 16+1 classification.
- There were some differences by ethnicity in cases finalised by NFA on evidential grounds. 25.4% of cases nationally with *White* suspects were so finalised: cases with *Black*, *Mixed* or *Other* suspects were less likely to have their cases finalised NFA on evidential grounds (all significantly lower than *White* at around 19%-20%.) There were some other differences within the 16+1 categories: eg cases with *Other White*, *Mixed White/Black African* or *Mixed Other* suspects were much less likely to have their cases finalised NFA evidential (all below 18%.)

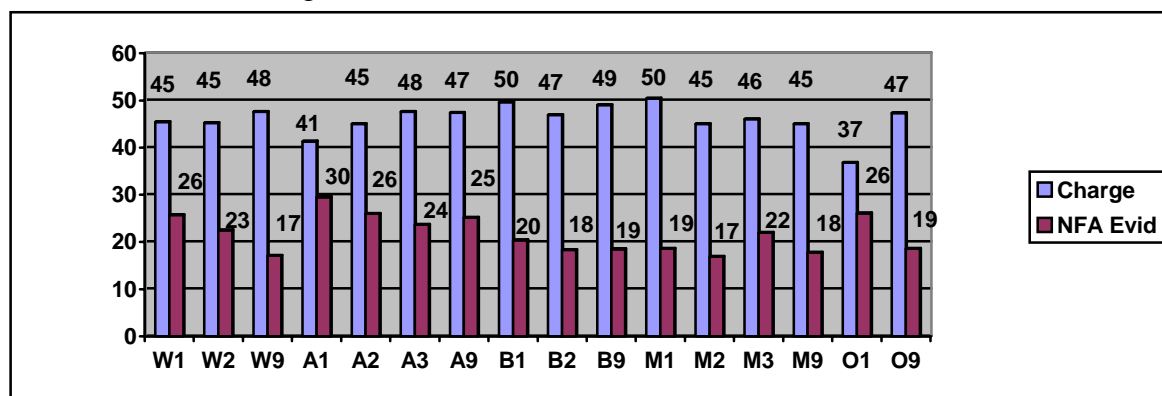
8.3 These are summarised in Figure 8.1. The very different patterns for cases where ethnicity is not provided or not available can be seen clearly. Whereas the proportion of cases that ended with a charge was over 40 per cent for every broad ethnicity classification, it was only 23 per cent where ethnicity was not provided (NP) and 31 per cent where ethnicity was not stated (NS). For all ethnicity classifications cases concluded with No Further action on evidential grounds formed 27 per cent or fewer: whereas 53 per cent of cases where ethnicity was not provided ended with no further action on evidential grounds and 40 per cent of cases where ethnicity was not recorded. The data available does not give any reason why this could have happened, nor is there any speculation that could be made, and further investigation of this phenomenon is needed.

Fig 8.1 Result of charging process by ethnicity  
Percentages of cases finalised



8.4 Patterns for all 16 ethnic categories are shown in Fig 8.2. These show the variation within each main ethnic category.

Fig 8.2 Charging process by 16 ethnicity categories<sup>9</sup>  
Percentages of cases finalised



8.5 These national findings can be compared with previous work for the CPS on variations in the treatment of suspects by ethnicity: particularly the work of Mhlanga, and of the Gus John Partnership. The reports of both these studies have been examined in detail and Professor Mhlanga has commented on a draft of this impact assessment. The main conclusion is that only limited comparisons are possible: both those studies looked at more aspects of the charging and court process than this study did: both dealt with the situation before statutory charging was introduced, in Mhlanga's study, nearly 10 years ago: both were constrained by their smaller sample: and both were able to look at a wider range of data from case files.

8.6 **Mhlanga**, reported in Mhlanga(1999) and in Barclay & Mhlanga (2000), looked at decisions made by the CPS in a national study of 6,100 cases of defendants during September and October 1996. In this he found that termination on grounds of insufficiency of evidence was more common for minority than White defendants. The results of this assessment show the position to be reversed in 2004-5. Mhlanga had access to much more data about each case and was thus able to carry out a very sophisticated multivariate analysis and get into the case details behind the raw data in a way this impact assessment could not do. A quarter of Mhlanga's sample was from ethnic minorities and he concentrated on the 5,500 cases where ethnicity was recorded.

