

Fair Justice for All?

The Response of the Criminal Justice System to the Bradford Disturbances of July 2001

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Executive Summary

The events in Bradford in July 2001 came after disturbances earlier in that year in a number of northern cities.

This report looks into the significant questions raised concerning the lengths of the resulting custodial sentences in Bradford, in comparison with disturbances at other times and places. This report does *not* examine the causes of the riot, or its handling by the police, or the charges and sentencing of particular individuals, or into the appeals procedure.

Concern with the riot sentencing is hardly surprising. In a society in tension it is not easy to be both fair and seen to be fair in the administration of legal, racial and social justice. Add to that a riot in which too many people performed actions which they themselves could only explain as ‘moments of madness’. Add further that many sons were handed in by ashamed parents. There is little dispute that prison sentences were inevitable. But doubts start to arise when sentences of some of those pleading guilty seem to be substantial, compared with apparently similar actions in other incidents.

These issues are important because of the serious consequences of the disturbances for individuals and the community, and because of the potentially divisive effect of the controversy over justice.

The aim of the report is to contribute information and ideas to a dialogue on the issues raised by the sentencing.

Did the Punishment fit the Crime?

So did the degree of Bradford punishment fit the crime? Has the use of oft-quoted sentencing comparisons between Bradford and Belfast, Burnley, Brixton and elsewhere been useful or distorting? Is there an issue of racial justice of sentencing to be addressed? What is and is not a ‘riot’ in legal-speak? What about social justice as well as legal justice? And can restorative justice help the community and individuals? No one wants young people coming out of prison angrier towards society than when they went in.

Our report comes at a time when the legal process is virtually complete. It offers the benefit of hindsight through a reflection on how society deals with major events. In another way, this report is a contribution to research on young people in society, which remains a relatively neglected topic.

Charging and Sentencing

Although it is the police who make arrests and the Crown Prosecution Service which decides the charges (in consultation with the police), sentencing is a matter for the judges alone, within the range of what the law says.

When, as in the Bradford situation, a large number of people are sentenced for similar types of offences, the first ‘tariff-setting’ sentence establishes a benchmark for later cases.

‘Riot’ word Confuses Comparisons

One conclusion of this report is that comparisons based on the one word – riot – confuse rather than clarify thinking. In Bradford, riot as declared in legal terms existed only on Saturday July 7th. 2001 (‘7/7/01’). Across Britain, differences exist regarding the declaration of a riot. Between Britain and Northern Ireland there are differences of riot law, which has also changed in Britain over the last two decades. Furthermore, there are significant differences around the world.

Public Order and the Law

The 1986 Public Order Act (POA), which applies in England and Wales, establishes four categories of offence:

- Section 1 Riot
- Section 2 Violent Disorder
- Section 3 Affray
- Section 4 ‘Threatening Behaviour’

These offences vary by:

- the significance of the collective factor;

- whether violence is committed or merely threatened;
- the numbers involved in disorder;
- the Court process to be followed;
- the severity of sentences.

Although the offences are scaled from the least serious (Threatening Behaviour) to the most serious (Riot), the overlap in their definitions provides the authorities with discretion in their charging decisions.

Public Disorder in Bradford 2001

Following the main events of July 7th. 2001 in Manningham, some 256 people were charged, including 178 charged with Riot under Section 1 of the 1986 POA. Nearly all of these pleaded guilty, and 170 were convicted. Almost all of the prosecutions relied to a greater or lesser extent on video evidence.

Overall, 40% of those charged were unemployed and 62% had previous convictions or police cautions. All but two were male, of whom an estimated 90% were of Asian background. Their ages ranged from 13 to 46 in July 2001, and averaged 21 years old. 40% lived in the Manningham area close to the disturbances, and nearly all (97%) were from West Yorkshire.

The average sentence for the 110 imprisoned adult rioters was over 4 years (50.4 months), and for the 12 imprisoned juveniles a year and a half (19.9 months). 36 other young people were given Detention and Training Orders for Riot, averaging 15 months.

... and Elsewhere

The use of the riot designation elsewhere in the last three years has varied. Oldham was formally declared a riot, but Burnley and Leeds were not. Violent Disorder was the most serious charge arising from events on the Ravenscliffe Estate in Bradford on July 10 2001. Riot charges were not brought for the 1995 disturbances in Bradford. No football-related disturbances in recent years have been declared riots, despite their acknowledged severity. And neither did the 'riots' in Cardiff, Oxford and Tyneside in the summer of 1991, give rise to Riot charges.

A similar point applies to the attacks on asylum seekers in 2003, even though the judge considered the situation had emulated 'the worst scenes in Belfast 25 years ago', and to the 1980's disturbances in Brixton, Toxteth and elsewhere in the UK, which were also covered by a previous law.

No-one was charged with Riot in any of these cases, despite the fact that the legal definitions would have allowed such charges to be brought. This may be related to the character of the incidents, as well as the quality of the evidence, especially the poor technical quality of film evidence before the 'video era'.

Miners' supporters were charged with Riot in connection with Orgreave in 1984, and were later acquitted, largely because of poor and inconsistent police evidence.

The data from Northern Ireland indicates that relatively few people have been prosecuted for public order offences and sentences have been lower in recent years than for Bradford's 7/7/01, despite the fact that outbreaks of serious public disorder have been more frequent. Indeed, the Bradford sentences provoked calls in Northern Ireland for tougher sentences to be imposed on those convicted of public order offences, and this call was backed up by revisions to the legislation.

A review of the international scene finds that riot law and sentences are less harsh in Canada, Australia and even the US, despite the latter's explosive history of riots.

Comparative Justice

The report indicates some of the considerations that bear on the question of comparative justice, without aiming at definitive conclusions on every issue.

A starting point for the analysis is that, since injustice might arise at numerous points in the criminal justice process, it is necessary to be clear where, precisely, an alleged injustice arises.

1. It seems unlikely that a case can be made that those convicted in connection with 7/7/01 suffered from basic failures of natural justice, or from direct racial discrimination at the level of individual cases.

2. There is little evidence that the Bradford defendants, mainly Asian, were given more severe sentences *for the same public order offences* than defendants in similar cases from other ethnic or religious backgrounds.

3. The use of the Violent Disorder charge in the UK is broadly comparable in effect to the most serious public order offences available in comparable jurisdictions.

4. The use of the Riot charge was however exceptional. It is rarely used in the UK, and comparable jurisdictions do not have available a public order offence with such a high maximum penalty (10 years' imprisonment).

5. Concern has rightly centred on the sentences handed down for Riot to the adult defendants. These were up to three times longer than the custodial sentences received on average by either a) adults convicted of lesser offences or b) juveniles convicted of any public order offence (up to and including Riot).

6. There is considerable variation nevertheless in the sentencing of adults for Riot, from 200 hours Community Punishment to 9 years imprisonment. It has not been possible to determine whether mitigating and aggravating factors were taken into account consistently in individual cases. This may be a source of potential injustice.

7. As noted above, Riot charges have not been used in recent incidents of public disorder in England and Wales involving a scale or intensity of violence *less* than 7/7/01, but *above* the legal threshold for riot.

8. Some other incidents occurred prior to the 1986 Act with an equal or greater level of violence than 7/7/01, but the failure to prosecute for Riot may be explicable by evidential factors.

9. Riot charges were used in connection with Orgreave in 1984, and the acquittals are explicable by evidential factors that do not give rise to questions of comparative injustice.

10. The comparison with Northern Ireland may indicate that defendants there are treated too leniently, not necessarily that the Bradford defendants were treated too severely.

A factor in the comparison may be the naturalisation of violence in the Northern Ireland situation.

11. The availability of high quality video surveillance techniques was vital to the criminal justice response to 7/7/01. But this only resulted in convictions because of the broad cooperation of the community affected – above all, from the Asian population in Bradford.

12. The use of video technology raises some subtle issues of comparative justice in relation to social deterrence, and the corresponding intentions of Parliament when the public order legislation was enacted.

13. The relationships between legal justice, racial justice and social justice raise complex issues regarding social power and the motivation for criminal action, concerning 'hate crime' for example. It is not therefore easy to see how the underlying principles could or should be applied more generally within the criminal justice process, in relation to 7/7/01 or other cases.

Two Issues for the Future

The report highlights two issues for the future:

1. Clarification is urgently required about the circumstances under which Riot charges are used, and the broader purposes for which they are used, given that the prosecuting authorities appear to be using a threshold level of disorder different from that laid down by law. In the absence of this clarification, doubts and allegation about injustice are bound to recur.

2. Restorative justice initiatives try to incorporate inputs from the community, the victim and the offender with the aim to better meet the needs – short and long term – of all three. Across the world, especially in New Zealand, initiatives are beginning to be developed for incorporating this approach into the handling of post-riot situations. This field deserves immediate attention.

1. Introduction

The Bradford Disturbances

The respected social commentator Bhikhu Parekh evidently had Bradford among other places in mind when he wrote that ‘there have been four Muslim riots [in Britain] so far, compared to about eight race-related riots by Afro-Caribbeans. One of them concerned Salman Rushdie’s *Satanic Verses*; others police insensitivity and racist marches. Apart from the first, all riots were local and relatively minor’.¹

We comment below on the senses in which the spasm of violence that shook Bradford on the evening of July 7th, 2001 may or may not have been ‘Muslim’. It was certainly local in its participation, but its effects have not been localised in either time or space. And neither was the violence minor.

Those affected most immediately include the civilians caught up in the events as victims of crime, perhaps above all the 23 people who were forced to take shelter in the beer cellar of the Manningham Ward Labour Club as it was burned down over their heads. They had good reason to fear for their lives. Then there were the 326 police officers, many of them local people, who suffered injuries serious enough to report. And there are a similar number of those who were subsequently arrested, and have been subject to legal action of various kinds. For those serving custodial sentences especially, the consequences will be felt by themselves and their families for a long time to come; in some cases for the rest of their lives.

The effects of 7/7/01 are by no means confined however to the individuals immediately involved.² Investment has only just begun returning to the vicinity of the disturbances, and local traders have reported

recently that the slump in their businesses continues three years after the event.³ To cite just one example of the consequences for local institutions, applications to the University of Bradford dipped significantly after 7/7/01. The District received international publicity of a most unhelpful kind, and its reputation as a whole suffered a severe jolt. Perhaps most seriously for the longer term, the disturbances have undoubtedly contributed in various ways to the social forces – both subtle and unsubtle – that are leading to ethnic and religious separation and tension within the District, making its undoubted problems that much harder to resolve.

We have little information to add about the precise course of events on 7/7/01. We leave open whether Bhikhu Parekh was correct to imply that the principal causal factors were ‘police insensitivity and racist marches’.⁴ Not enough is yet known in our view about the evolution of the conflict and the states of mind of those involved to reach a definite conclusion on those issues.⁵ Nor are we able to consider the full range of the consequences of 7/7/01. We have chosen instead to concentrate on one specific set of consequences: the response to 7/7/01 made by the criminal justice system, in comparison with the responses made to similar events at other times and places. An important motive for this choice is that the justice or otherwise of this response is not only an important issue in its own right, but is liable to remain if

¹ Bhikhu Parekh, ‘Muslims in Britain’, *Prospect Magazine*, July 2003.

² The term ‘7/7/01’ is used as shorthand for the main events in Bradford City Centre and in Manningham on July 7th, 2001, and the immediate following period. The terms ‘disturbance’ or ‘public disorder’ are used in descriptions of the events of July 2001, in order to reserve the term ‘riot’ for technical legal contexts.

³ ‘Team to get shops back on the road’, *Bradford Telegraph & Argus* (hereafter ‘T&A’), 4/8/04.

⁴ A useful initial account based on some interviewing of participants is given in Paul Bagguley and Yasmin Hussain, ‘The Bradford “Riot” of 2001: a Preliminary Analysis’, University of Leeds, Department of Sociology and Social Policy, 2003. www.leeds.ac.uk/sociology.

⁵ It is worth noting nevertheless that since no racist march took place in Bradford on 7/7/01, such an occurrence could not have been a causal factor in the disturbances, even though the unwarranted apprehension of such a march may have served as a causal factor.

unaddressed a source of further tension and division within the District.¹

The Sentencing Debate

The *Fair Justice for All* Campaign has supported many of the individuals arrested in connection with July 7th, along with their families. The starting-point of the Campaign is the assertion that:

in Bradford the criminal justice process has awarded extremely biased and severe sentences. Sentences against Asian youths have included four and a half years in prison for throwing a single stone. Such harsh penalties stand in complete contrast to the treatment of white youths in similar circumstances, who have routinely faced less serious charges, resulting in significantly more lenient sentences. Such double standards are unacceptable, unfair and unjust. They sum up the institutional racism still rampant in the criminal justice system.²

Institutional racism is an extremely serious charge to level against the operation of the Bradford Courts. If true, it would be a scandal demanding immediate redress. If false, the allegation itself needs to be corrected and withdrawn. In either case, the circulation of this charge is unlikely to increase trust and confidence in the operation of the legal system.

