



**'Race', disproportionality and diversion from the
youth justice system:
a review of the literature
Executive summary**

Tim Bateman, Isabelle Brodie, Anne-Marie Day, John Pitts and Timi Osidipe

The full review of which this is summary is available at: [lit-review-final-may-23.pdf \(beds.ac.uk\)](#)

Executive summary

Introduction

This is a narrative review of the literature relevant to understanding the relationship between ethnicity, disproportionality and diversion of children from the youth justice system. The review is part of wider research project, funded by the Nuffield Foundation and undertaken by the University of Bedfordshire and Keele University, exploring ethnic disparities at the gateway to the youth justice system and the impact of increased use of diversionary mechanisms in that context. Further information on the wider project is available on the Nuffield Foundation website at: [Exploring racial disparity in diversion from the youth justice system - Nuffield Foundation](#).

Methodology

Literature is drawn largely from UK and US, English language, sources, from 2010 to the present. Grey literature is included where from an authoritative source. The focus is decision-making at the gateway to the youth justice system with a particular emphasis on the mechanisms whereby children are drawn into, or diverted from, formal processing and the extent to which those decisions are characterised give rise to disparity. Search terms were used flexibly and in combination.

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Black children accounted for less than 12 percent of all proven offence but 20 percent of those given a custodial sentence.

The case for diversion: the consequences of criminalisation

Research confirms that children who are diverted from formal sanctioning avoid the negative consequences of system involvement which include the acquisition of a criminal record, as well as interrupted education, training and employment. Formal contact with the justice system, particularly at an early age, can be criminogenic, deepening and extending the child's criminal career.

Despite the evidence that diversion yields better longer-term outcomes than formal sanctioning, youth justice policies have in most jurisdictions tended to favour the latter. Data suggest that minority ethnic children have been less likely to benefit from diversionary mechanisms that have existed, in the form of cautioning, than their white peers. In recent years, contractions in youth justice populations across Europe are indicative of increased diversionary activity but this welcome reduction in criminalisation has not benefited all populations of children equally.

The rise of diversion: policy context 2010-present

The decline in the number of children subject to formal criminalisation is, in large part, a reflection of changes in the way that agencies respond to children for minor offending in the form of a substantial rise in the use of diversionary mechanisms. Such changes were triggered initially by the introduction of a government target in 2008 to reduce the number of children entering the youth justice system for the first time (so-called first-time entrants or FTEs), by 20 percent by 2020. The target was met within 12 months of its adoption and the decline in FTEs has continued in the interim period, falling by a further 78 percent between 2012 and 2022.

Analysis of youth justice policy from 2010 onwards indicates a progressive shift towards a more child-centred, less punitive, approach to dealing with children's offending behaviour. This has involved a turn away from a focus upon individual and familial risk factors to a more subtle understanding of vulnerability and trauma. It also marks a transformation from policies based on correcting the child's deficiencies to an approach that maximises the child's potential. Central to this emerging philosophy is the idea that whenever possible children in trouble should be diverted from the criminal justice system because of its tendency to worsen the problems to which it is the purported solution. These shifts have generated a rapid

most areas operating in a manner which exceeded expectations associated with the statutory framework. By 2021, prevention and diversion cases accounted for 52 percent of youth offending teams' workloads in England and 72 percent in Wales, although these averages obscured substantial variation between areas, with the scope of diversionary and preventive work ranging from 85 percent to six percent.

attracting a court disposal: 73% compared to 66%. Conversely, just 14% of children receiving a community resolution were Black while such children accounted for 17% of court outcomes.

Decision making at the gateway to the youth justice system determines which children enter the criminal justice process, whether they are subject to formal sanctions and acquire criminal records. Any disparities at that juncture will thus be reflected, and potentially amplified, within the system itself. Given that relatively

possible to assess potential levels of disparity. The quality of work with Black and mixed heritage boys who had received out-of-

bias because of the legacy of slavery and racism which has perpetuated negative, stereotypical, perceptions of Black adolescents. As a result Black children are considerably more likely to be understood as more mature and less vulnerable than their chronological age would suggest and there is, accordingly, a greater

accurate indicator of criminal behaviour rather than an artefact of prior instances of discrimination. Good practice is thus not served by using previous system contact or diversionary interventions as an automatic bar to further informal outcomes.

The requirement for a formal admission of guilt in order to access some forms of diversionary measures disadvantages minority children, based on misleading assumptions that admission is an indicator of remorse and willingness to comply diversionary interventions. Since some mea