8.7 **The Gus John Partnership** (2003, 2005) analysed the charging process with particular regard to offence group and found a number of different patterns by offences and ethnicity: eg that half of all men, but two-thirds of all White and Afro-Caribbean women received a dishonesty charge: and that a grievous bodily harm charge was twice as common among White male suspects as among Afro-Caribbean suspects. As far as the charging process is concerned, Gus John found that percentage differences between ethnic groups were too small to be statistically significant but there was a tendency for NFA on evidential and public interest grounds to be more common for Afro-Caribbean suspects than those from other ethnic groups. The main difference in data is that John only looked at a sample of CPS areas. The same statistical analysis was used as in this impact assessment.

8.8 This present study and the two previous studies are in some ways complementary: The advent of COMPASS means that this impact assessment benefits from a large-scale data

<sup>9</sup> The coding of the categories is as follows: W1 – White British: W2 – White Irish: W9 – White Other: A1 – Indian: A2 – Pakistani: A3 – Bangladeshi: A9 – Other Asian: B1 – Black Caribbean: B2 – Black African: B9 – Black Other: M1- Mixed White/ Black Caribbean: M2 – Mixed White Black African: M3 – Mixed White/Asian: M9 – Mixed Other: O1 – Chinese: O9 – Any Other

analysis not possible with Mhlanga or John. However, this assessment was a more limited exercise than the previous two and did not look at case files or examine other variables that might have contributed to differences across gender or ethnic groups. The future probably lies in some combination of the two types of study: with regular analyses of COMPASS data, bringing in such variables as offence, age and disability being supplemented, from time to time, by small scale analyses of case files to look into particular concerns that the COMPASS analysis is not able to satisfy.

## 9. Variations by both ethnicity and gender

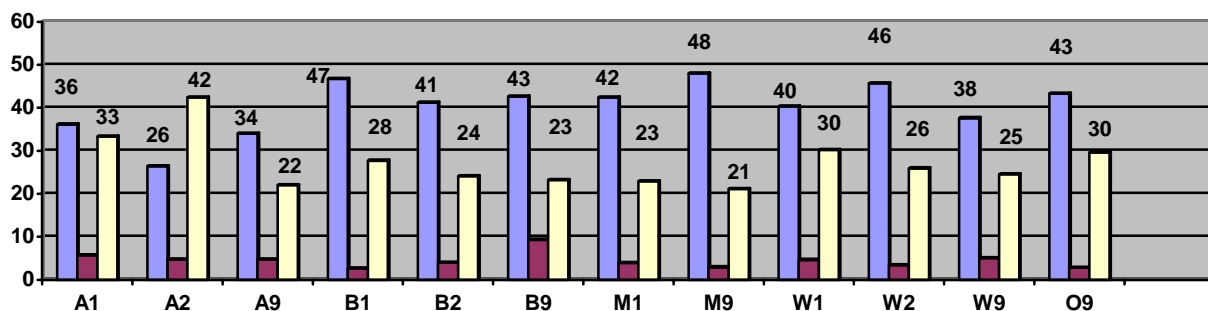
9.1 Previous sections have looks at variations by gender and ethnicity separately. This section considers how they vary together. Tables 9.1 and 9.2 show how the charging of male and female suspects varies by ethnic background, using the 16+1 ethnicity classifications. In 34.9% of male cases and 31.0% of female cases ethnicity was not recorded. The variation in charging decision was much greater for female cases, mainly because of the smaller numbers of females in several ethnic classifications.