The theme of disproportionate punishment is taken up by Christopher Allen, who speaks in his report on 7/7/01 about 'the severe and unjust sentencing imposed in Bradford'.³ The Institute of Race Relations

expressed similar concerns, and Lord Herman Ouseley, speaking in Bradford, also called the sentences 'harsh'.⁴ Michael Mansfield QC regarded the main trial judge Stephen Gullick's sentences as 'manifestly excessive', and is reported to hold the view that 'the starting point for the sentences should have been two years'.⁵ These comments were offered against a background of concern reported prior to 2001 that bail conditions and sentencing policy were generally tougher for Asians defendants.⁶

On the other hand, Judge Gullick himself has defended his sentencing policy robustly. The main lines of this policy were set out in the 'tariff-setting' statement made at the sentencing of the first defendant convicted of Riot, who received five years:

An examination of the events of July 7th, 2001 in parts of this city, reveals a clear picture of a long-lasting concerted attempt of very grave proportions by aggressive force of numbers to harm, if not to overpower, the police and to cause mindless damage and general mayhem. ... Those who choose to take part in activities of this type must understand that they do so at their peril. It must be made equally clear, both to those who are apprehended and to those who might be tempted to behave in this way in the future, that the Court will have no hesitation in marking the seriousness of what has occurred and it will act in such a way in the present case as will, I hope, send out a clear and unambiguous message as to the consequences to the individual of participating in events such as were seen on July 7th. It is a message which I trust will deter others from engaging in this type of behaviour in the future.⁷

¹ This issue was identified as one of the main 'Questions for Further Investigation' in *Bradford 1 Year On: Breaking the Silences* (Bradford: Programme for a Peaceful City, 2002) p. 13.

² *Fair Justice for All*, Campaign Leaflet (n.d.). The campaign was launched in July 2002 by Bradford women. See Appendix 4 for the sequence of main opinion-forming events.

³ Christopher Allen, *Fair Justice: The Bradford Disturbances, the Sentencing and the Impact* (London: Forum Against Islamophobia and Racism, 2003), p. 9, repeated on p. 54, and see also p. 39: 'excessively harsh sentencing regime', and pp. 46, 47; 'severity of indiscriminate sentencing' and Judge

Gullick's 'efforts to heavily and disproportionately sentence many of Bradford's youth'.

⁴ *T&A*, 19/7/02.

⁵ *Guardian*, 30/1/03.

⁶ *Guardian*, 8/9/99.

⁷ The full text of this key statement, made on 3/11/01, is reproduced as Appendix 1 below.

Judge Gullick has also defended his actions in a later statement to the local newspaper, whose editorials have supported his stance throughout.¹ Judge Gullick was made Honorary Recorder in April 2002, a controversial move in some quarters that bestows on him one of the highest civic honours it is possible for the authorities in Bradford to grant.

Political support for a tough sentencing policy was voiced by local MPs shortly after 7/7/01, who expressed themselves with phrases such as ‘sheer criminality’ and ‘mindless thuggery’, and called for ‘short sharp solutions’ and ‘swift justice’.² The Prime Minister’s spokesperson echoed the term ‘thuggery’. Home Secretary David Blunkett spoke in a similar vein of ‘sheer, mindless violence’ and later on, in September 2002, talked most controversially about ‘bleeding heart liberals’ and ‘whining maniacs’ who had the audacity to challenge the sentencing policy.³ And it cannot escape notice that 9/11 intervened between the events of 7/7/01 and the first sentencing decisions.

There is little doubt that a political climate was created and sustained in favour of using the full rigour of the law in connection with 7/7/01. It is less clear what effect, if any, this had on the actual course of sentencing.⁴ But it is likely that the views voiced by politicians and leader writers echoed those held by wider sections of the public, just as the views voiced on the other side by the *Fair Justice for All* Campaign and their supporters reflected a wider disquiet among other sections of the population.

It is not our purpose in this report to come down on one side or another in this controversy, still less to resolve all the issues in dispute. Our purpose is a more limited, but we hope still a useful one:

- to communicate factual information about the way in which the criminal

justice system has responded to 7/7/01, and the backgrounds of defendants;

- to outline some of the considerations bearing on the sentencing justice issue, including its comparative dimensions.

The nub of our question was formulated by the mother of one of the defendants, when she said: ‘We know the violence wasn’t justified. We don’t want riots. All we are asking for is proportional sentencing. This has had a devastating effect on us’.⁵

The question is: what is proportional sentencing in this case? Although this question is easy to state, it is more difficult to answer, since it invites the immediate response: ‘proportional to what?’ And if there is more than one legitimate answer to the second question, there may be several answers to the first question, which could point in different directions, in terms of the fairness or otherwise of the sentences passed.

Our hope nevertheless is that the information contained in this report can be used as a springboard for dialogue between all those involved in the events of 7/7/01, and everyone else with a stake in a positive future for Bradford.

We begin with a brief account of the background to those events.

¹ *T&A*, 5/9/02.

² The quoted phrases are those of Labour MPs Marsha Singh (Bradford West), Terry Rooney (Bradford North), Gerry Sutcliffe (Bradford South) and Christopher Leslie (Shipley) respectively. (Allen, p. 24).

³ Allen, pp. 24, 12.

⁴ Allen (p. 50) alleges that collusion took place, but on the strength of a single reported statement from Margaret Eaton, a senior local councillor.

⁵ *Guardian*, 30/1/03.

2. Public Order and the Law of Riot

A Brief History of Public Order in Bradford¹

The mid-to-late 1970's saw far-right provocation in Bradford, with National Front (NF) marches taking place, counteracted by anti-fascist demonstrations. The anti-fascist 'Bradford 12' were charged with conspiracy in 1981 and subsequently acquitted, on the plea of self-defence.²

A disturbance took place in Manningham in 1995, close to the scene of the 2001 events, and sparked off by an incident of police arrest. There was no element of provocation from the far right at the time. Four people were given prison sentences out of 16 convicted. The charge of Riot was not used on that occasion.³

The background to the disturbances of 2001 included a series of incidents during the previous three months in a different part of Bradford – Lidget Green – and in other Northern towns. The immediate context was supplied by the cancellation of the last day of the (month-long) Bradford Festival planned for July 7th, because of police fears about an intervention by the NF, whose march in Bradford that day had been banned.

In contrast, the Mela Asian Festival held in Bradford the previous weekend was very successful, with 100,000+ attending in a very relaxed atmosphere.

On the Saturday of the cancelled festival, however, with some NF members reportedly coming to Bradford despite the ban, the city centre became a tinderbox. An anti-fascist rally brought several hundred people to the City centre in the morning. An atmosphere was established that trouble was expected. A

known individual of the far right was present and active, but was not arrested until 5.30 p.m.⁴

What began as a series of incidents in the city centre in the late afternoon subsequently developed very rapidly into a running battle between police and members of the public. Later there followed a series of major confrontations lasting several hours during the evening, first along one of the radial routes rising out of town, White Abbey Road, leading on up into Whetley Hill, where the Manningham Labour Club was burnt down and other buildings set alight. There were incidents of burglary and attacks on individuals in the area covered by the disturbances, including stabbings, and police horses were attacked. Then, in the hours after midnight in another part of Manningham some 400 metres away, the BMW car showroom was destroyed and other buildings in the area damaged.

The next day the violence in that specific area had dissipated, although some tension remained. There were then attacks on Asian and other businesses elsewhere in Bradford over the next few days, particularly on the Ravenscliffe Estate on July 9th.

It is usually estimated that 400-500 people were active on the streets on the evening of July 7th, although the number may be considerably higher. Damage to property was estimated at £7.5-£10million.

To date, 307 individuals have been charged with offences arising from the events of 7/7/01, and another 12 in connection with the disturbances in Ravenscliffe.⁵ The first

¹ This section relies on the account given in *Bradford 1 Year On*. It is most surprising that no official enquiry was commissioned by Bradford District Metropolitan Council into the 2001 disturbances. Official enquiries have been conducted by the respective local authorities into the parallel disturbances in both Oldham and Burnley.

² Paper presented by Geoff Robinson to a Programme for a Peaceful City meeting, 7/2/04.

³ *Report of the Bradford Commission* (Bradford: Bradford Commission, 1996), p. 66.

⁴ The individual concerned was subsequently sentenced to 6 months for Affray, with concurrent sentences for other offences. All names of individual offenders are omitted from this report.

⁵ This report is compiled from police records of the response to 7/7/01, cross-checked against the local press, especially the *T&A* and the *Yorkshire Post*. Information on Ravenscliffe comes solely from the press. A number of interviews were also conducted with officers of the criminal justice system, and with one representative of the *Fair*

court appearance took place on Sunday 8th July 2001, the day after the event, with a number of those arrested during the evening of 7/7/01 appearing 2 days later, on Monday 9th July. Court appearances have continued to the time of writing, over three years later. 6 cases out of 307 are still outstanding, and it is not impossible that further arrests will be made, as further evidence comes forward, or new identifications are achieved.¹ 44 Appeals were entered, 1 of which has yet to be heard. The Criminal Justice operation is nevertheless substantially complete, and the information available to date will be used as the basis for the analysis in this report.

The Law of Riot

As the quotation above from the *Fair Justice for All* Campaign implies, the question of justice starts out from the charges brought against the defendants, and in particular the decision made by the authorities to use the charge of Riot.

Such a decision has at least three aspects. The political aspect sometimes involves the desire of local politicians to avoid the label of 'riot' being attached to their area if they can avoid it, because of the negative connotations carried by the word. We have seen here however that neither local or national politicians were inclined to minimise the scale or the significance of the events.

The police aspect includes the fact that the police become liable for claims for damages under the current legislation, once a riot situation is declared. Such a declaration is made by joint decision of the police and the Crown Prosecution Service (CPS). As in every other case, the authorities will also be concerned that there is a reasonable prospect of conviction on any charge that is brought.

The legal aspect arises from a sequence of events in which:

- (1) the police perform the identification of offenders, their apprehension and initial charging;

Justice for All campaign. The authors would like to thank all of these respondents.

¹ A case in point would be the confessions made by British National Party (BNP) members, and recorded in connection with the BBC *Panorama* programme transmitted on 15/7/04.

- (2) the CPS then decides what formal charges to bring to court in relation to the alleged actions and the strength of evidence;
- (3) on a guilty plea (or a guilty verdict) the judge alone decides the sentences within the framework laid down by law.

The current law is the 1986 Public Order Act, together with the Criminal Justice and Public Order Act 1994 and the Crime and Disorder Act 1998. The 1986 Act revised the previous 1936 Public Order Act and followed public disturbances in Southall, Brixton, Toxteth and elsewhere in 1979 and 1981, as outlined below. The new act was not in force during the Miners' Strike of 1984-5 or the Broadwater Farm incident in London in 1985. In fact, until 1986, Riot was a common law offence, as it remains in Northern Ireland, and conviction involved liability to life imprisonment.

Centuries ago, the criminal offence of 'riot' was well known to the judiciary. Later, the Riot Act of 1715 signalled a radical change: that a specific action or intention by a person need not be proved but that mere presence was sufficient for guilt. The 'reading of the Riot Act' dated from this time, when the local magistrate would proclaim the following words loudly at scenes of disturbances involving twelve or more people:

Our sovereign Lord the King chargeth and commandeth that all persons being assembled, immediately disperse themselves peaceably to depart to their habitations, or lawful business, upon the pains contained in the Act made in the year of King George, for preventing tumults and riotous assemblies. God Save the King.²

People then had one hour to disperse. Not hearing the reading of the Riot Act was sometimes used as a legal defence. The last recorded reading took place in 1919, although the Act itself was not repealed until 1967.

The 1936 Public Order Act arose from Oswald Moseley's fascist supporters' march on Cable Street in London in 1936. The Act empowered police to ban demonstrations and also banned political uniforms. It did not deal

² Riot Act 1715, s. ii, 1 George I, C.5.

specifically with riot, an issue that had to await the 1986 Public Order Act. The Act applies to England and Wales. The law in Northern Ireland is different and is discussed in the relevant section below.

The Public Order Act 1986

The English and Welsh Act, under which the Bradford defendants were charged, provides for four main categories of public order offence:

- Section 1 Riot;
- Section 2 Violent Disorder;
- Section 3 Affray;
- Section 4 Fear or Provocation of Violence (“Threatening Behaviour”).¹

The definitions of the offences and their penalties are set out below.

