

Abstract

This article reports on research conducted for the Youth Justice Board (YJB) which sought to establish the prevalence of racially motivated offending (RMO) amongst young people and the level of provision for such offenders. The paper examines trends in youth RMO over the period 2002-2007 and explores the characteristics of offenders; geographical trends of RMO and sanctioning outcomes. Analysis demonstrates that of those young people referred to youth offending service (YOS) teams for RMO, the vast majority were male and white. There was a noticeable 'North-South' split in RMO, with levels in the North generally higher than in the South and sanctions for racially motivated offences were more severe than for offences generally. The paper calls for further investigation into the legislation and practice around youth RMO.

Introduction

Racially motivated offending (RMO) is a form of hate (or bias) crime. The latter is defined by the Home Office as a crime which is perceived by the victim or any other person as being motivated by prejudice or hate. The prejudice may be based on the (actual or perceived) race, colour, ethnic origin, nationality or national origin, religion, gender or gender identity, sexual orientation or disability of the victim.¹ Racially motivated crimes, therefore, are hate crimes motivated by an offenders' dislike of the victim's race, colour, ethnic or national origin.

This article reports on research conducted on behalf of the youth justice board (YJB) which sought to look at the nature and extent of youth RMO and explore responses to it within the youth justice system. The two main aims of the YJB funded research were, firstly, to establish the number of offenders referred to youth offending service teams (YOS) for racially motivated offences, and, secondly, to map the level and nature of programmes provided by YOS teams and secure establishments for these young people. It is the first aim that the data provided in this article reports on (see Wilcox et al 2008 for the full report).

Policy

The policy and operational landscape in relation to racially motivated offending has altered significantly in the last ten years in response to factors including high profile racially motivated killings (such as the murder of Stephen Lawrence in 1993), riots and disturbances arising from conflicts between racially demarcated communities in the North of England during 2001 in Bradford, Burnley and Oldham, and concerns about insecurity following the events of '9/11' and the impact of this on cohesion between communities. Previously, policy responses to racial unrest and racist crime had been small scale, and it was not, on the whole, a political priority. Prior to the Criminal Justice Act 1991 (Section 95) racist crime was not systematically monitored or recorded and as a result it was not possible to establish its extent or impact (Dixon and Ray 2007). Where policy change did take place in the 1980s and 1990s it was driven largely by victim groups rather than by public or political pressure (Bowling, 1998).

The Crime and Disorder Act (1998) brought about the creation of a category of racially aggravated offences. This resulted in nine existing offences in the areas of assault, harassment, criminal damage and public order having racially aggravated labels appended (see Box 1 below) all of which carry higher potential penalties or tariffs.

Racially aggravated offences are now not only legally defined under the Crime and Disorder Act 1998 (section 28), but also the Antiterrorism, Crime and Security Act 2001 (section 39), the Race Relations Amendment Act (2000) and the Race and Religious Hatred Act (2006).

¹ See: <http://www.homeoffice.gov.uk/crime-victims/reducing-crime/hate-crime/> (accessed 21 November 2008)

This has resulted in a systematic reconfiguration of the ways in which the criminal justice system now deals with prejudice-related offending. The 2000 and 2006 statutes added the religiously aggravated aspect and had the effect of broadening what constitutes racial or religious hatred. The various offences comprising racially motivated offending are detailed in the box below, and we use these definitions of racially motivated offending within this study.

Box 1 Home Office racially aggravated offences

- I. 8D. Racially or religiously aggravated less serious wounding
- II. 8E. Racially or religiously aggravated harassment
- III. 105B. Racially or religiously aggravated assault without injury
(Previously termed 'Racially or religiously aggravated common assault').
- IV. 58E. Racially or religiously aggravated criminal damage to a dwelling
- V. 58F. Racially or religiously aggravated criminal damage to a building other than a dwelling
- VI. 58G. Racially or religiously aggravated criminal damage to a vehicle
- VII. 58H. Racially or religiously aggravated other criminal damage

It should also be noted that the offences of 'Racially or religiously aggravated criminal damage to a dwelling' and 'Racially or religiously aggravated criminal damage to a building other than a dwelling' were added to the Home Office series from 1 April 1999, and prior to that they were included in the original classifications. Religiously aggravated offences were added to the series from April 2002 (Nicholas et al, 2007).