Table 9.1 National Results of the charging process by main ethnicity categories: Female cases: September 2004-February 2005: Percentages

<b>Ethnicity class'n<sup>10</sup></b>	<b>Charge</b>	<b>Finalised decision</b>	<b>Finalised Admin</b>	<b>NFA Evidence</b>	<b>NFA Public Interest</b>	<b>No of cases</b>
A1 – Indian	36.1%	5.7%	9.5%	33.3%	5.7%	105
A2 - Pakistani	26.4%	4.7%	9.4%	42.4%	4.7%	106
A9 – Other	34.0%	4.7%	19.3%	22.0%	5.3%	150
B1 – Black(Cn)	46.7%	2.6%	4.7%	27.7%	1.9%	469
B2 – Black(Af)	41.2%	4.0%	6.7%	24.1%	1.9%	274
B9 – Black (O)	42.6%	9.3%	7.6%	23.2%	1.7%	289
M1 – W/BL(C)	42.4%	3.9%	4.8%	22.9%	3.0%	231
M9: Mixed(O)	48.0%	2.9%	8.6%	21.1%	3.4%	175
W1: White (B)	40.3%	4.6%	6.9%	30.2%	2.9%	16220
W2: White (I)	45.7%	3.4%	4.3%	25.9%	2.6%	116
W9: White (O)	37.6%	5.0%	9.5%	24.5%	3.3%	1275
O9: Other	43.3%	2.8%	2.8%	19.6%	3.5%	143
<b>All Females with ethnic class'n</b>	<b>41.3%</b>	<b>4.6%</b>	<b>6.9%</b>	<b>29.4%</b>	<b>2.9%</b>	<b>19553</b>

<sup>10</sup> Ethnicity classifications with less than 50 cases have been merged with the appropriate 'other' classification..

Figure 9.1 National Results of the charging process by main ethnicity categories: Female cases: September 2004-February 2005: Percentages



9.2 There is considerable variation in the different patterns of charging for females by ethnic category. Much of this is due to the small numbers involved, although the categories with under 50 cases have been merged into the appropriate 'other' category. On average 40.3% of White British females were charged compared with 26.4% of Pakistani females to 48% for mixed 'other' females, 46.7% for Black Caribbean females and 45.6% for White Irish females. In this case differences of about 8% with the White British category are significant, so that issues needing further consideration are why Pakistani females have such a low charge rate and why Mixed (Other) females have such a high rate: the first additional aspect to consider would be whether the offence of which these females were suspected varied by ethnic classification. This was not possible with the data available in this impact assessment. It will be important to consider this in future assessments but the answer could lie in the actions of other parts of the criminal justice system (see Para. 7.3 above.)

9.3 In a similar fashion, the proportion of females for whom no further action on evidence grounds was taken also varied. This was around 30% for White British females, as low as 21% for Mixed (Other) females and 22% for those classified as Asian (other): but as high as 42% for Pakistani Females. The reasons are likely to be similar to be a mirror image of those discussed in paragraph 9.2.

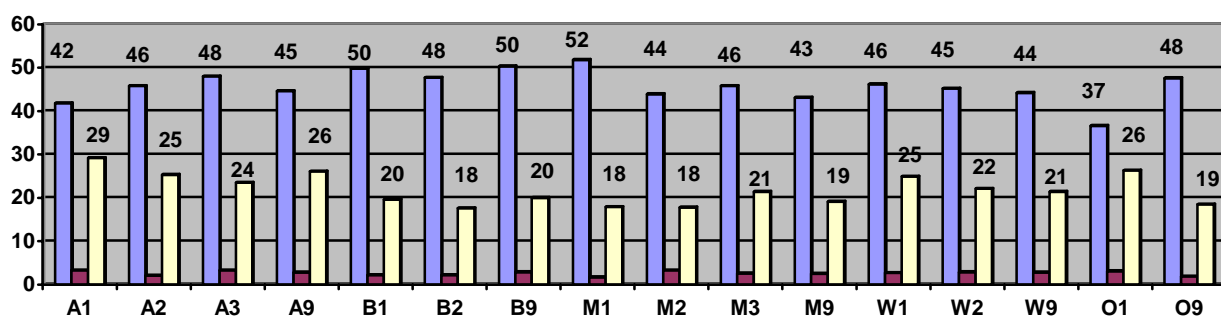
9.4 There is also considerable variation in the proportion whose cases were finalised by a decision such as a caution or a final warning. This varied significantly from 9.3% for Black (Other) females to 2.6% for Black Caribbean females and is an issue that should be considered further when further data such as offence for which suspected is available.