Section 1: Riot

- (1) Where twelve or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using unlawful violence for the common purpose is guilty of Riot.
- (2) It is immaterial whether or not the twelve or more persons use or threaten unlawful violence simultaneously.
- (3) The common purpose may be inferred from conduct.
- (4) No person of reasonable firmness need actually be, or be likely to be, present at the scene.
- (5) Riot may be committed in private as well as in public places.
- (6) A person guilty of Riot is liable on conviction on indictment to imprisonment for a term not exceeding ten years or a fine, or both.

Section 2: Violent Disorder

- (1)-(2) The wording follows Section 1, except that ‘three or more persons’ is substituted in Section 2 wherever ‘twelve or more persons’ occurs in Section 1.
- (3)-(4) Same as Section 1.
- (5) A person guilty of Violent Disorder is liable on conviction on indictment to imprisonment for a term not exceeding five years or a fine, or both, or on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

Section 3: Affray

- (1) A person is guilty of Affray if he uses or threatens unlawful violence towards another and his conduct is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety.
- (2) Where two or more persons use or threaten the unlawful violence, it is the conduct of them taken together that must be considered for the purposes of subsection (1).
- (3) For the purposes of this section the threat of violence cannot be made by the use of words alone.
- (4)-(5) Same as Section 1.
- (6) A constable may arrest without warrant anyone he reasonably suspects is committing Affray.
- (7) A person guilty of Affray is liable on conviction on indictment to imprisonment for a term not exceeding three years or a fine or both, or on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

¹ The other categories of offence, including Section 5 Harassment are omitted here for brevity.

Section 4: Fear or Provocation of Violence

- (1) A person is guilty of an offence if he:
 - a) uses towards another person threatening, abusive or insulting words or behaviour, or
 - b) distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting, with intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be provoked.
- (2) An offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the writing, sign or other visible representation is distributed or displayed, by a person inside a dwelling and the other person is also inside that or another dwelling.
- (3) A constable may arrest without warrant anyone he reasonably suspects is committing an offence under this subsection
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.¹

The Definition of Public Order Offences

First, the 1986 Act contains a detailed definition of violence so as to include any form of violent conduct, for example, 'throwing at or towards a person (or towards property) a

¹ Level 5 on the standard scale is set currently at £5000.

missile of a kind capable of causing injury which does not hit or falls short'.²

Second, the definition of the crimes establish a clear scaling of the offences, from the least serious, Threatening Behaviour, through Affray and Violent Disorder to the most serious, Riot. The maximum sentences are graded correspondingly, from 6 months imprisonment, to 3 years, 5 years and 10 years (possibly including a fine in all cases).

Riot is an indictable offence, and Threatening Behaviour is a summary offence, whereas the two intermediate offences – Violent Disorder and Affray – are 'each-way' offences that may be tried either in the Crown Court or by Magistrates.

The offences are also scaled by the numbers of those involved. Threatening Behaviour is an individual offence. Affray can also be committed by an individual, though it is the concerted action that counts, if more than one person is involved. Both Violent Disorder and Riot must include an element of collective, indeed concerted, action, involving at least 3 people and at least 12 people respectively.³ But there must also be individual participation in the action: *each* person who takes part is guilty separately of an offence.

Although the origins of the 1986 legislation in the ancient law of riot is evident in the reference for instance to twelve persons as the critical number for a riot situation, there are significant differences. Mere presence is no longer sufficient, and to be guilty the individual must now contribute in some way to the collective action that strikes fear into the heart of the hypothetical 'person of reasonable firmness' present at the scene.

² www.rjerrard.co.uk/law/cases.

³ Christopher Allen seems to misunderstand this point of law when he takes Judge Gullick to task for using the phrase 'common purpose' in relation to sentencing (p. 48). In fact, the judge was bound to take the collective aspect into account, since it would be fatal to a conviction under Sections 1 or 2 *not* to establish the existence of a common purpose. This point is further conflated in Allen's analysis with the issue of 'community sentencing', which is taken up in Section 8 below.

Lastly, there is a gradation of the type of action involved in the offences. Threatening Behaviour, as its name implies, involves *threats* of violence, insult or abuse, rather than the actual commission of such acts. Affray, Violent Disorder or Riot, on the other hand, involve *either* the threat *or* the use of 'unlawful violence'.

It is worth pointing out that, although the legislators have provided a schedule of public order offences that are clearly ranked in terms of seriousness, they have left considerable leeway in their detailed specification. This means in practice that the prosecuting authorities enjoy a good deal of discretion in their charging decisions.

If, for example, 13 individuals collectively threatened unlawful violence, they might be guilty of any or all of the four kinds of public order offence from Threatening Behaviour through to Riot (provided that the effects of

their actions were not confined to a dwelling place or places). And the definitions of Violent Disorder and Riot in particular are so similar in form that any person liable to prosecution for Riot is also liable to prosecution for Violent Disorder.¹ Putting the latter point slightly differently, it would seem that the prosecuting authorities will always be in a position to choose Violent Disorder as an alternative charge to Riot, notwithstanding the fact that the latter carries a maximum sentence twice as high as the former.

¹ The converse is not however true: if the problematic gathering involves a number of participants between 3 and 11 inclusive, then the only charge available to the authorities is Violent Disorder, and not Riot.

3. Captured on Film

Operation Wheel and the Charging Decision

Because of the scale of numbers involved, the West Yorkshire Police established a special Bradford-based operation, codenamed Operation Wheel, to deal with the investigation of 7/7/01. Subsequent incidents in Ravenscliffe and elsewhere were dealt with by the usual administrative processes within the police service.¹

It has been mentioned that 307 people were arrested in connection with 7/7/01, of which 6 cases are still outstanding.² Of the 301 cases resolved to date, 45 involve individuals who were not charged subsequent to their arrest. This was mainly because of problems of evidence, including incomplete or mistaken identification. This leaves a total of 256 individuals who were charged and whose cases are now resolved, barring one appeal that has not been finalised. It is with these individuals that we are primarily concerned in the sections that follow.

The 256 individuals were charged with a variety of offences, not only public order offences of the four types identified above, but a relatively small number of other offences – 47 in total – including burglary, theft, handling stolen goods, intimidating witnesses, grievous bodily harm, assault, damage to a motor vehicle, and possession of an offensive weapon. One person was charged with Possession of Cannabis and another with Drunk and Disorderly. The person who received the highest sentence, and who happens also to be the oldest defendant, was not charged with a public order offence. He was sentenced to 12 years for Reckless Arson, in connection with the fire at the Manningham Ward Labour Club.

29 individuals were charged with more than one offence, for example, Riot and Burglary, and two individuals with no fewer than four offences each.³

Table 3.1 lists the principal charges brought against defendants in connection with 7/7/01.⁴

Principal Charge	Number
Section 1: Riot	178
Section 2: Violent Disorder	44
Section 3: Affray	7
Section 4: Threatening Behaviour	11
Other Charges	16
Total	256

Table 3.1: Defendants by Principal Charge

The decision on the existence of a riot was based on the point at which ‘normality ceased to exist’ in the street.⁵ Within a few days of 7/7/01, it was decided that such a situation applied from early that Saturday evening, at around 7.00-7.30 p.m., on White Abbey Road. After that time a person would, if apprehended and found guilty, receive a longer sentence for an action than for the same action performed before that time. Events a day later, after the riot designation had ceased, also carried a lesser penalty. It was not an automatic decision however that everyone present in the ‘riot zone’ of time and place would be charged under Section 1.

The CPS used three key considerations in deciding on Riot charges in individual cases:

- the length of time a person was present at the scene;
- whether there was incitement of others;
- the number and kind of missiles thrown (stones or petrol bombs).

¹ This fact should be borne in mind in drawing any comparisons between the legal outcomes of the two sets of incidents.

² 3 of the 6 defendants are bailed to Crown Court, and 3 on Section 47(3) Bail, 1 for a Recognition Parade and 2 for Further Enquiries.

³ One man was charged with Riot, Failure to Surrender, Damage to a Motor Vehicle and Intimidation of a Witness, and another was charged with Violent Disorder, Possession of an Offensive Weapon, and two counts of Obstructing a Police Officer.

⁴ See Appendix 2.1 for a definition of ‘principal charge’.

⁵ CPS Interview.

As was mentioned above, these charges were brought by the CPS after detailed consultation with the police *in every case*. It is important to emphasise that in order to bring forward public order charges with any prospect of success (thereby satisfying the CPS, let alone the courts) the police had to assemble evidence against each individual separately, albeit in the context of the collective events of 7/7/01. The approach to prosecution could not therefore afford to be 'indiscriminate' as Christopher Allen has alleged in relation to the sentencing.¹

In fact, at least 12 officers were employed full-time on Operation Wheel for well over a year, assembling evidence in individual cases. In practice, this meant analyzing the video sources obtained on 7/7/01, both from the ground and the police helicopter (the 'tele-heli'), and collating this material with other sources of a more familiar kind (arrest records, written statements, forensic evidence and so on). Given the number of cases, this was police work on a semi-industrial scale.

Police created a context video designed to show the overall course of events on the evening of 7/7/01, and a compilation video for each of the accused persons captured on film.² The compilation video was designed to show the part played by the individual as the events unfolded. Images from the video were compiled into 'Wanted' posters that were prominently displayed in Bradford, published in the *T & A*, and available over the internet. Both types of video were replayed in court.

The Importance of Video

It is hard to overstate the importance of the video evidence for the entire course of the criminal justice response to 7/7/01.

Video footage was used as evidence in at least three ways:

- to portray the situation on the streets within which individual offences occurred, above all to satisfy the criteria for the existence of a riot;

- to identify individuals and secure their arrest, especially via the public poster campaign;
- to establish each individual's direct participation in unlawful activity.

Without this evidence, it would not have been possible to proceed with Riot charges in the same way, whatever judgement was made about the inherent seriousness of the events of 7/7/01.

From an inspection of police records, it is possible to infer that:

- nearly every prosecution relied to some extent on the video evidence;
- the more serious the public order offence, the heavier the reliance on video.³

It is quite possible that no Riot charges at all could have been brought with any prospect of securing a conviction in the absence of video, and very likely that the number of such charges would have been heavily restricted, to a maximum of about 20 cases, rather than the 178 which were in fact brought.

It would be wrong nevertheless to conclude that technology is the sole factor in this outcome. The other key factor is the response to the poster campaign, and the co-operation enjoyed by the police more generally from the public, above all from the Asian population of the city. If people had not been prepared to turn in their relatives and acquaintances, or to encourage the defendants to give themselves up to the police, the poster campaign would not have worked, and the collation of video evidence might have been in vain.

Indeed, it is possible that the criminal justice outcomes of 7/7/01 reflect a special set of historical circumstances in which:

- surveillance technology had developed to the point at which it produced evidence useable in court;

¹ Allen, p. 46.

² The context video lasts about 20 minutes. It has been viewed by one member of the research team (AC), but deliberately not by other members of the team.

³ See Appendix 2.3.

- participants in a public disturbance had not learned the importance of disguising their identity, especially by covering the face;¹
- the sections of the community from which the participants were drawn were broadly supportive of the Criminal Justice response, even when this ran directly counter to the interests of their relatives or acquaintances.

This point suggests that it would be unwise to see surveillance technology as a panacea for public order problems. The technology will not work, even in narrow legal terms, unless it operates against the background of broad consent for the criminal justice process. And the latter is bound to be affected in the future

by the perceived outcomes of prior process, especially those as prominent as the 7/7/01 prosecutions.

This is why the justice or otherwise of the sentencing remains such an important issue of both policy and public perception.

¹ Legal powers to deal with this situation are available under the Crime and Disorder Act 1998, summarised in Appendix 3.1. No-one was prosecuted for these offences in connection with 7/7/01. Although there may have been some cases in which identity was successfully concealed, the general impression from the video evidence is that participants did not make concerted attempts at concealment.

4. The Profile of Defendants

Gender and Ethnicity

All but two of the defendants are male.¹

The ethnicity of defendants is a question of some interest on which it is not easy to give a definitive answer, in terms of either fact or interpretation. The difficulty on the first point arises because the police records do not contain either complete or (in some respects) adequate information on the ethnic background of defendants. The difficulty on the second point arises because it is not entirely obvious which kind of ethnic description is the most relevant to the issues raised in the report, and where the relevance might lie.

In the discussion so far, we have followed the usage current in Bradford of referring as 'Asian' to members of the population who have, or whose families have, emigrated to the District from the Indian subcontinent over the last half century or so.

On this basis, the evidence available suggests that:

- about 90% of the defendants were of Asian background;
- nearly all the remainder were white.²

On the other hand, the 'Asian' designation may be criticized as being either too broad to be meaningful – even if it were reduced in geographical scope by using the related form of 'South Asian' – or as being positively misleading, if the term 'Asian' includes groups who are represented in the population of the District, but not represented (or not to the same extent) among the defendants.