An offence may be classified as racially or religiously aggravated if:

- at the time of committing the offence, or immediately before or after doing so, the offender demonstrates toward the victim of the offence hostility based on the victim's membership (or presumed membership) of a racial or religious group; or
- the offence is motivated (wholly or partly) by hostility towards members of a racial or religious group based on their membership of that group (s28, Crime and Disorder Act, 1998)

Limitations of statistics relating to RMO

It is well known that there is a 'dark figure' of hidden crime - that is to say there is often a large discrepancy between the number of incidents defined as a crime and officially recorded as such and the experiences and perceptions of victims (Coleman and Moynihan, 1996). There is even greater attrition when one considers the number of offenders 'brought to justice' (cautioned or convicted).² This 'attrition' is particularly severe with regard to racially motivated offending. The true size of this pool of unreported and unrecorded incidents is of course unknown, but is subject to the same processes of attrition within the criminal justice system and the varying definitions and institutional mechanisms used in capturing these data that other categories of crime are subject to.

The chief cause of attrition is the notoriously low level of reporting of racially aggravated crime by victims (for instance, the police estimate that the majority of racist and religious hate

² Barclay and Tavares (1999) estimate from British Crime Survey data that as few as three in every hundred crimes committed against individuals or their property results in the offender being convicted or cautioned.

crime, and as much as 90 per cent of homophobic crime, goes unreported).³ Further attrition can take place within the criminal justice system itself, from the reporting stage, through to recording, detection and conviction. Although a considerable proportion of the 'dark figure' of racially motivated offending is due to under *reporting*, studies of police *recording* practices more generally suggest that under recording by the police, due either to police discretion or the application of an evidential standard to allegations of crime also plays an important role (Burrows et al, 2004). However, in response to these institutional criticisms, police forces adopted 'ethical' crime recording practices in 2000 (Simmons et al, 2003). This is the practice whereby the police record all incidents that are reported by the public, whether or not the police believe that evidence exists to support the report or whether the incident in fact constitutes a racial or religiously motivated crime.

All of these considerations indicate the partial nature of official statistics on racially aggravated crime and emphasize that official statistics detailing trends over time may be more of a reflection of changes in willingness to report and record such offences, or in definitional issues for example, than changes in the actual level of offending.

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Motivations of Racially motivated offenders

A number of writers have suggested that racially motivated offenders can be categorised according to the basis of their motivations. In 1993, Levin and McDevitt argued that hate crime offenders could be divided into three different categories: i) thrill seekers ii) defenders and iii) mission offenders. These three typologies were derived from undertaking interviews with the members of the police, victims and hate crime offenders themselves (McDevitt et al, 2002). However, in 2002 McDevitt et al included a fourth category to the typology; the 'retaliatory' offender. This fourth category was added as;

'..it occurred to us that there are sometimes additional factors and indicators present that seem to relate to bias motivation but are not currently specified in the literature. Offences that involve these factors and indicators are bias motivated but include distinct characteristics that indicate a retaliatory theme' (McDevitt et al, 2002 pg. 306).

McDevitt et al's (2002) four typologies are described below:

- *Thrill seekers* – who commit hate crime offences for the thrill and excitement. Thrill seekers chose the target because the offender perceived the victim was in some way significantly different from the offender. Dixon and Court (2003) have suggested that such offenders are influenced by a wider peer group 'often getting drawn into violence without any regard to the victim.' In addition 'they may consider their activities territorial rather than racist'.
- *Defenders* – committed hate crime offences in order to protect the offender's neighbourhood from outsiders or intruders. Dixon and Court (2003) referred to 'reactive offenders' as individuals who were older than thrill seekers who had 'a sense of grievance and believe that they are acting to protect a perceived threat to their way of life.
- *Retaliatory offenders* – committed hate crime offences in response to a hate crime against themselves or an individual in the group to which the offender belongs.