Table 9.2 National Results of the charging process by main ethnicity categories: Male cases: September 2004-February 2005

Ethnic Class'n	Charge	Finalised by decision	Finalised admin	NFA Evidence	NFA Public Interest	No. of cases
A1: Indian	41.8%	3.3%	6.8%	29.2%	2.2%	1449
A2: Pakistani	45.8%	2.1%	9.0%	25.3%	1.6%	2582
A3: B'Deshi	48.0%	3.3%	6.5%	23.5%	1.4%	631
A9: Asian(O)	44.6%	2.8%	10.1%	26.1%	1.9%	2348
B1: Black(C)	49.8%	2.2%	5.6%	19.6%	1.6%	4438
B2: Black(A)	47.7%	2.2%	5.6%	17.6%	1.5%	2091
B9: Black(O)	50.3%	2.9%	7.8%	20.0%	1.5%	2443

M1: White/Black(Cn)	51.8%	1.7%	5.5%	17.9%	1.1%	1393
M2: White/Black(Af)	43.9%	3.3%	5.1%	17.8%	2.3%	214
M3: White/Asian	45.8%	2.6%	6.8%	21.4%	1.3%	308
M9: Mixed (O)	43.1%	2.5%	9.7%	19.1%	1.4%	638
W1: White (B)	46.2%	2.7%	7.2%	24.9%	2.2%	99090
W2: White(Ir)	45.2%	2.9%	5.7%	22.1%	2.2%	910
W9: White (O)	44.2%	2.8%	9.5%	21.4%	1.9%	8055
O1: Chinese	36.6%	3.1%	6.1%	26.3%	1.1%	262
O9: Any Other	47.6%	1.9%	6.7%	18.5%	1.5%	1027
All males with ethnic class'n	46.3%	2.7%	7.3%	24.2%	2.1%	127879

Figure 9.2 National Results of the charging process by main ethnicity categories: Male cases: September 2004-February 2005: Percentages



9.5 The variations in proportions of males, by ethnicity, were less than those for female, mainly because of the larger numbers involved. 46.2% of White British Males had their cases concluded by a charge, and this varied from 36.6% for Chinese males to 51.8% for males of mixed ethnicity (White/Black Caribbean). The result for Chinese males was significantly below that for White British males and would merit further investigation of offence and age of suspect: the result for males of mixed ethnicity (White/Black Caribbean) was not quite significant.

9.6 There was no significant variation in the proportion of cases finalised by a decision such as a caution or a final warning, but those cases finalised with No Further Action on evidence grounds varied from 17.8% for Males of Mixed ethnicity (White/Black African) to 29% for Indian males. Again reasons for this variation would need investigating and would probably be a mirror image of those mentioned in paragraph 8.5.

## 10. Suggestions for future analyses

10.1 **Planning Ahead:** Many of the comments made by the focus group and summarised in Appendix A, cannot be answered without further analyses, which are not currently possible. However, it is important that planning is now put in hand for future Equality Impact Assessments (EIAs) so that data will be readily available for these future analyses.

10.2 **How often should statistics and EIA be published?** As the COMPASS case management record system is now functioning well, it is important that statistics on the charging process and an EIA should also be routinely made available for public discussion. The parameters of this will depend on the continuing quality of data from COMPASS, supplemented by a study of case files if necessary: comments from the public on published impact assessment and resources available for the analysis. However, broadly speaking, it seems sensible that the statistics should be published on an annual basis. An independent equality impact assessment should also be conducted routinely: initially this could be annually, but it is likely that, in due course, the patterns will settle down and not change greatly from year to year. Once this has happened, there will be no need for an annual equality impact assessment, and the time period between EIAs could be modified to, eg. one every three years.

10.3 **Additional analyses.** This impact assessment has not been able to allow for any variations due to age of suspect, the offence with which charged, disability, or any previous criminal history. All of these are likely to have an effect on a future equality impact assessment of charging. However, each of these has to be approached differently. Disability will be included on COMPASS in the future and will be able to be incorporated into an EIA in due course. Offence and age are recorded and could, in theory be incorporated into any future analysis: however, this type of multidimensional analysis is likely to become much more complex and the small number of cases in each cell would make it more difficult to get significant conclusions. The value of this additional analysis will need to be balanced against the possible greater uncertainty of such analysis and its likely greater cost.