An alternative is to use a national designation such as 'Pakistani', but this seems flawed in the current context because the

information on national identity is not available for individuals and may be misleading as a generalization – what about the defendants (if any) from backgrounds in Bangladesh?

Any national designation will also tend to single out issues of nationality and citizenship that may be either irrelevant to the context or misleading in another way (because very many of the defendants are likely to be UK citizens, regardless of the national origins of either themselves or their families).

A final possibility is to use a religious term to describe minority ethnic background, such as 'Muslim', 'Hindu' or 'Sikh'. There is certainly a general feeling that religion is becoming a more important point of reference for personal and social identity in the District, and that in the longer run it may become the most important source of identity among the members of some religious groups.

The use of religious labels is nevertheless fraught with difficulty in the present case. First, comprehensive and reliable information on faith identity does not exist on individual defendants, even though it may be inferred (from personal names and informal knowledge) that the majority of the Asian defendants are probably of Muslim faith background.

But this problem in relation to fact is compounded by the problem of interpretation and meaning. Bhikhu Parekh was quoted at the outset of the report to the effect that the Bradford disturbances constituted a 'Muslim riot'. From what has been said, it may be true that there was a 'Muslim riot' in the sense that a majority of the participants were probably Muslim. But, how, if at all, is this probable fact relevant? What link, if any, is being asserted between the religion and the riot by making this verbal connection?

We are not in a position to shed any further light on this issue, for the reason mentioned above that we have no additional information to contribute on the beliefs, attitudes or motivations of the participants of 7/7/01. This point should be borne in mind

¹ The two women include one identified as African-Caribbean, who was sentenced to 4.5 years imprisonment for Riot. Another has an Asian surname and was fined £200 (with £40 costs) for Obstructing the Police, in connection with hiding an offender.

² This corresponds with the figure given by Allen, p.8. See Appendix 2.4 for further discussion of the evidence that lies behind these assertions.

throughout the discussion of the ethnic dimension of the disturbances, where the term ‘Asian’ will continue to be deployed as the least unsatisfactory of the available alternatives.

The Age Profile

Table 4.1 summarises the age profile of the defendants, as it stood on 7 July 2001.

Age Range	No. of Defendants
13-14	11
15-17	58
18-20	73
21-26	75
27-31	20
32+	19
Total	256

Table 4.1: Defendants by Age

The mean value of the age distribution is 21.4 years and the median age is 20. The two oldest defendants are 46. The 69 juveniles (those aged 17 or less) comprise just over a quarter of all defendants (27%).

It must be a serious concern that boys as young as 13 or 14 were caught up in the prosecution process. This concern is heightened by the realization that *the younger defendants tended to face the more serious charges.*

This correlation is reflected in the fact that the proportion of juveniles amongst those charged with Riot, just over a third, is considerably higher than the proportion of juveniles among all defendants, just over a quarter, as reported above. The information in Table 4.2 reinforces the conclusion, by showing the variation in the average age of defendants for each category of offence.¹

¹ This information requires careful interpretation in relation to the circumstances of arrest. Most of the charges for Affray, for example, arose from incidents in the city centre that preceded the main disturbances. And a larger proportion of those charged with Threatening Behaviour were arrested on the night (see Table A1). The ages of those involved suggests a pattern in which older men start the trouble, and younger men bear the consequences, but this hypothesis has not been checked for statistical significance.

Principal Charge	Mean Age
S.1 Riot	20.2
S.2 Violent Beh.	21.6
S.3 Affray	29.6
S.4 Threat. Beh.	26.6
Other	26.9
All charges	21.4

Table 4.2: Mean Age of Defendants by Principal Charge

It should be emphasised however that, although all the public order charges were available to the authorities for all age groups under the 1986 Act, both the court process and the sentencing policy were very different for the juvenile defendants, especially the youngest among them. This point is developed in subsequent sections.

Place of Residence

The 2001 disturbances took place in the Manningham area, about 1.5 km. from Bradford city centre. Manningham is one of several distinct residential areas that comprise Bradford’s inner city ‘ring’. These areas shade into suburbs that can have a distinct identity (as ‘urban villages’), but remain contiguous with urban Bradford as a whole. The Bradford Metropolitan District is the administrative area of local government. It extends over a much larger area of moorland and dales to the North and West of the city, including distinct urban centres such as Bingley, Ilkley, Shipley and Keighley.

Given this sketch of the topography, the question to be answered is that posed implicitly by Bhikhu Parekh in the opening quotation of this report: how local was the riot?

The answer suggested by the information in Table 4.3 is ‘very local indeed’.²

Almost 40% of the defendants live in the Manningham area itself, within about 1.5 km. of the epicentre of the disturbances. 80% come from Inner Bradford, 92% from the Bradford District, and no less than 97% from West Yorkshire.

² Bagguley and Hussain (pp. 11-12) are slightly misleading on this point.

Area	No.	Cum. ¹
Manningham Area ²	98	
Horton Area	52	
Leeds Road Area	31	
Bowling Area	19	
Undercliffe Area	6	
Inner Bradford		206
Thornbury	9	
Other Urban Bradford ³	8	
Urban Bradford		223
Keighley	9	
Other Bradford District ⁴	3	
Bradford District		235
Halifax	7	
Other West Yorkshire ⁵	8	
West Yorkshire		250
Other Places ⁶	6	
Total	256	256

Table 4.3: Defendants by Place of Residence

On the one hand, it might be natural to expect that a disturbance of this kind would draw on its immediate vicinity, and that, given the ethnic composition of those charged, the geographical distribution would follow the main contours of Asian residence within Bradford.

On the other hand, it seems that the geographical distribution is even more concentrated than these considerations would suggest. The defendants' profile is both localized *to* Bradford and localized *within* Bradford. Some of the omissions are quite surprising. Whole areas of the city are hardly represented. And this pattern is even more

¹ This column gives the cumulative total of figures in the column to its left.

² Because the boundaries of Manningham are not entirely distinct, a composite 'Greater Manningham' is represented in the Table, which includes (with due apologies to their residents) the adjacent areas of Girdlington, Toller Lane, Heaton and Frizinghall.

³ Allerton (1), Buttershaw (1), Holme Wood (2), Laisterdyke (2) and Odsal (2).

⁴ Bingley (2) and Shipley (1).

⁵ Pudsey (2), and one each from Dewsbury, Heckmondwyke, Huddersfield, Knaresborough, Leeds and Rodley.

⁶ One each from Bridgend (S. Wales), Derby, Epping (Essex), Nelson, Oldham and Scarborough.

marked looking further afield. There is only one defendant each from Leeds, Huddersfield, and Dewsbury. There are none from Wakefield. Perhaps most noteworthy of all, given the background to 7/7/01, there are only two from trans-Pennine Lancashire as a whole, and none from Burnley. A greater number might have been expected from Keighley, given the size of its Asian population. And there are none at all from Leicester, Manchester, Sheffield, Birmingham or London.

Practical problems of communication are no doubt a factor here, but mobile phones were widely available in 2001, the disturbances took place over a period of at least 8 hours, with national publicity, and an atmosphere of tension had been building up over the previous days, well in time for interested individuals to travel from a distance to the city.

It may be incautious to infer too much from data on defendants to patterns of participation in the events of 7/7/01 themselves. Perhaps it was easier for those outside Bradford to escape detection, for example by evading the poster campaign.⁷ The strong impression is left nevertheless that the disturbances mobilized individuals from very specific local networks, confined to particular areas, and perhaps particular streets and particular families. The geographical profile yields almost no evidence of 'outside agitation', at least as far as the events in Manningham are concerned.⁸ And there must be a corresponding concern that the longer term impact of 7/7/01 will be concentrated in highly specific quarters of the city, especially as residents begin returning to their families and neighbours after serving custodial sentences.

⁷ There are however only 7 identifications outstanding from the posters issued by police. So if those from outside the city did find it easier to escape detection, their maximum numbers must be very small.

⁸ There is evidence of such agitation in the city centre events prior to the main disturbances, especially in relation to one defendant from Scarborough.

Employment Record and Previous Convictions

The evidence set out in Appendix 2 (Table A3) states that about 20% of the offenders were students. Almost 60% of the non-students were unemployed, with just over 40% employed. A considerable majority – 62% – were also known to the police, either because of previous convictions, or through lesser sanctions including police cautions and reprimands. Almost a third of the defendants were *both* unemployed and known to the police. 74 of those known to the police, about a quarter of all the offenders, had drugs-related offences in their records.¹

The *Fair Justice for All Campaign* has stated that '[t]hose convicted were:

- In full time employment or education
- The main breadwinners of their families – their sentencing has left families economically stranded
- First time offenders who gave themselves up to police'.²

This statement may be assessed in the light of the facts presented above. First, the evidence shows that the level of unemployment is strikingly high – over 40% of *all defendants* were unemployed persons. Given the age profile as well, and the number of students, it seems very

unlikely that a majority of those involved were 'the main breadwinners of their families' at the time of the disturbances. And it is equally clear that the majority were not 'first time offenders'.³

This finding does not invalidate the depth of concern felt by the *Fair Justice for All Campaign*, but it does perhaps alter its point of incidence.⁴

¹ Note that these figures apply to the 304 individuals arrested, not the 256 individuals subsequently charged. See Appendix 2.6 for further details.

² *Fair Justice for All Campaign* leaflet.

³ Allen echoes the *Fair Justice for All Campaign* in saying that 'many were first-time offenders' (p.8). That is undoubtedly true. It is also true that *most* were not. It may be however that the information about previous offences was not available to the authors at the time these statements were written, because it only emerged during the later stages of the legal process.

Bagguley and Hussain (p. 11) claim that '90 per cent had no criminal convictions reported by the newspaper at the time of their sentencing'. This claim is based on a smaller sample of cases, and it may be simply that press reports omitted details of the defendants' previous records.

⁴ A full treatment of the disturbances would for example need to explore the significance of the criminal antecedents of the defendants.

5. The Criminal Justice Process in Bradford

The Court Process

The rules of thumb adopted by the prosecuting authorities were evidently that:

- young defendants would be tried in the Youth Court;
- adults charged with more serious offences, especially Riot, would be tried in the Crown Court;
- adults charged with lesser offences, such as Threatening Behaviour, would be tried in the Magistrates' Court.

These rules are in line with the statutory definitions of the various offences [see Section 2 above]. In practice, however, these lines were blurred. 3 young people were tried at Magistrates' Court, including 2 charged with Riot. No fewer than 20 young people were tried in Crown Court, the youngest aged 15, on charges either of Riot (18 cases) or Violent Disorder (2 cases).¹

Among the adults, one defendant (out of 178) was tried for Riot at the Magistrates' Court rather than the Crown Court. And one defendant (out of 11) was tried for Threatening Behaviour at the Crown Court rather than the Magistrates' Court. It is not entirely clear why these variations in procedure occurred, and what effect the varied procedure may have had on the resolution of the cases involved.

44 of the defendants were granted leave to Appeal against their sentences, all except 4 involving Riot convictions. Of these Appeals, 16 were upheld, and the average reduction in sentence in the successful cases is just short of 12 months.² 8 juveniles entered Appeals, of which all but one were successful. These cases include three 14-year old defendants who were given Absolute Discharges from custodial sentences of 18 months because of their age,

¹ Further details are contained in Appendix 3, Table A6.

² This is calculated from the data in Appendix 3, Table A8.

their lack of previous convictions, and the judgement that they posed no risk.³

Judicial Outcomes

The record of convictions is summarised in Table 5.1.⁴

Principal Charge		Not Convicted	Convicted
S.1	Youth	5	56
	Adult	3	114
S.2	Youth	1	5
	Adult	8	30
S.3		1	6
S.4		2	9
Other	Youth	1	1
	Adult	4	10
	Total	25	231

Table 5.1: Convictions by Principal Charge

The 'Not Convicted' category includes Not Guilty Verdicts (1), cases Withdrawn (6) or Discontinued (9); Absolute (3) or Conditional (2) Discharges, Suspended Sentences (1), and Curfew Orders (1). The two deceased defendants are also listed under this heading.

Sentence	Youth	Adult
Prison	12	110
D & T⁵	36	0
Community Orders	8	4
Total	56	114

Table 5.2: Age of Defendant by Type of Sentence for Riot

Table 5.2 sets out the types of sentence passed on those convicted of Riot (Section 1), and Table 5.3 gives the same information for Violent Disorder offences (Section 2).

³ *T&A*, 17/8/02. The other 3 defendants of the same age received Detention and Training Orders, either of 12 months (1 case) or 18 months (2 cases).

⁴ See Appendix 3, Table A9 for more detail.

⁵ 'D&T' refers to Detention and Training Orders.