³ *Hate Crime: Delivering a Quality Service*, Home Office. <http://www.homeoffice.gov.uk/crime-victims/reducing-crime/hate-crime/?version=2> (accessed 21 November 2008).

- *Mission offender* – committed hate crimes inspired by a higher order. Dixon and Court (2003) have suggested that such offenders may have mental health problems (David Copeland, the ‘nail bomber’) and includes politically motivated offenders such as right wing or religious extremist activists.

Methods

The research aims called for a multi method approach to the study. A literature review was conducted to provide a theoretical basis for the research and this assisted in the development of the research instruments used. In order to establish the extent of provision for RMO in the youth justice system, an electronic survey was sent to all YOS and secure establishments (young offender institutions, local authority secure children’s homes and secure training centres). A purposive sample of responding YOS teams and establishments were then visited and interviews conducted with practitioners. Interviews with a sample of young people who had been subject to an intervention for RMO, were also undertaken.

To assess the extent of RMO a variety of data sources were used. Firstly, the YJB provided the research team with aggregate THEMIS data (information system used by YOS teams) for the period 2002/3 to 2006/7 for the 157 YOS teams in England and Wales. The THEMIS database is based on the quarterly returns which each YOS team provides to the YJB. Among other variables it contains information about the characteristics of young people (aged 10 to 17) referred to YOS teams for racially motivated offences, including those who were sentenced to custody. THEMIS data are collected at the offence level and not the individual level. The data supplied to us were complete, with no missing data in terms of age or sanction received, while ethnicity of the offender was recorded in over 90 per cent of cases. These data were analysed and we formulated an assessment of trends and the prevalence of (detected) RMO among young people.

However, it should be noted that the THEMIS data relate only to young people referred to YOS teams for racially motivated offending – who inevitably represent a small proportion of the total quantity of such offences. We therefore, placed the THEMIS data in a wider context by examining a range of other datasets including the Offending, Crime and Justice Survey (OCJS) (2005) and data from the Ministry of Justice, as well as British Crime Survey data and official police statistics. It should be noted that these datasets are not directly comparable; firstly because they do not all deal with the same age range, and secondly, because the nature of what is captured evidently varies between victimisation surveys, self reported offending surveys and police figures. It should also be remembered that racially or religiously aggravated offences cannot be identified separately in police recorded crime data, THEMIS, OCJS or the BCS datasets.

Young People and RMO

As a victimisation survey, it is not surprising that the British Crime Survey (BCS) generates by far the highest estimate of RMO, indicating that there were 179,000 racially motivated incidents in England and Wales in 2005 (Home Office, 2006: 9). The BCS estimate is substantially higher than the number of racially motivated *incidents* recorded by the police (57,902) and this suggests that over two thirds (67.6%) of racially motivated incidents are never reported to the police.

When one considers the number of incidents which the police recorded as racially motivated *offences* in 2004/5 (37,028) there is still further attrition (Home Office, 2006: 10). In other words over one third (36%) of incidents which the victim *perceived* to be racially motivated and reported to the police, did not achieve the *evidentiary* threshold required to be recorded as a racially motivated offence.

This paper is concerned with racially motivated offending by young people. BCS and police incident data do not allow us to determine what proportion of *incidents* were committed by 10-17 year olds but analysis of YJB 2004/05 THEMIS data enable us to determine the proportion of offences which resulted in a sanction. The YJB's THEMIS data for the year 2004/5 indicate that there were 1864 racially motivated *offences* committed by young people which resulted in the referral of a young person to a YOS team. This is slightly higher than the Home Office figures (1743) which relate to the number of young *offenders* who were prosecuted or cautioned for a RMO in 2004/5 (Home Office, 2006). The discrepancy is due to the fact that a young person may be sanctioned for more than one racially motivated offence at one sanctioning occasion. The Home Office figures indicate that young people accounted for 24 per cent of the 7,276 people cautioned or prosecuted for RMO.