**University of Portsmouth, August 2005**

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**EQUALITY AND DIVERSITY IMPACT ASSESSMENT OF CPS STATUTORY CHARGING: ENGLAND AND WALES: SEPT 2004 – FEB 2005**

**APPENDIX A RESULTS OF CONSULTATION WITH A FOCUS GROUP OF VOLUNTARY AND COMMUNITY ORGANISATIONS**

1. The CPS has a track record of engaging and consulting widely among relevant stakeholders before producing public documents. Accordingly they asked Sian Llewellyn-Thomas and Cynthia Pinto of TNS UK Ltd to facilitate a workshop to consult with a range of external organisations working on women's and BME equality issues on the findings of the independent assessment produced by the University of Portsmouth. The workshop was held on the 27<sup>th</sup> July 2005 at the CPS Ludgate Hill Offices at which the following were present:

External organisations

Colin Brown	Refuge
Phil Pavey	Commission for Racial Equality
Holly Dustin	Fawcett Society
Michelynn Lafleche	Runnymede Trust

University of Portsmouth

Chris Lewis	Senior Research Fellow, Institute of Criminal Justice Studies
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CPS Staff

Seamus Taylor	Director of Equality and Diversity
Jo Crossley	
Yvette Williams	Equality and Diversity Officer
Hamza Elahi	National Black Prosecutors Association

TNS UK Ltd

Sian Llewellyn-Thomas  
Cynthia Pinto

2. Written comments were also received from Sean Hutton of the Federation of Irish Societies. A number of other organisations were also invited to participate in the consultation exercise.

3. At the workshop Seamus Taylor outlined CPS policy on diversity and consultation: Jo Crossley explained the development of the 'statutory' charging process. Chris Lewis provided an overview of his report, highlighting some key findings of the research.

4. The meeting then discussed the report and made the following points were made during the discussion. Chris Lewis agreed to take these into account when revising the assessment:

- Overall the views were positive about the report and its simplicity given the complexity and scale of the study.
- The results were seen as encouraging in that there were no significant differences by gender or between ethnic groups in most cases. However, there were some gaps in the analysis
- A section cross-analysing charges by gender and ethnicity should be added to the analysis.
- More should be made of the difference between charging in Priority areas and in Shadow areas.
- Other variables could be brought into the analysis to make it more useful: age, gender and ethnicity all need to be considered together, eg. data on young African males could be compared with data on young White males.
- There was a need to look at offence type as other evidence shows there to be a difference by gender: eg women overall tend to commit less serious crime. It would also be useful to consider whether charging decisions varied, eg between White and BME burglars.
- The report should acknowledge that it did not cover all possible issues and raised further questions for exploration and consideration.
- The report should include more comments on data quality, particularly on the 35% of cases where ethnicity was unavailable and the different pattern of charging for such cases.
- The report should also include more contextual comments: eg about the fact that women are more likely to plead guilty, are less likely to have a lawyer or use their right to silence.
- Such issues should be covered in further equality assessments, recognising that CPS need to give priority as to what is required statutorily.
- Seriousness of past record was also raised as another variable that could influence the charging process and which should be analysed. However, it was recognised that this could not be done through the COMPASS system and would require access to the case file.
- Disability of the suspect should also be covered once a disability variable had been added to the COMPASS data base.
- There was some disappointment in the amount of missing data but recognition that police forces were getting better in terms of recording ethnicity so this might improve in time.
- There were some surprises by the differences with the results reported in Mhlanga, 1999 and suggestions that Dr Mhlanga (now Professor Mhlanga) should be asked for his comments.
- Impact assessment of Statutory Charging is a new CPS function and there is no past data but CPS should now regard this as a exercise to be repeated from time to time, possibly annually.
- The presentation of the report could be improved with additional charts and by including the data on the chart itself. A short methodology section should be included, explaining more about the timetable, numbers of cases and statistical significance.
- More background data should be added about the history of collecting data on ethnicity and gender