Sentence	<i>Youth</i>	<i>Adult</i>
Prison	0	22
D & T	3	1
Comm. Ord.	2	7
Total	5	30

Table 5.3: Age of Defendant by Type of Sentence for Violent Disorder

There were smaller numbers of convictions for Section 3 Affray (6) and Section 4 Threatening Behaviour (9), all involving adults, and these resulted in only 3 custodial sentences, the longest term being 6 months' imprisonment (2 cases). There were 5 Community Orders issued in connection with Affray, and 3 for Threatening Behaviour. The remaining 4 offenders convicted for Threatening Behaviour were fined amounts ranging from £100 to £250.

In terms of Community punishments, the maximum sentence for a Community Service Order was 200 hours, and the maximum period for a Community Rehabilitation Order was 2 years. Concern over sentencing has understandably focussed on the custodial sentences passed in relation to the two most serious public order offences, involving 158 individuals convicted of Riot (including 48 juveniles, and probably 7 non-Asians), and 26 convicted of Violent Disorder (including 3 juveniles, and probably 3 non-Asians).

The Length of Custodial Sentences

40 Detention and Training Orders were issued, all but one to Juveniles, 36 in connection with Riot and 4 for Violent Disorder. The lengths of the sentences are listed in Table 5.4.

There is a strong suggestion here of a 'standard sentencing policy' in which a young person convicted of either Riot or Violent Disorder, and detained but not imprisoned, should serve out an order of either 12 months or 18 months duration, presumably reflecting the perceived gravity of the offence.¹ A two-

¹ Of those convicted for Violent Disorder, the sentences were 6 months (1), 12 months (2) and 18 months (1). There seems little tendency to treat Riot as a more serious offence than Violent Disorder for this group of offenders.

Length of Order (Months) ²	<i>No. of Orders</i>
6	2
12	14
15	1
18	22
24	1
Total	40

Table 5.4: Detention and Training Orders by Length of Order

year Order, given in one case, is the maximum sentence for this offence. The mean sentence is just over 15 months.

It was noted above that a number of young people were sent to Crown Court rather than Youth Court. All those imprisoned for Riot (as opposed to receiving D&T Orders) followed this route. The youngest was 16. Their sentences are set out in Table 5.5.

Length of Sentence (Months)	<i>No. of Convictions</i>
6	1
9	1
10	1
12	3
18	4
52	1
54	1
Total	12

Table 5.5: Juvenile Prison Sentences for Riot by Length of Sentence

Once again, there is the suggestion of a 'standard sentence' of either 12 or 18 months. The exceptions are the two long sentences of over 4 years, both given to 17-year old offenders. Other than these two cases, it does not appear that the treatment of young people differed greatly, whether they were sent to Youth Court and given Detention and Training Orders, or sent to Crown Court and given Prison sentences. But it is again not clear why this variation in procedure took place.

² Note that the information listed in this and subsequent Tables takes account of the results of all the Appeals concluded to date.

Length of Sentence (Months)	No. of Convictions
1	1
6	1
9	3
11	1
12	4
15	1
18	3
21	1
24	5
36	2
Total	22

Table 5.6: Adult Prison Sentences for Violent Disorder by Length of Sentence

Turning to the adult defendants, Table 5.6 reports the sentences for Violent Disorder. Here there is a considerable range of sentences, from 1 month up to 3 years, bearing in mind that the maximum sentence for this offence is 5 years. There is less of a sense of a ‘standard sentence’ in these cases, although many were similar in length to the sentences given to juveniles for the more serious public order offences (either Violent Disorder or Riot). Age does not seem to make a big difference in this respect.

This pattern is not repeated in the adult sentencing for Riot, summarised in Table 5.7.

Length of Sentence (Years)¹	No. of Convictions
1 or less	5
2	6
3	14
4	20
5	51
6	6
7	3
8	3
9	2
Total	110

Table 5.7: Adult Prison Sentences for Riot by Length of Sentence (Summary)

¹ Note that the entry in the Table for, say, 2-year sentences refers to all sentences of greater than 1 year, up to and including 2 years, and similarly for other entries. The full data is given in Appendix 3, Table A10.

The first point is that the sentences are very much higher for this group of offenders than for either a) young offenders convicted of Riot or b) adults convicted of Violent Disorder. The average sentence of adults for Riot is just under 4 years and 3 months, whereas it is around 18 months for the other two categories of sentence – almost a three-fold difference in the length of sentence.²

It is evidently the *combination* of age (adult status) and charge (Riot) that has made the difference to sentencing policy. And it should be borne in mind that the decision to use the Riot charge rather than Violent Disorder charge has more to do with the discretion of the authorities than the inherent difference in the definitions of the crimes.

The second point is that there is nevertheless a huge variation in the sentencing of adults for Riot. The custodial sentences cover almost the entire range available, from 10 months up to 9 years, where the maximum sentence is 10 years. And the lowest non-custodial sentence is 200 hours Community Punishment. To re-emphasise a point made earlier, this sentencing is very far from ‘indiscriminate’.³

The third point is that, although there is some sense nevertheless of a ‘standard sentence’, this does not conform exactly to the 5-year sentence imposed in the ‘tariff-setting’ case. The most common sentence is of 4 years 6 months (27 individuals). We have seen that the mean sentence is approximately 4 years 3 months. There are only 14 sentences longer than 5 years, with no less than 85 sentences of shorter duration: the tariff-setting sentence is by no means in the middle of the distribution, but towards the higher end.

² The mean values of the distributions of prison sentences are: adults for Riot, 50.4 months; juveniles for Riot or Violent disorder, 19.9 months; adults for Violent Disorder, 17.0 months. The difference between the adult Riot sentences and the others is significant at the 1% level. See Appendix 2.7.

³ Allen, p. 46.

Ravenscliffe

A disturbance took place on the Ravenscliffe estate in Bradford on Monday July 9th. 2001.

According to press reports, 12 people were charged in connection with these events, 10 for Violent Disorder, and 2 for Stone Throwing. Two of these offenders were juveniles, and the average age of the adults is 19.0. Judging by names, all the adults were male, and were probably white. 2 of the Violent Disorder cases were dropped for lack of evidence, and the outcome of the two Stone Throwing cases is not known. One offender was placed on probation, and the remaining 7 were sentenced to prison, for terms listed in Table 5.8. The only juvenile imprisoned, a 16-year old, received the shortest term: 4 months.

Length of Sentence (Months)	No. of Convictions
4	1
12	1
18	2
21	1
22	1
36	1
Total	7

Table 5.8: Convictions for Violent Disorder by Length of Sentence, Ravenscliffe

Comparison of Table 5.8 with Table 5.6 shows that the *range* of sentencing for Violent Disorder (up to 3 years) is very similar for the events of 7/7/01 and 9/7/01. Although the numbers involved are too small for conclusive comparisons, the *average* sentence for adults convicted for Ravenscliffe (21.2 months) is nevertheless higher than the average sentence of those convicted for the same offence for actions that took place in Manningham two days earlier (17.0 months).

This comparison goes against the suggestion that the largely Asian defendants in Manningham were treated more harshly than their presumptively white counterparts in Ravenscliffe, *given the charges they faced*.¹ Any differences hinge on the use of the Riot charge in Manningham, which was not used in Ravenscliffe.

This point will arise again in the comparisons with other incidents to be discussed below, first from the UK, and then internationally.

¹ The difference in mean values is not significant at either the 1% or the 5% levels, which should induce great caution in any inferences to be drawn of differential treatment. See Appendix 2.7. It also seems that the difference in the way the West Yorkshire police administered inquiries into the two incidents did not have a differential impact on the judicial outcomes in this respect.

6. National Comparisons: the UK

Burnley, 2001

The Burnley disturbances took place a couple of weeks before Bradford's, on 22nd-24th. June 2001. A total of 48 people there were jailed, approximately half and half between whites and Asians. Most were for Violent Disorder, and there were no Riot charges. The sentence lengths tended to be longer for whites, up to 5 years, than for Asians, with some of the latter sentences being halved on appeal. The Police and the Crown Prosecution Service worked together for consistency of charging, and most charges used video footage as evidence. All the cases were heard before Judge Openshaw at Preston.¹

The accused were initially offered one third off if they pleaded guilty, this being reduced the closer it came to the trial. Whites largely pleaded guilty – many had previous convictions and were known football race hooligans. Asians were mainly first offenders, and were all represented by one firm of London solicitors. Some pleaded not guilty and were acquitted on some charges.

On the sequencing of the court cases in Burnley, first all the whites were dealt with and then all the Asians. The reason for this separation was that the Crown Prosecution Service there wanted to minimise the risk of disturbances in and around the area of the court. However, this policy was not assessed for its adverse effect on the town as a whole. It resulted in a negative impact all round, both on the white population and (separately) on the Asian population – the whites because they were seen to take all the initial blame, and the Asians because they were kept waiting a long time.

In fact, in Burnley, this issue of the length of time taken for the cases to be brought, plus the fact that the media concentration was first all on one set of offences, and then all on the other, was probably a more significant local issue than that of the sentencing length.

¹ *This is Lancashire*, 9/3/02 and 5/11/02.

In addition, that some Asians had their sentences reduced on appeal (the claim of defence of an area seems to have been accepted) was seen as being a 'let off' and didn't go down too well with some whites.²

So although the legal process may have been correct, the end result was seen as unfair by some whites. The further rise of the local BNP came very soon after the disturbances so that took over as an issue rather than that of the sentencing.³

Oldham, 2001

The Oldham disturbances took place earlier still in the same year, in late May 2001. The events were spread over a week, especially on 26th May. A formal declaration of riot was made. The offices of the *Evening Chronicle* local paper were attacked. Twelve whites arrested were initially charged with Riot but the judge considered that their violence was not at that level, nor at the Violent Disorder level, and they were all charged with the lesser offence of Affray.⁴

Around 50 Asians were initially charged with Riot, with around two-thirds being sentenced for this. There was insufficient evidence on that charge for the rest. Many sentences were around 2-4 years and were given after the initial Bradford cases had been heard.

No local campaigning group regarding the sentences was established in Oldham.

Leeds, 2001-2003

A month before the Bradford disturbances there was substantial disorder in the Harehills district of Leeds, this being in early June 2001. There was much anger directed to the police following allegations of excessive force being

² For the area-defence argument, see *This is Lancashire*, 7/5/03.

³ *Guardian*, 11/9/02 and data from police.

⁴ *Independent Race & Refugee News Network*, 19/6/03 and *The Asian News*, 26/6/03.

used to arrest an Asian man for a driving offence. In due course, some 25 men, almost all Asian, pleaded guilty to Violent Disorder in March 2002. The Riot charge was not brought. Sentences ranged from 9 months to 3 years and up to 5 and a half years. There were no appeals.¹

The initial concern at the sentencing levels was compounded later in the year following the Leeds' Temple Newsam music festival substantial disturbances of August 2002. The Riot charge was not brought although some 200 youths were involved. Missiles were thrown at the police. The 8 whites found guilty of Violent Disorder were given community service orders and fines. It was the same judge for both the 2001 and 2002 Leeds disturbances.²

A group of young Asian men met together in Leeds to review that difference in sentencing. Although a meeting was eventually held with the CPS it brought no further understanding of the differences in sentencing than was already publicly known.

A disturbance also took place in the Gipton area of Leeds on the evening of Sunday, 8th September 2003, when 'scores of [police] officers in full protective clothing and with riot shields tackled an estimated 200 youths as they went on the rampage across the estate' over a period of 'six hours of mayhem'.³ It is not known whether public order charges were brought in relation to this disturbance, but Gipton is perhaps typical of incidents taking place from time to time that are serious in themselves, but fall below the radar screen of national media publicity and intensive social or political concern.

Manningham, 1995

A significant disturbance took place in Manningham in 1995, close to the scene of the 2001 events, and sparked off by an incident of police arrest. About 300 youths were involved on one night, fewer on the others.⁴ There was

no element of provocation from the far-right at the time. Four people were given prison sentences (including one of 12 months for robbery). The remaining 12 people convicted were given detention orders for a range of offences, including arson, robbery and Violent Disorder.⁵ A further 12 of those arrested had their charges dropped or were later cleared. Also, the CPS decided not to prosecute officers accused of being heavy-handed.⁶ The charge of Riot was not used on that occasion.

These events six years earlier raise two questions in relation to the disturbances of 2001. The first is the issue of comparative treatment, similar to the issue raised by the other cases in this section.

The second issue is more specific, and concerns the extent to which the low-key response of the criminal justice system in 1995 affected the climate of expectations in which the later events took place. Were those involved in 2001 led to believe that the state would not react very sharply to public disorder in the Manningham area? And does this perception help to explain some of the sense of shock experienced when the 2001 sentences became known?

We offer these questions as hypotheses for further research, since we have obtained no data bearing directly upon them in the course of the current enquiry.