The 2005 Offending, Crime and Justice Survey (OCJS) found that the proportion of 10-25 year-olds who said they had physically attacked someone because of their skin colour, race or religion in the last 12 months (racially/religiously motivated assault) was less than one per cent (the same proportion found in the preceding 2004 survey). This was also the first time that racially/religiously motivated attacks and abuse were asked about separately.

The OCJS survey also measured anti social behaviour (ASB), with one of the four components focusing on racial or religious offending: being 'threatening or being rude to someone because of their race or religion' (racially/religiously motivated abuse). The survey found its occurrence relatively rare, accounting for only two per cent of their sample, again a similar proportion to that found in the 2004 OCJS (Budd et al., 2005). Respondents in the survey were asked how often they had committed each of the racially/religiously motivated anti-social behaviours within the last 12 months. The majority (56%) of those who had, had committed the offence once or twice in the last 12 months, while 18 per cent had committed three or four offences, and ten per cent between five and ten. There was a significant minority (16%) who reported committing racial/religious abuse more than ten times in the year. The mean age for committing racial/religious abuse was 17.

Trends in youth racially motivated offending

With the exception of (2006/7) figures, the British Crime Survey (BCS) has shown a downward trend in racist victimisation in recent years, in line with experiences of crime more generally. According to BCS estimates the number of racially motivated incidents (as experienced by victims) was around 206,000 in 2002/03 and 2003/04. The following two years saw substantial decreases (Jansson, 2006). In 2004/05 there were an estimated 179,000 incidents (13% decrease), and by 2005/06 around 139,000 – an overall decrease since 2002 of almost one third (32.5%). However, BCS figures indicate that this decline has been reversed; there was a substantial increase (32%) in the number of incidents in 2006/7 (184,000) compared to the previous year (Jansson et al, 2007: 7). Over the five year period as a whole, the number of incidents declined by 10.7 per cent.

Therefore after a period of declining racist victimisation (in line with the declining crime rates more generally) there was a significant increase in 2006/7 in the number of such incidents.

Looking at THEMIS and police data over the five year period 2002-07, it is apparent that there is a diverging trend between the two data sources, with racially motivated offending by young people increasing proportionately faster than for all age groups as recorded by the police. Overall there has been a near doubling (94% increase) in the number of offences of RMO resulting in young people being referred to a YOS team, while over the same period there was an increase of just 39 per cent in RMO offences recorded by the police (all age groups). The reasons for this are not apparent, although part of the explanation will lie in the

fact that the two data sources deal with different age groups. Of course, it should also be noted that the absolute number of offences resulting in a referral to a YOS team is considerably smaller than the number of RMO offences recorded by the police. Thus, over the five years for which data are available, the number of RMO offences resulting in referral to a YOS team rose from 1392 in 2002/3 to 2701 by 2006/7.

It is interesting that the trends in BCS figures (declining, with the exception of 2006/7 figures) and police and THEMIS data (increasing) are in opposite directions. What this suggests is that while overall victimisation appears to be falling, reporting and recording rates seem to have increased, as have the chances of young perpetrators being detected and referred to a YOS team.

Findings from the surveys undertaken with each YOS team and secure establishment in England and Wales would suggest that practitioners do not on the whole believe RMO to be a significant problem. Just 18 per cent of the combined YOS and secure estate respondents believed that racially motivated offending was a significant issue in their YOS team area / secure establishment. Among responding institutions, a total of 1599 RMOs had been referred over the past twelve months, an average of just over 14 offenders per organisation. These figures are very close to the THEMIS data which suggest that the 157 YOS teams dealt with around 2700 cases of RMO in 2006/7, an average of 17 per team.

The figures present a confused picture, RMO is by no means a volume crime – the proportion of offences that YOS teams dealt with that were accounted for by RMO averaged around one per cent. Our findings cannot explain the discrepancy in trends between the different data sources but nevertheless it is an important finding and one which warrants further investigation not least by those responsible for the policing and sentencing of offenders.