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## **EQUALITY AND DIVERSITY IMPACT ASSESSMENT OF CPS STATUTORY CHARGING: ENGLAND AND WALES: SEPT 2004 – FEB 2005**

### **APPENDIX B SUMMARY OF THE STATISTICAL PROCESS**

1. The data set on which this statistical analysis was based is drawn from the CPS case management system COMPASS records for September 2004 to February 2005. This totalled some 225,000 records and consisted of an EXCEL spreadsheet of some 6,000 rows listing cases by gender, month in which the charging process was completed, ethnic coding (using the 2001 Census 16+1 classification), CPS area, and the result of the charging process.
2. Of the 225,000 cases around 88,000 were resulted in a charge: 8,000 finalised through a decision such as a caution or a final warning; over 18,000 finalised administratively, 74,500 had No further action on evidence grounds and 6,500 on public interest grounds. In 32,000 cases the result of the charging process was not available.
3. Of the 225,000 cases, around 197,000 were male and 28,000 female: 125,000 were Classified as White (115,000 British, 1,000 Irish and 9,300 'Other'): 7,400 as Asian (1600 Indian, 2700 Pakistani, 700 Bangladeshi and 2,500 'Other') 10,000 as Black (1,100 British, 4,900 Caribbean, 2,400 African and 2,700 'Other') 3,000 as Mixed (1,600 White/Black Caribbean, 250 White/Black African, 350 White/Asian and 750 'Other'), 300 as Chinese and 1,100 as 'Other'. Ethnicity was not provided in 42,000 cases and not stated in 37,000 cases.
4. The statistical analysis on which the first report was based was carried out during March and April 2005 and discussed with the focus group of voluntary and community organisations (see Appendix A) during July 2005. As a result of these discussions, a final version of the equality impact assessment was prepared in August 2005.
5. The data quality of the gender recorded on COMPASS was excellent, with under 1% of cases not having gender recorded. The data quality of ethnicity recorded was less complete, with 18% of records showing 'ethnicity not provided', ie not provided by the suspect and 17% of records showing 'ethnicity not available'. The data quality of the result of the charging process was quite good, with 14% of records showing the result of the charging process being 'other', 'not given or' undefined'. The main statistical analysis essentially ignores the missing data, or, to put it another way, assumes that the missing data are distributed in the same way as the data for which the variable is present.
6. The data set made available for analysis did not include variables such as:
  - age of suspect
  - offence
  - sentence
  - criminal history
  - disability of suspect

which are claimed by some commentators regard as being important predictors of the result of the charging process.

7. The basic analysis was a very straightforward one and was to show the proportion of cases of a particular gender, ethnicity classification or gender/ethnicity cross classification, where the charging process resulted in:

- A Charge
- A 'finalisation' by a decision such as a caution or a final warning
- A 'finalisation' by an administrative process such as a request for further information
- No further action being taken on evidential grounds
- No further action to be taken on public interest grounds
- Any other result

8. A comparison was then made of whether these percentages, eg the percentage where the result ended with a charge, varied significantly by gender or ethnicity. The data were not sufficiently rich to attempt a multivariate analysis of the type used by Mhlanga in his study of young men dealt with by the CPS during 1996. (Mhlanga, 1999)

9. The statistical test used is found in Jones, 2002 and Spiegel, 1988 for the difference between proportions. It compares two proportions P1 and P2, eg the proportion of males who were charged with the proportion of females who were charged. They are deemed to be significantly different if they differ by more than the statistic

$$1.96 * \text{SQRT}(P1 * (1 - P1) / N1 + (P2 * (1 - P2) / N2)$$

where N1 and N2 are the numbers of males and females in the analysis. This is more a rule of thumb than an exact statistical test, as the number of possible comparisons, and hence calculations of the significance statistic, is very large. Broadly speaking, proportions (which are percentages divided by 100) are more accurate if they are based on larger numbers, so that one can be very much more secure with a percentage based upon, say 90,000 white males, than on a percentage based upon just over 100 Indian females.

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