The 1980's Riots: Brixton, Toxteth and elsewhere

There were riots in Southall in 1979 (which initiated the start of the legal review leading to the 1986 Public Order Act), in Toxteth⁷ (Liverpool) and Brixton in London, in Bristol, Manchester, Birmingham and Wolverhampton in 1981, as well as in other places. These were substantial events, which dominated the UK social and political scene during that time. They gave rise to the 1981 *Scarman Report* on social and economic regeneration needs. Later came the Miners'

¹ *BBC News Online* 7/3/02.

² *BBC News Online* 18 and 19/2/03.

³ *Yorkshire Evening Post*, 9/9/03, www.leadstoday.net.

⁴ *Report of the Bradford Commission*, p. 66.

⁵ *Report*, p. 66.

⁶ Nighat Taimuri, *The June 1995 Manningham Riots: Root Causes and Future Directions* (Bradford: University of Bradford M.A. Thesis, 1996), p. 29.

⁷ *BBC News Online*, 4/7/01, 'Toxteth riots remembered'.

Strike of 1984-85 and the Broadwater Farm riots in London in 1985.¹

The older 1936 Public Order Act was in force at the time for all these events, and was seen early on as inadequate to deal with the situations, hence its review. However, it was not until 1986 that the new and current Public Order Act came into force.

The *Scarman Report* had concluded that it was a riot in Brixton, saying that ‘the riots were essentially an outburst of anger and resentment by young black people against the police’.² Scarman also noted, somewhat with surprise, that no one was prosecuted for Riot. He said Riot was defined legally at that time as ‘a tumultuous disturbance of the peace by three or more persons assembled together with an intent mutually to assist one another, by force if necessary, against anyone who opposes them in the execution of a common purpose and who execute or begin to execute that purpose in a violent manner so as to alarm at least one person of reasonable firmness or courage’.³

It appears that no one was charged with Riot for any of these major inner city disturbances of the 1980s. The most common charges were theft and obstruction, with custodial sentences being relatively limited.

During the Miners’ Strike in June 1984, 80 coalminers were initially charged with Riot following clashes with police and pickets at the Orgreave Coking Plant. There were 859 injuries to police officers (12 serious), 21 police station buildings had windows smashed and there were 206 incidents of police vehicle damage. All those charged were acquitted, but bound over to keep the peace, largely because of the poor and inconsistent quality of the evidence from both the police and the BBC, including allegations of film footage presented out of sequence.⁴

¹ Richard Vogler, *Reading the Riot Act: The Magistracy, the Police and the Army in Civil Disorder* (Milton Keynes: Open University Press, 1991).

² Rt. Hon. Lord Scarman, *The Brixton Disorders 10-12 April 1981* (London: HMSO, 1981), p. 121. [*The Scarman Report*].

³ *Scarman*, p. 42. This pre-1986 definition of Riot is closer to the current definition of Violent Disorder.

⁴ Jonathan and Ruth Winterton, *Coal, Crisis and Conflict: The 1984-85 miners’ strike in Yorkshire*

The 1991 Disturbances

According to Beatrix Campbell,

at the end of the summer of 1991 riots exploded in Britain. Fires and fighting bled across municipal suburbs in Cardiff, Oxford and Tyneside and angry young men made their mark on history. Nearly five hundred of them were arrested during street spectacles which cost their communities an estimated £12 million.⁵

The 75 arrests on the Ely estate in Cardiff arose from an incident with racist undertones, directed against an Asian shopkeeper. The 83 arrests in Blackbird Leys in Oxford were connected with the police attempt to control joyriding in cars around the estate. The balance of the arrests – over 300 – occurred in the North East, and arose from a series of incidents over a week, which started in the Meadowell/Ridges estate in North Tyneside and then spread to Elswick and Scotswood, in Newcastle itself. These events did not originate in a racist incident, but subsequently acquired racist (anti-Asian) overtones.

Campbell does not give much information on the charges faced or the judicial outcomes in any of these cases, but the impression is that the more serious public order charges – above all, Riot – were not used,⁶ even though the 1986 Public Order Act would have been available to the authorities.

Millwall, 2002

Millwall’s home football game against Birmingham City in May 2002 saw considerable violence outside the Millwall ground, with 100 police officers injured. Reportedly around 900 people attacked the police and threw missiles. The situation, lasting for an hour and a half, was not declared a riot. It was labelled ‘recreational violence’ by the police. A number of people

(Manchester: Manchester University Press, 1989), p. 168.

⁵ Beatrix Campbell, *Goliath: Britain’s Dangerous Places* (London: Methuen, 1993), p. ix.

⁶ See for example Campbell, p. 47.

were subsequently convicted of Violent Disorder, with sentences of up to two and a half years.¹

Wrexham, 2003

Over the summer of 2003 there were a number of serious public order incidents in towns across Britain involving attacks on refugees and asylum seekers or clashes between what was generally termed ‘local men’ and refugees. The most widely reported events were the riots in Wrexham in June, although this was not an isolated occurrence.

The rioting in Wrexham occurred in the Caia Park estate on 22nd and 23rd June 2003.² The disturbances appear to have begun with a dispute between ‘local men’ and Iraqi Kurdish refugees living on the estate. This quickly erupted into hand-to-hand fighting involving around forty people, one Iraqi Kurd ended up in hospital with serious head injuries. The following night further rioting broke out with around 200 local youths confronting riot police, many of whom were brought in from neighbouring forces. Petrol bombs were thrown, property was attacked and four police officers were injured. Intensive policing of the estate and work by local people seems to have prevented any further outbreaks of violence.

The disorder was variously blamed on racism, disaffected young men, alcohol, the British National Party and poor policing. Some people claimed tensions had been rising for some time; others said the violence was unexpected. Many, if not all, of the refugees moved out of the estate as a result of the attacks. By the end of the following week 73 people had been arrested and 54 had been charged with various public order offences.

Following the violence in Wrexham, stories began to emerge of other incidents involving refugees in places as diverse as Derby, Doncaster, Dover and Plymouth. On 25th July violent disorder involving ‘local men’ and Iraqi asylum seekers broke out in the centre of Hull.³ This followed a period of

increasing attacks on refugees in the area. Twelve men, four whites and the remainder Iraqis, were arrested following the violence. A public protest against the violence, organised by the Iraqi community a few days later, attracted around 200 people.

The Wrexham cases came to court in October 2003. All 24 defendants admitted Section 2 charges of Violent Disorder, and 4 also admitted charges related to petrol bombs.⁴ They all received custodial sentences, averaging 28.9 months. Data on the sentences received by adults is set out in Table 6.1.⁵

Length of Sentence (Months)	No. of Convictions
8	1
12	1
18	2
24	4
36	3
48	3
60	1
Total	15

Table 6.1: Adult Convictions by Length of Sentence, Wrexham⁶

The average sentence for adults is 30.9 months, and for juveniles 25.5 months.

There were three further trials relating to the disturbances in Caia Park. In December 2003 seven men were charged with Affray for their involvement in events on the first night of the violence, and received average sentences of 15 months. In February 2004 seven Iraqi Kurds received an average sentence of 5 months for their involvement in the disturbances on the first night, while two other Iraqis were acquitted. The final trial in March 2004 resulted in the conviction of ten more ‘local’ males. Nine adults received sentences of between 10 and 18 months for

⁴ There were 22 males, including 7 juveniles, and 2 young women under 18. None had Iraqi names.

⁵ The 5-year conviction is for petrol bombing, and the remainder for Violent Disorder. Information on the sentences of the young people is constrained by the Child and Young Persons Act 1933. See Appendix 2.7 for statistical significance.

⁶ Data supplied by The Court Service, Wales and Chester Circuit. See also *Daily Post*, 23/10/03, icnorthwales.icnetwork.co.uk.

¹ *BBC News Online*, 13/9/04 and *Guardian*, 4/5/02.

² *Guardian*, 24-26/6/03. See also *BBC News Online* for numerous reports.

³ *Observer*, 29/6/03; *Guardian*, 28/7/03.

unspecified public order offences, while a 13-year old boy was given a supervision order.¹

The evidence from the four court cases relating to the Caia Park riots indicates that the disturbances on the second night involving clashes between local people and the police were treated more seriously than the events on the first night when the disorder involved 'local people' and refugees. The first night involved fighting between rival gangs of males, while the disorder on the second night involve the use of petrol bombs and attacks on property and the forces of the state. The disturbances on the first night involved charges of Affray, while the events on the second night involved the use of more serious public order offences, although reports do not indicate that anyone was specifically charged with Riot.

In each of the trials some considerable emphasis was placed on the fact that the individuals who were charged were clearly identified from police CCTV images and their actions were thus also clearly visible. In one case the judge commented that the pictures of the riot emulated 'the worst scenes in Belfast 25 years ago'. It is therefore worth noting that the police in Northern Ireland have also come to rely increasingly on video footage to identify those involved in rioting and disorder and to determine the appropriate charges they would face. It is increasingly evident that the charges that people involved in public disorder are likely to face in court, and the willingness of the court to convict and sentence, appear to be largely determined by those actions which are captured on film or tape. This national pattern reflects the findings noted above for Bradford.

Conclusions for England and Wales

The recent disturbances in England and Wales resulted in a varied range of charges against defendants. In Oldham some were charged with Riot while others were charged with Affray. In Leeds and Burnley most convictions were for Violent Disorder. In Wrexham there seems to be a difference between those convicted of fighting with other people, who were charged with Affray, and those involved

in attacks on police and property, who were charged with Violent Disorder.

While the *highest* sentences among adults in Wrexham, Oldham and Leeds – of up to 5.5 years – were similar to those given *on average* for Riot in Bradford, the average Wrexham sentence for Violent Disorder was about 60% of the average Bradford sentence for Riot, though higher than the average Bradford sentence for Violent Disorder.² And age does not seem to have been such a strong differentiating factor in Wrexham.

Furthermore there does not seem to be any obvious correlation between ethnicity and sentencing. In Burnley and Wrexham whites received harsher sentences, whereas in Leeds and Oldham Asians seem to have received longer jail terms. Closer analysis may well reveal that the harsher sentences have been given for those involved in attacks on the police and property, while lesser sentences were given for clashes between different ethnic groups.

Northern Ireland

Rioting and public disorder have been a persistent feature of urban life in Belfast since the mid-nineteenth century. Rioting has tended to be more frequent at times of political tension, especially during times of debate over the political status of the north. Riots and disorder were a prelude to the Troubles in the late 1960s and rioting has been a recurrent feature of the current peace process since the IRA and loyalist paramilitary groups declared a ceasefire in 1994.

Most riots either involve clashes between groups of Protestant/unionists and Catholic/nationalists or clashes between one of the two main communities and the police. Many are almost set-piece or ritualised events and indeed they have become relatively predictable. They occur at 'traditional' trouble spots and take place during the summer 'marching season', when tensions are already high. Most riots since 1994 have either been linked with the disputes over Orange parades, which pass through or near to nationalist

¹ *BBC News Online*, 12/12/03, 14/2/04, 16/3/04.

² These differences are both significant at the 1% level. See Appendix 2.7.

areas, or have occurred at interface areas, the boundary zones where working class Protestant residential areas meet working class Catholic residential areas.¹

However, riots have also been linked with diverse other events and activities in recent years, including the St Patrick's Day celebrations in the University area of Belfast and the release of a British soldier, Lee Clegg, in 1995, who had been convicted of killing local youths. Rioting has also broken out on a number of occasions following football matches involving the Glasgow teams Rangers and Celtic.

In July 1996 widespread rioting broke out in Protestant areas across Northern Ireland after the Orange Order's Drumcree church parade in Portadown was prevented from following its 'traditional' route. After four days of disorder the police reversed their decision and forced the parade through the Catholic area. This then led to three days of disorder in Catholic areas across the north.² The following year rioting followed the decision by the police to allow the parade to take place and in 1998 riots again occurred when the parade was stopped.

Rioting at interface areas in Belfast has also been a recurrent problem since the Drumcree disturbances in 1996. The police do not collect general statistics for riots or outbreak of public disorder, but they have supplied data for North Belfast, the most persistently troublesome area in recent years. The police recorded 383 cases of rioting and 694 cases of serious disturbances in interface areas in North Belfast between 1996 and 2001. A PSNI press release in December 2002 stated that there had been 174 serious riots in the area between 2001 and 2002 in which 723 police officers were injured and 174 baton rounds fired.

Something of the scale of these disturbances, and the use of violence and force more generally, can be illustrated by the data

provided by the police on their use of baton rounds (plastic bullets), police injuries, petrol bombing incidents and the numbers of arrests made by the police. The figures in Table 6.2 include all security-related policing incidents rather than simply those cases involving rioting and disorder.