Ethnicity, offending and victimisation

A striking finding to emerge from the BCS survey is in relation to victims' perceptions of the ethnicity of offenders, *where this was known*. This shows that while white offenders comprised the largest single group identified, they were not in a majority (43%), and victims believed that in 34 per cent of cases the offenders were Asian, and, in 29 per cent, black (Jansson, 2006).

These findings are in stark contrast to the YJB's THEMIS data for young people which demonstrate that the overwhelming majority of racially motivated offenders that YOS teams dealt with were classified as white (nearly 87%). This dwarfs all the other ethnic categories, which together accounted for just 10.7 per cent of offenders (in the BCS this figure was 65%). Within the YOS data for black and minority ethnic (BME) offenders, black offenders accounted for 4.5 per cent of referrals, and Asian offenders for 3.4 per cent.

The question arises as to the reason for the apparent discrepancy between the BCS and THEMIS regarding the ethnicity of offenders. Of course it should be emphasized that the BCS details victim's *perceptions* of the ethnicity of the offender (of all ages, and only when this is known), whilst the THEMIS data records the actual ethnicity of detected 10-17 year old perpetrators. Furthermore, the BCS covers only the experiences of those aged 17 and above, while THEMIS data relates to those aged 10-17.

Given the significance of this finding (discussed below), it is worth exploring the data in more detail. Firstly, evidence from the BCS and other sources shows that offending and

victimisation is a complicated picture. Racially motivated crime can be committed by, and against, any ethnic group. The table presents some reanalysis of figures from the BCS report (Jansson, 2006) and combines this with census data on the ethnic make up of the population to try to shed some light on the interaction between RMO and ethnicity.

Table 1 Ethnicity of victims of RM offences

1	2	3	4	5	6	7	8
Ethnicity	No. of offences experienced	% of RMO offences	No. in population (E&W)	Rate of RMO experienced per 1000 population	% of RMO offences committed	No. of RMO offences committed	Rate of offending per 1000 population**
White	92,200	51.4%	48,072,000	1.9	43	77,099	1.6
Asian	51,100	28.5%	2,134,000	23.9	34	60,962	28.6
Black	16,000	8.9%	1,194,000	13.4	29	51,997	43.5
Mixed and other	20,000	11.2%	906,000	22.1	2	3,586	4.0
Total	179,300	100.0	52,426,000	3.4	108*	-	-

*Percentages sum to more than one hundred because more than one offender could be involved, and in some cases may be from different ethnic groups.

** Based on BCS estimates.

As can be seen, the second and third columns present data already discussed above, which show that white people experienced the majority of RMOs, followed by Asian, mixed race and other groups. Given that white people account for around 91 per cent of the total population of England and Wales⁴ it is not surprising that they also experienced the largest number of RMOs. In order to calculate the *risk* of victimisation one needs to take into account the size of the various ethnic groups, and this is shown in columns four and five. It can be seen that the majority white population has a low risk of being victimised – around two offences per 1000 people. By contrast, Asians and mixed and other groups experience over 20 RMOs per 1000 population. In other words, according to the BCS, people from ethnic minorities experience far higher levels of RMO than do white people.

Some of the RMOs experienced by people from one ethnic group could have been committed by people from the same broad ethnic group. The crude categorisations of white, black and Asian can hide ethnic differences, such as black (Somali) on black (Nigerian), Asian (Pakistani) or Asian (Indian) or white (English) on white (Polish) racially motivated crimes. The data do not allow us to determine what proportion of such offences occurred within these broad ethnic groups. However, we start with the reasonable assumption (and it is only an assumption) that *most* racially motivated crime will be *between* rather than *within* these broad categories. Based on this assumption one could therefore hypothesise that *most* of the 92,000 RMOs experienced by white people were committed by people from Asian, black, mixed or other ethnic groups, and that most of the 51,100 RMOs experienced by Asians were committed by offenders from white, black or other ethnic groups, and so on.

