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Annwyl Mr Griffiths,

At the end of November 2020 the Wales Governance Centre's *Justice and Jurisdiction* project will come to an end. Our research into the criminal justice system in Wales has uncovered a range of issues including those relating to prison conditions, alternative criminal justice models, the legal economy, and racial disproportionality within the criminal justice system in Wales.

As our project nears its conclusion, I am writing to state that I believe that the Equality, Local Government and Communities Committee should carry out an inquiry into racial disproportionality within the criminal justice system in Wales. Our research over the past two years has identified a wide range of problems that, I believe, require urgent attention. The events over the summer following the tragic killing of George Floyd in May have only added to the case for an inquiry in Wales. And while it is true that Members of the Senedd have referred to our findings on racial disproportionality, there has been no substantial scrutiny of those findings to date.

To further underline the case for an in-depth inquiry I have provided a brief summary of some of the key areas of concern that I feel are worthy of further consideration. The points below include previously unpublished data as well as those taken from our most recent *Prisons, Probation and Sentencing in Wales* report.

Policing

- Home Office data show that there is a disproportionate use of stop and search on Black and Minority Ethnic (BAME) communities in Wales. In 2018/19, there were 13 stop and searches per 1,000 BAME people in Wales, compared with 5 searches per 1,000 White people. There were 36 stop and searches per 1,000 Black (or Black British) people in Wales in 2018/19, while Asian and Mixed groups shared the same rate of 11 searches per 1,000 people.
- Data on the number of times police tactics were used show that individuals from a BAME background were overrepresented in police use of force statistics in 2018/19. While the 2011 Census found that 4.4% of the Welsh population belonged to a BAME ethnic group, 8.9% of all incidents of police restraint were against individuals from a BAME ethnic background in 2018/19. These incidents include handcuffing (8.9%), limb/body restraints (9.1%), and ground restraints (9%).
- Individuals belonging to a BAME ethnic group in Wales were also overrepresented within police use of 'Less lethal weapons' in 2018/19. One in nine (12.4%) of all incidents where a Conducted Energy Device (i.e. a TASER) was used by Welsh forces was against someone from a BAME background in 2018/19.¹ 13.7% of all incidents where a police dog was used involved individuals from a BAME background.
- 6.6% all arrests made by Welsh police forces in 2018/19 were individuals from a BAME background. Despite comprising 0.6% of the general population, 2.4% of all those arrested in 2018/19 belonged to a Black ethnic group.

¹ This total includes all incidents including where a CED device is drawn, aimed, arced, red-dot, drive-stun, fired and angle drive-stun.

Pleas

- The Lammy Review in 2017 found that individuals from a BAME background were less likely to enter guilty pleas due to a lack of trust in the criminal justice system. Disaggregated data obtained from the Ministry of Justice show that a slightly higher proportion of White defendants (82.5%) pleaded guilty at the Crown Court in 2019 compared to individuals from a BAME (80.9%) background.

First Entrants

- Although the number of children first entering the criminal justice system has fallen in Wales, the rate has declined unevenly across different ethnic groups since 2010. While the number of White children first entering the criminal justice system in Wales fell by 87%, the number of Asian children declined by 69% and those from Black backgrounds fell by 59%.

Sentencing

- Individuals from a Black (76%), Asian (75%) and Mixed (70%) ethnic group recorded a higher custody rate at the Crown Court in Wales than White (64%) defendants in 2019.
- Those from BAME backgrounds are more likely to receive longer custodial sentences than those belonging to a White ethnic group. The average custodial sentence length in Wales was higher for Mixed (35 months), Asian (33.8 months) and Black (30.4 months) defendants sentenced in Wales in 2019 than for those from White (19.5 months) ethnic groups.

The Prison and Probation Population

- Since 2017, the number of BAME prisoners from Wales (based on home address prior to entering custody) has increased by 14% from 426 in 2017 to 484 in 2019. The overall Welsh prison population fell by 2% during this period.

- In 2019, there were 91 Black people from Wales in prison for every 10,000 of the population. This rate compared to just 14 White people per 10,000 of the population. There were 28 Asian people in prison per 10,000 and 41 people from a Mixed background per 10,000 in prison in 2019.
- Individuals from Black and Mixed ethnic groups are over-represented amongst the probation population in Wales. While White and Asian individuals were under-represented, people from a Black background were 2.5 times over-represented and individuals from Mixed ethnic group were 1.6 times overrepresented in 2019.
- For every 10,000 Black people living in Wales 129 were under probation supervision in 2019. This compared to a rate of 46 per 10,000 for individuals from a White background, 48 for Asian and 80 for those from a Mixed ethnic group.
- The Ministry of Justice's most recent *Statistics on Race in the Criminal Justice System* report found that Black prisoners are more likely to serve a higher proportion of their determinate sentences in prison than any other ethnic group. Disaggregated data show that between 2015 and 2018, Mixed prisoners from Wales (63%) served a higher proportion of their determinate sentences in prison followed by Black (61%), White (57%) and Asian (57%) prisoners.

While criminal justice is reserved to the UK Government, the Welsh Government has a clear set of responsibilities for promoting equality and tackling all forms of discrimination in Wales. The overlap and intersection between the reserved and devolved areas means that this topic has yet to receive any kind of serious analysis or scrutiny. The lack of publicly available Welsh-only criminal justice data has only added to the problem of effective oversight. The Ministry of Justice's own *Statistics on Race in the Criminal Justice System* report, for example, fails to provide a disaggregated picture for Wales and England, while the Lammy review in 2017 also focussed exclusively upon trends in 'England and Wales'.

As it currently stands, there is no clear or authoritative understanding of how different communities across Wales experience and interact with the criminal justice system. It is also unknown what steps could and should to be taken by the Welsh Government to promote

fairness and tackle discrimination within the criminal justice system. I believe that the points outlined above underscore just how important an inquiry into racial disproportionality within the Welsh criminal justice system is at this time.

I would like to take this opportunity to thank you for your time in considering this letter. If you wish to discuss this subject further or require any additional information please do not hesitate to contact me.

Yours sincerely,

Dr Robert Jones