Year	Baton Rounds Fired	P.O.s Injured	Petrol Bomb Incidents	Pers. Chrgd.
1995	273	370	325	440
1996	6949	459	1169	595
1997	2527	357	847	405
1998	1236	435	855	459
1999	111	395	343	296
2000	22	446	480	303
2001	91	809	542	269
2002	255	456	591	333

Table 6.2: Security and Public Order Statistics, 1995-2002, Northern Ireland³

The main charges brought against people involved in serious public disorder are Rioting, Affray and Riotous Behaviour. In Northern Ireland Rioting remains a Common Law offence (it is also a scheduled offence under the Northern Ireland Emergency Provisions Act) and is legally defined as a disturbance involving three or more persons, who assist each other in carrying out acts of violence, which alarms or terrifies at least one person. Affray, also a Common Law offence, involves the fighting of two or more persons which alarms or terrifies at least one person. In both cases the maximum sentence is life imprisonment. Riotous or Disorderly Behaviour is an offence under Article 18 of the Public Order (Northern Ireland) Order 1987. This is punishable by a term of imprisonment not exceeding 6 months.

Two other commonly used charges are 'possession of a petrol bomb in suspicious circumstances' and 'throwing a petrol bomb'. Both are offences under the Protection of the Person and Property Act (NI) 1969. Convictions are liable to a maximum sentence of five years for possession and 10 years for throwing a petrol bomb.

¹ Neil Jarman, *Managing Disorder: Responding to Interface Violence in Belfast* (Belfast: Office of the First Minister and Deputy First Minister, 2002).

² Neil Jarman, *On the Edge: Community Perspectives on the Civil Disturbances in North Belfast, June-Sept. 1996* (Belfast: Community Development Centre, 1997).

³ Source: Police Service of Northern Ireland, Statistics Branch.

There is thus a rising scale of charges, from Breach of the Peace, through Disorderly Behaviour and Riotous Behaviour to Common Law Riot. However, the police merely recommend which charges should be brought according to the evidence they have been able to gather, and thus the charge is not always reflective of the level of disorder, only of the level of useable evidence.

Data on prosecutions and convictions for public order offences in Northern Ireland is not readily available in a comprehensive format. The Police Service of Northern Ireland, the Northern Ireland Office (NIO) and the Director of Public Prosecutions all have some information but the data from the various sources is not always comparable. The data from the NIO was the most comprehensive and was used for this review. It reveals that from 1995 to 1999, 32 people were prosecuted for Riot, 35 for Affray, 576 for Riotous Behaviour and 157 were prosecuted for petrol bomb offences; of these 25 were convicted of Riot and 19 of Affray, while 483 were convicted of Riotous Behaviour and 94 were convicted of petrol bomb offences. The breakdown of the types of sentence is set out in Table 6.3.

Sent.	<i>Riot</i>	<i>Affray</i>	<i>Riotous Beh.</i>	<i>Petrol Bomb</i>
Custody	10	5	22	25
Susp.	11	6	152	43
Comm.	1	4	40	15
Fine	1	1	206	5
C. Dis.	2	1	23	2
Other	0	2	40	4
Total	25	19	483	94

Table 6.3: Sentences for Public Order Offences, 1995-1999, Northern Ireland ¹

Although those convicted of Rioting were most likely to receive an immediate prison sentence or a suspended sentence, those convicted of Riotous Behaviour were most likely to be given a fine or a suspended sentence.

The NIO data also reveals that the average custodial sentence for the ten people convicted

of Rioting between 1995 and 1999 was 23.1 months, for Affray was 19.2 months, for those convicted of Riotous Behaviour it was 3.6 months and 19.9 months for petrol bomb offences. However, there were wide variations in the average sentences for Rioting. In 1996 the people convicted of Rioting received average sentences of 36 months, but the one person convicted in 1999 received a sentence of nine months. Similarly the average sentence for petrol bomb offences varied from 36 months for those convicted in 1995 to 9.9 months for those convicted in 1998. A smaller decline in sentence levels is evident for Riotous Assembly from an average sentence of 5 months in 1995 to 3.5 months in 1999.

Although there is some fluctuation in these patterns there seems to be considerable variation in levels of sentencing over time. This may of course be influenced by the context in which the offence took place, the circumstances of the individual and the court in which the case was heard, but nevertheless the data indicates that the average custodial sentences for Riot, Riotous Behaviour and petrol bomb offences have declined over the five-year period for which data has been made available.

Until recently little attention was paid to either the number of people arrested or prosecuted for public order offences, or to the nature of the sentence they received if they were found guilty. However, in part as a result of the publicity given to the sentences handed down to people convicted for Rioting in Bradford, voices were raised asking why rioting and serious disorder were so persistent in parts of Northern Ireland and why so few people were being charged with public order offences. As a result three new initiatives have been taken.

First, during the spring and summer of 2002 CCTV cameras were installed in many of the interface areas that had experienced persistent disorder. A number of these cameras were destroyed or damaged when they were first erected, but they were subsequently replaced. Video cameras were also used in a more systematic manner to gather evidence during disturbances at some parades. Although no specific research has

¹ Source: Northern Ireland Office, Statistics and Research Branch.

been carried out, the presence of the cameras is regarded by the police as a positive factor in reducing the levels of disorder at many contentious locations since the summer of 2001.¹

Second, the government announced plans to increase the penalties for those involved in rioting. Under the Criminal Justice (Northern Ireland) Order 2003, the sentence for Riotous Behaviour has been increased from six months to twelve months and Riotous Behaviour will also become an offence arrestable without a warrant.² Despite the increase in sentences Riotous Behaviour will remain a summary offence, to be tried by a magistrate and the accused will not have the option of a jury trial. These changes came into force in June 2003.

Third, in certain areas the police have initiated a more aggressive policy of prosecuting those involved in violent disorder and they have been more willing to charge people with the more serious offence of Riot rather than Riotous Assembly. To be able to do so however, the police need to have high quality evidence, and they increasingly rely on video equipment to gather this, rather than relying on the verbal evidence of police officers present at the event. It is thus the quality of the evidence that determines the nature of the charge rather than the nature of the event itself.

However, there are concerns over the impact that this new approach will actually have, due to the length of delays before trial in comparison with subsequent sentencing. For example, charges brought following the violence at Drumcree in July 2002, in which thirty-two police officers were injured, were finally tried in November 2003, some sixteen months after the event.³ Fifteen people eventually faced charges of Rioting, all of them pleaded guilty. All of them received suspended jail sentences of between twelve and eighteen months.⁴

Statistics from the Director of Public Prosecutions reveal that seven people were convicted of Riot in 2002 and they received sentences varying from two years to ninety hours community service.

Conclusions for Northern Ireland

The data from Northern Ireland indicates that relatively few people have been prosecuted in recent years for public order offences in comparison to the number of riots and outbreaks of serious public disorder. Furthermore, the average sentences handed down for all forms of public order offences are lower than sentences for similar offences in England and Wales.

It is difficult to clearly identify the reasons for these differences. However, there has long been an acknowledgement of the persistent nature of inter-communal conflict in Northern Ireland, and in the early 1970s William Whitelaw, then Secretary of State, coined the term 'acceptable levels of violence', which still has significant currency. There has thus been, at best, a resigned tolerance of certain forms of public disorder and a rationalisation that it should not be punished too severely. At worst, suspicions of sympathy from some magistrates towards some of those brought before them are thought to have influenced the level of sentencing.

The Bradford sentencing provoked a flurry of interest in Northern Ireland and calls for tougher sentences to be imposed on those convicted of public order offences were backed up by revisions to the legislation. But that does not yet seem to have translated into measurably tougher sentences being handed down by the courts. It appears that for some, rioting is still regarded as an expected and even 'traditional' feature of the summer marching season.

¹ PSNI Press Release, 5/12/02.

² NIO Press Release, 9/6/03; *Belfast Telegraph*, 9/6/03.

³ The issue of trial-delay has been raised in Burnley, but not in Bradford, despite the fact that prosecutions there were taking place even longer after the event – up to 3 years from 7/7/01.

⁴ *Belfast Telegraph*, 11/11/03; *Newsletter*, 11/11/03.

7. International Comparisons: Canada, Australia and the USA

Bradford in the International Context

This section seeks to place the sentences of those found guilty in the Bradford disturbances into an international context. Being unable to consider every country that has experienced a riot, this examination has been restricted to those countries sharing similar characteristics with the UK. Consequently, the list of countries has been narrowed to Canada, the United States, and Australia, due to their shared common law model of justice and similar challenges regarding their diverse, multicultural populations.

Reactions to perceived or real discrimination on the basis of race, and provocations from far-right individuals or groups, has played a role in sparking many disturbances in the United States as well as recent disturbances in Australia and Canada. To put the Bradford disturbances into context, this section will first look to the history of race-related disturbances in other countries and then to how these countries have dealt with this problem through legislative and judicial approaches.

The Occurrence of Race-Related Disturbances

Although there is a perception that disturbances are rare and pursued by anti-social and deviant populations, the facts show that disturbances have been commonly used throughout history as a means of voicing social discontent or challenging social norms.¹ Throughout American history, disturbances have been used to challenge unfair labour practices, demand the equal treatment of women and people of colour, and more recently, to challenge unfair economic globalization practices.²

¹ Steven E. Barkan and Lynne L. Snowden, *Collective violence* (Boston: Allyn and Bacon, 2001), pp. 30-2.

² Globalization riots have been more commonly referred to as protests. For further reading regarding the contentious use of the term 'riot', see Brooke Shelby Biggs, 'When is a protest not a

The 1960s were a time of great social upheaval in the United States with at least 239 disturbances that occurred from 1964 to 1968.³ In fact, one estimate places the number even higher, at close to 500 disturbances.⁴ In response, the federal government formed the Kerner Commission which released a report in 1968.⁵ This report made recommendations based on its conclusions that these disturbances were founded in social causes, but rather than address these social issues, the government chose to emphasize the use of force to contain the disturbances.⁶ Current episodes involving marginalized groups of society in the United States, Canada and Australia indicate that social discontent as the basis for race-related disturbances is a phenomenon that continues to the present day.

In 1992, an all-white jury found four white police officers, who were videotaped beating Rodney King (an African-American), not guilty on all counts of official misconduct, excessive force, filing false police reports, and assault with a deadly weapon. The resulting disturbances lasted three days, created one billion dollars in property damage, fifty-five deaths, injured about 2000 people, and in the end 12,000 people were arrested.⁷ In April 2001, disturbances broke out in Cincinnati after news spread that 19-year old Timothy Thomas, who was wanted for 14 violations and evading warrants for arrest, was shot by police when trying to out-run them. The disturbances that took place resulted in at least \$2 million of property damage, injured

protest? When the demonstrators are black?' 4/5/01 (www.motherjones.com/commentary/columns/2001/05).

³ Barkan and Snowden, p. 29; Paul Gilje, *Rioting in America* (Bloomington, Indiana: Indiana University Press, 1996).

⁴ Gilje, pp. 29-30.

⁵ Anthony M. Platt, *The Politics of Riot Commissions* (New York: The MacMillan Company, 1971), pp. 343-76.

⁶ Platt, pp. 44-6.

⁷ 'Los Angeles marks 1992 riots', *BBC News Online*, 30/4/02.

60 people and after the disturbances were over, more than 800 people were arrested.¹ As African-Americans are over-represented in jails, and are the most affected by crime and poverty, social discontent in this group is quite high. Therefore it is not surprising that perceptions of the miscarriage of justice and abuse of power fuelled these two race-related disturbances.

In Canada the most recent incident of disturbances occurred in May 2004, between the Royal Canadian Mounted Police and the Mohawks First Nations people of Kanasatake. These events involved burning down Chief James Gabriel's house and the throwing of stones.² In *R. v. Gladue*³ the Canadian Supreme Court recognised the problem of Aboriginal over-incarceration in Canadian jails and termed it a 'sad and pressing social problem' which 'may be termed a crisis'.⁴ Not only over-represented in jails, Canada's First Nations population is also among the poorest and least empowered group of people in Canada.

Meanwhile Australia's recent disturbances in Sydney in February 2004 lasted nine hours, involving petrol bombs and injuring 40 police officers in a clash that at times involved over 100 Aborigines.⁵ These disturbances started when news spread that Thomas Hickey, a 17-year old Aborigine died after he fell off his bike and impaled himself on a fence as he was trying to out-run the police.⁶ Members of the Aborigine community responded with violence and outrage. Aborigine elders stated that the riot related to deeper levels of discontent.

¹ James Garza, 'Cincinnati Blues' (www.evilmonito.com/005).

² 'Mohawks plead not guilty to participating in riot', *CNEWS Canada Online*, 3/5/04.

³ *R. v. Gladue* [1999] 1 S.C.R. 688, online: QL (SCJ).