This means that since most RMOs were committed against white people, most of the offenders are likely to be from non-white ethnic groups. This hypothesis receives support from the victim reports of offender ethnicity noted above and in column six of table 1, which shows that 57 per cent of RMOs were said by victims to have been conducted by a non-white offender. As with our earlier calculation of risk of victimisation, we can also estimate the 'risk of offending'. This is done firstly by apportioning the RMOs experienced by BCS respondents according to the ethnicity of the offender *where known* (column seven). This

⁴ <http://www.statistics.gov.uk/STATBASE/Expodata/Spreadsheets/D5984.xls> (accessed 21 November 2008).

gives an estimate of 77,099 (43% of the 179,300 RMO offences) for whites and 60,962 for Asians and so on. We can then divide the number of offences committed by each ethnic group by the number of people in that group to arrive at a risk of offending (column eight). This shows that white people were by far the *least* likely to commit RMO (2 per thousand), while the black and Asian groups were most likely to offend (over 30 per 1000). These estimates seem to show that ethnic minorities (at least the broadly defined Asian and black groups) are both most at risk of being victims of RMO and most likely to commit it.

Again, the available data do not provide an explanation as to why this might be the case. One possible explanation lies in the notion of retaliation, which has been proposed in the literature as one of the causal factors in RMO (e.g. McDevitt et al, 2002). According to this, a (hate) crime is committed in response to a (hate) crime against themselves or an individual in the group to which the offender belongs. Data we collected suggested that while retaliation was an important concern, the extent to which this was linked explicitly to race was overstated. Offending in some of the YOS teams we visited (primarily in the North of England) appeared to be fairly evenly split between white and Asian youths and retaliatory in nature, with attacks by whites on Asians followed by attacks on whites by Asians and so on. However, interviews with some of the young people indicated that the motivations for such attacks were not primarily racial, but rather gang related. As gangs tend to be linked to location (e.g. postcode gangs) and young people in these cities lived in highly ethnically segregated areas, gangs tended to be either white or Asian. The traditional model of racist offending, which is generally portrayed in terms of a problem of powerful white offenders and vulnerable BME victims, did not reflect the reality as they saw it. It was interesting that a number of young people described fights or other incidents with other young people from different ethnic groups in terms of territory or respect rather than race, as the following exchange with an Asian offender illustrates:

Interviewer: You said you didn't have a problem with race, it was about how they looked at you.

Basically, I didn't have a problem with race. My fights were just with people looking at me. But obviously some fights we used to fight in groups. Different area [post] codes and all that.

Would that be based on race?

No, no. we used to fight some Asians from [estate], it's areas innit?

What's that about, why do you fight people in other areas? Is it about defending territory?

No, it's like if one my boys got in trouble with someone else from a different crew, obviously he's going to bring his people down, and my boys are going to bring my people down, so from there, it becomes bigger and bigger.

Is it about retaliation, respect, what is the reason?

Respect really.

If it is indeed the case that offending between young people from different ethnic groups is fairly evenly split (and moreover often motivated by more by territory or retaliation rather than racism per se), why is it that the large majority of young people referred to YOS teams for RMO are white? Firstly, it may be that white victims of RMO are much less likely than other ethnic groups to report such incidents to the police, thus reducing the chances that black or Asian offenders are detected by the police and subsequently sanctioned. This may be because victims thought the offence would not be taken seriously, or were unaware the definition of racially motivated offending included offences against white people. In fact, one of our YOS practitioner interviewees believed this to be the case, saying that he had found that young white males were much less likely to consider reporting racially motivated offending committed against them, in part because they believed that because they were white, the offences could not be defined as racially motivated:

One of the biggest problems at that time was you couldn't get a good reflection because a lot of the white kids were attacked by Asian youths, and they got beaten up, and the white youths would not report it, and we started looking into it, they could not conceptualise that a white person could face racism, it was difficult for them to accept it. They didn't want that tag of racially motivated offence, they just got attacked by some Asians.

Geographical trends in racially motivated offending

Regional patterns of RMO were analysed by allocating each YOS team in England and Wales into one of the government's ten regions for regional development agencies (nine in England, and one for Wales).⁵ The frequency of racially motivated offending was analysed by these ten regions throughout England and Wales over the five year data period in order to establish which regions had the highest numbers of RMO. The ten regions were examined using three differing methods:

- (i) Total RMO by region,
- (ii) YOS region ranked for RMO by rate of young person population (x 1000) per region
- (iii) Percentage increase in RMO 2002/3 to 2006/7 by YOS region

The overall picture that emerges is the prominence of the North-West and Yorkshire and Humber within the analyses. The North-East shows the highest prevalence when considering the rate of young people living in the region, but figures less prominently when considering increases in RMO over the five year period. It is the North-West and Yorkshire and Humber which display the most consistent measures of prevalence for RMO, irrespective of how it is measured. In fact, there was a noticeable 'North-South' split in RMO, with levels in the North generally higher than in the South. It was not possible to determine from the data available to us, the reasons for regional variations in RMO. Further investigation would be needed to determine whether factors such as levels of residential segregation or deprivation were associated with RMO.

It could sensibly be argued that if YOS teams in the North of England (the North West particularly) tend to have higher levels of overall RMO then they should be allocated extra resources for interventions to tackle the behaviour and attitudes of young people. We would urge caution with this approach as YOS teams in the 'top ten' move in and out of this category with some regularity. It may be that future resources are partially based on regional patterns of RMO.

Sanctioning outcomes for the period 2004/05 – 2006/07

The THEMIS data provided to us contained sanctioning⁶ outcomes only for the three most recent years of 2004/5 to 2006/7. Sanctioning outcomes across the three years of available data were aggregated and examined for all 157 YOS teams. The following table presents the percentage accounted for by each of the main sanctions, over the three year period.

⁵ See: <http://www.yjb.gov.uk/en-gb/yjs/YouthOffendingTeams/ContactDetails.htm>

⁶ The term sanction is used in preference to sentence, as some of the disposals (final warnings, reprimands) are not court sentences, but police disposals.

Table 2 Disposals for RMOs 2004/5 to 2006/7

Sanction	2004/5	2005/6	2006/7
Reprimand	13.1	17.0	16.6
FW (no intervention)	3.0	3.3	6.2
FW (with intervention)	12.9	13.4	12.0
<i>Total pre court disposals</i>	<i>29.0</i>	<i>33.7</i>	<i>34.8</i>
Conditional or absolute discharge	4.7	4.3	4.8
Bind over	1.6	0.5	0.4
Fine / compensation order	3.1	3.3	3.6
Referral	27.6	26.0	24.5
Reparation	2.5	2.6	3.7
Attendance Centre Order	2.3	1.5	2.2
Action Plan Order	5.1	5.9	5.7
Supervision Order	12.1	11.8	10.4
Community Rehabilitation Order	2.8	2.0	2.1
Community Punishment Order	3.0	2.9	1.9
Other*	2.2	1.7	3.1
Detention and Training Order and other custodial*	4.2	4.1	2.9

*Includes DTTO, CPRO and Curfew **S90-1 and S226-8 custody.

As can be seen, only a few of the sanctions were used with any regularity. For example, in 2006/7 just five sanctions were used in more than five per cent of cases; these were reprimands, final warnings with intervention, referral orders, action plan orders and supervision orders. Pre court disposals – reprimands and final warnings – accounted for around one third of all sanctions, and their use increased over the period from 29 per cent to just under 35 per cent. It is interesting to note that the use of Final Warnings *without* interventions doubled over the period to account for six per cent of sanctions. If one considers also that most reprimands are unlikely to receive any YOS intervention, then this means that around one fifth of racially motivated offenders probably received no intervention designed to challenge their offending.

The most common single disposal was the referral order, which in 2006/7 accounted for just under a quarter (24.5%) of all sanctions. The only other court order which was used with any regularity was the supervision order, in around ten per cent of cases. The remaining eight different community disposals are clustered with none accounting for more than six per cent of total disposals. Custodial sentences for racially motivated offences were quite rare (around 3-4%).

If one compares sanctions for racially motivated offences to sanctions for *all* offences, it is clear that racially motivated offences are treated on the whole more harshly. For example, in 2005/6, almost half (44.5%) of sanctions for *all* offences were pre-court, compared to 33.7 per cent for RMOs in the same year. Conversely, those charged with racially motivated offences were far more likely to receive a referral order (26.0% against 13.4%) or supervision order (11.8% against 6.7%) than offenders generally (Youth Justice Board, 2006: 16).

The variety of disposals received for RMO has implications for the nature of any intervention which could be carried out with young people. For example, most of those on action plan and referral orders are likely to be in contact with the YOS for no more than three months, while those on supervision orders may have a much longer involvement. Any intervention for racially motivated offenders would need to be sufficiently flexible to be able to deal with these variations in length of contact.

Conclusion

One of the key issues to emerge from this study is the contrasting picture from the different data sets. In summary, the evidence from the British Crime Survey (BCS) shows that the level of racist victimisation fell (until 2006/7 at least) in line with the crime rate overall over the past few years but at the same time, police recorded racist incidents and racially aggravated offences increased, as did offences dealt with by YOS teams. Indeed, these saw some of the sharpest increases in prevalence, although absolute numbers remained small compared to overall racially motivated incidents.

The central question remains; is the increase in the number of offences dealt with by YOS teams the result of a recording or reporting phenomenon, or, alternatively, are we witnessing a genuine increase in the number of racially and religiously motivated offences in England and Wales?

Docking and Tuffin's (2005) research examining the progress in the handling of racist incidents since the Lawrence enquiry and the subsequent introduction of the Home Office's 'Code of Practice on Reporting and Recording Racist Incidents' concluded that the sharp rise in police recorded incidents coincided with the Stephen Lawrence Inquiry, and was sustained after the 'Code of Practice on Reporting and Recording Racist Incidents' was published in 2000. Furthermore, evidence from 1999 suggests that whilst victimisation fell, a higher proportion of incidents were reported to the police (Clancy *et al.*, 2001). Indeed, rates of reporting victimisation to the police have increased compared to 1995, for both white and BME respondents, although there have been sharper rises for BME victims (28 to 40 per cent) compared to white victims (54 to 61 per cent). These different rates of improvement appear to demonstrate an increased willingness on the part of BME victims to report incidents, and perhaps reflect the success of the Lawrence Inquiry and the Code in encouraging reporting by agencies and community groups as Docking and Tuffin (2005) argue.

This pattern of increased reporting (especially by traditionally victimised groups) and recording by agencies could explain at least part of the substantial increase in racially motivated offending by young people as reflected in the THEMIS data. However, whether this explains the full extent of the increase remains an open question.

Could this response also have been facilitated by the government's guidance as to the definition of a racist incident as '...any incident which is viewed as racist by the victim or *any other person*'. This leaves it open to the police, or other agency, to ascribe a racial motive to an offence, even where the victim and offender believe this not to be the case. This could easily lend itself to the misidentification of offences and subsequent inappropriate conviction of suspects. The label of racially motivated offender is not one which should be applied lightly, and where it is applied incorrectly, it risks alienating the offender and encouraging the very behaviour one is trying to change.

On a practical level for YOS team practitioners, these findings have implications for the provision of interventions to tackle RMO. The results of our study have demonstrated that YOS teams are dealing with a sharp increase in the number of young people referred to them for RMO but this does not necessarily mean that YOS teams have effective and appropriate programmes with which to address young people's behaviour. The authors address these issues in a forthcoming paper entitled 'Current Responses to Youth Racially Motivated Offending'. It was found that there is little to guide those developing programmes for RMOs and that there is a genuine gap in provision of training for practitioners around the assessment of racially motivated offending, and the design and delivery of appropriate interventions.

The issues raised in this paper highlight the pressing need for further investigation into the legislation and practice around racially motivated offending, specifically into how offences are experienced and reported by victims and how they are recorded and investigated by the police and prosecuted by the CPS.

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