⁴ *R. v. Gladue*, para. 64, and: 'These findings cry out for recognition of the magnitude and gravity of the problem, and for responses to alleviate it. The figures are stark and reflect what may fairly be termed a crisis in the Canadian criminal justice system. The drastic overrepresentation of aboriginal peoples within both the Canadian prison population and the criminal justice system reveals a sad and pressing social problem.'

⁵ 'Calm After Sydney Race Riot', Feb. 16, *CBS News Online*, 16/2/04.

⁶ 'Riot underscores racial tension', (ca.altermedia.info/index).

While Aborigines account for 400,000 of Australia's 20 million people, they are the country's poorest, least healthy and most imprisoned citizens.⁷

The Legal Treatment of Riot

The scope of this section prevents us from tracking each participant in the aforementioned disturbances to compare their sentences with those who participated in the Bradford disturbances. However, it is possible to look to legislation concerning the definition and treatment of riot in Canada, the US and Australia. These legal sentencing guidelines indicate what must be considered when treating riot situations in these countries.

General sentencing practices in all three countries have been more forgiving where the offender has no previous record and pleads guilty early. With respect to the specific offence of Riot in Canada, the US and Australia, a riot is understood to be an unlawful assembly of three or more people, gathered for a common purpose who either threaten to or actually succeed in disrupting the peace, violently or otherwise.

In order to apply the definition of riot in Canada there only needs to be a reasonable belief that an unlawful gathering of people will cause a disturbance, even if they do not actually disturb the peace. Consequently, this definition is quite broad, and anyone found guilty of Rioting can be imprisoned for a maximum of two years in jail.⁸

In Australia a distinction is made between riots which damage property and those that do not. A rioter can be put in jail for a maximum of 3 years⁹ but where they are responsible for destroying property, the maximum punishment is increased to 7 years.¹⁰

In the United States, crimes of rioting are dealt with at the state level and as such the punishments vary from state to state. Most American states distinguish between

⁷ 'Rioting erupts in Sydney', 16/2/04 (www.cbc.ca/stories).

⁸ *Can. Criminal Code*, R.S.C. 1985, c. C-34, s. 65.

⁹ *Criminal Code*, c. C-34, s. 65.

¹⁰ *Criminal Code*, c. C-34, s. 67.

punishment for simply participating in a riot and increase the penalty where there is great property damage and deadly weapons employed.¹ This is done either by providing different degrees of Riot (i.e. Riot in the first, second and third degree) or by providing different kinds of punishments (i.e. misdemeanours or felonies). Despite the number of state laws, there is a fair degree of consistency. Most states treat the participation in a riot, where the participants are armed or use deadly weapons, with a maximum imprisonment of three to five years. In the state laws examined, participation in a riot where violence and property damage occur, but no deaths or deadly weapons, the penalty is a maximum of one year in prison and can be accompanied by a fine in the range of \$1000 to \$5000.

Parole Conditions

Parole conditions affect judgements about justice in two ways. First, they affect the perception of the severity of a custodial sentence, because the conditions may mean (and in practice will mean for most serious offences) that an offender will not be deprived of liberty for the full period of the sentence. An offender will however remain under threat of recall to prison for the full duration of the sentence, so that he or she is not fully free after release.

Second, variations in parole conditions between jurisdictions may affect the evaluation of *comparative* justice, since a 5-year sentence in England and Wales may not mean the same duration of imprisonment in practice as a 5-year sentence imposed in Australia or the USA.

In fact, it appears that the jurisdictions we are concerned with in this report have broadly comparable parole conditions. For serious offences especially, offenders are bound to serve at least a third of the sentence (Canada and the USA) or at least half of the sentence (Australia and England and Wales). The rules vary also to some extent over the kinds of offences for which parole is granted, and the

discretion of the courts in deciding non-parole periods which override the standard conditions in particular cases.²

The important point for the current enquiry is that parole conditions in England and Wales are not as a rule more lenient than in comparable jurisdictions, and are, if anything, slightly tougher. This means that where the sentences given for serious public order offences are higher in England and Wales than in comparable jurisdictions, comparisons in terms of the number of years actually served are likely to be at least as sharp as comparisons in terms of years handed down at conviction. It will be difficult to make the argument that the convictions of the Bradford rioters are not to be viewed so seriously because the parole conditions in England and Wales are easier on the offenders.

Hate Crimes and Legal Definitions

In the United States, the Hate Crimes Prevention Act of 1999 criminalized either attempts to inflict or the actual infliction of bodily harm based on race, colour or national origin. Such crimes can result in up to ten years imprisonment. Where the person either attempts to kill, or kills, kidnaps or sexually abuses a person, based on the above grounds, the maximum penalty is life in prison and/or an appropriate fine.

The definition of hate crime used by the police in the United Kingdom has been restricted in the past to racially-motivated crime incidents, where there appears to be either an allegation of, or actual racial motivation to, carry out the crime.³ Under the Criminal Justice Act 2003, however, crimes influenced by hatred based on race, religion, sexual orientation and disability are grounds for increasing sentences.⁴ This law is on the brink of coming into force in England and

¹ These conclusions derive from an examination of 39 American state laws detailed on-line regarding riot charges and punishments.

² See the following websites: Australia: www.nt.gov.au/justice; Canada and the USA: www.npb-cnrc.gc.ca/infocntr/parolec.

³ 'What Is A Hate Crime?' (www.religiousfreedomwatch.org/hcandlaw).

⁴ Criminal Justice Act 2003, s.145-46.

Wales, and is already in force in Northern Ireland.¹

In 1970 Canada ratified the International Convention on the Elimination of All Forms of Racial Discrimination and consequently made amendments to its *Criminal Code* to bring it into accordance with this Convention. As a result, hate propaganda, the promotion of genocide and inciting hatred were made criminal offences.

A person is found guilty of advocating or promoting genocide when they promote the killing of or deliberate infliction of physical destruction of a group or its members.² Those found guilty of genocide will be charged with an indictable offence and imprisoned for a maximum of seven years.³ This section of the *Criminal Code* limits an identifiable group to 'colour, race, religion or ethnic origin'.⁴ The public incitement of hatred is also forbidden. A person making public statements (including words written, spoken, or recorded and gestures, signs or other visible representations) inciting hatred against an identifiable group which is likely to lead to a disturbance of the peace, can be given a fine or imprisoned for a maximum of two years. It is interesting to note that inciting hatred that could lead to a breach of peace could result in either a fine or a maximum of two years in jail.⁵

Even if a person does not distribute hate propaganda, promote genocide or incite hatred, hate laws will impact any crime during the sentencing process. Section 718.2 requires a judge to consider the motivations of an offender, and if these are found to be based on hatred towards a protected group, it will be treated as an aggravating factor and as such will result in a harsher penalty. If there is proof that the '...offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor',⁶ then the judge will treat the offence with a harsher sentence.

¹ This law applies to all offences, whereas the previous law on racial aggravation was restricted to certain classes of offence, including public order offences. Cf.) 'Britain unveils religious hate laws' 7/7/04 (www.cbc.ca/stories).

² *Criminal Code*, R.S.C. 1985, c. C-46, s. 318.

³ *Criminal Code*, c. C-46, s. 318.

⁴ *Criminal Code*, c. C-46, s. 318 (4).

⁵ *Criminal Code*, c. C-46, s. 319 (1)(a)(b).

⁶ *Criminal Code*, c. C-46, s. 718.2.

8. The Question of Justice

Legal Justice

A situation of *legal justice* exists whenever the appropriate individuals are appropriately convicted of appropriately-identified crimes, and given the appropriate punishment as a result.

An allegation of legal *injustice* may arise from challenging the appropriateness of any of these steps in relation to particular cases. In the current context, the main challenges are as follows:

- were the public order offences specified appropriately in the 1986 Act, and is the general approach of the UK law to public order issues the correct one, especially in relation to alternative approaches or traditions?
- is the scale of sentences established by law for these offences the appropriate one, especially in relation to other jurisdictions sharing similar legal traditions?
- were individuals correctly identified as participants in the disturbances?
- were they charged with the correct offences?
- were those charged subject to due process of law, including appropriate representation, rights of appeal, and other requirements of natural justice?
- did the evidence of criminal behaviour match the judicial outcomes?
- where guilt was determined, were the appropriate punishments applied, especially the lengths of custodial sentences, given both the law and the evidence of criminal conduct?

Whilst a situation of perfect legal justice may be humanly unobtainable, this list of potential challenges nevertheless establishes a large number of ways in which injustice may arise. The resolution of such questions always involves judgement, and there is nearly always

a comparative element to the judgement. In relation to 7/7/01, the key questions are:

- was the treatment of individuals consistent among those convicted in Bradford, with the appropriate differentiations made by the courts in relation to individual circumstances?
- was the general level of sentencing – the average sentence in each category – consistent with sentencing in other categories, and with other situations, either in the UK or abroad?

These are respectively the questions of *internal consistency* and *external proportionality*.

To reach a definitive view on these questions would require us in effect to re-try 256 cases, which we cannot hope to do. In the remainder of the section we will introduce a variety of considerations bearing on the justice issue. But the initial point is that when an allegation of legal injustice is made, it is important to be clear where, precisely, the injustice is alleged to arise.

Racial Injustice and Social Justice

Racial injustice is distinct from legal injustice, and involves inappropriately unequal treatment of individuals on racial, ethnic or religious grounds. This can occur through direct racial discrimination, or through more indirect processes.

Direct racial discrimination goes against the basic principle of equality before the law,¹ so it would be a manifest legal injustice if, for example, Asian defendants were given harsher sentences than non-Asians for the same offence (or, indeed, vice versa).

The question of racial justice is evidently a broad one, which arises in many contexts of employment, education and so on, in addition

¹ This principle was made explicit by the Judicial Studies Board in its *Report for 1987-1991*. See Roger Hood, *Race and Sentencing: A Study in the Crown Court* (Oxford: Clarendon Press, 1992), p. 2.

to the law. The issue of *social justice* is broader still, and includes both legal justice and racial justice as two of its aspects. In principle, questions of social justice can embrace every aspect of social life, including a society's entire set of customs, beliefs and resource allocations.

The definition of social injustice is nevertheless a contentious one, with sharply-opposed views on the appropriate extent of social inequality, for example, as well as the contents of fundamental beliefs and values. The salient issue in the current context is whether a background of alleged social injustice should make any difference to legal policy, and, in particular, to the assessment of legal justice. Is it a mitigating factor in the treatment of a person's crime that he or she is poorer than average in a society, suffers generally from racial disadvantage, or from some other form of deprivation or discrimination? Or should the criminal justice system operate independently of its broader social context, leaving social injustice to be addressed by other means, through politics, for example, or voluntary action?

The Justice of Sentencing: Basic Considerations

At the most basic level, the 7/7/01 sentences would be unjust if the defendants were denied due legal process, if they were convicted on faulty evidence, or if the sentences passed were outside the range established by law.

The most salient considerations here are that the defendants were legally represented, their sentences were subject to appeal (which did result in reduced sentences in a number of cases), and the length of every sentence conformed to law. Perhaps most significantly, all except 9 of those charged pleaded Guilty, which is almost certainly a consequence of the quality of the evidence – mainly video evidence – collected by the police against the majority of defendants.

As far as the more serious charges were concerned, Judge Gullick in effect defined the common purpose required by law as 'a long lasting concerted attempt of very grave proportions by aggressive force of numbers to harm, if not to overpower, the police and to

cause mindless damage and general mayhem'.¹ It seems unlikely therefore that an argument about injustice will arise at this most basic level.²

It also seems unlikely from the evidence that an argument can be made for direct discrimination in the legal process. Although caution is required in making any inference in this area, the average sentences for the relatively small number of white and/or non-Asian defendants are no lower than for the Asian defendants in the main categories of offence – if anything, slightly higher. This applies to both adults and juveniles.³

We have seen however that the question of justice is not exhausted by these immediate considerations, since issues of consistency and proportionality are also involved, in broader contexts of history and social inequality.

Internal Consistency of Sentencing

The 'internal' issue of consistency is raised by comparisons *among* the 231 people found guilty of offences in connection with 7/7/01, especially the 158 individuals given custodial sentences for Riot.

A careful reading of the 'tariff-setting' statement indicates a judicial intention to take account of the balance between a variety of aggravating and mitigating factors, as follows.

The *collective* aggravating factors include:

- the degree of violence (e.g. 'wanton and vicious');
- the scale of the violence (e.g. 'barricades erected, cars set alight');
- the number of persons engaged in violence ('sheer weight of numbers');

¹ See Appendix 1. This common purpose was evidently inferred from the rioters' conduct, as permitted by the legislation (see POA 1986, Section 1, summarised above).

² The most plausible exception might be an argument over the quality of legal representation, given the pressure on the legal profession in West Yorkshire to handle so many cases in succession. It should be emphasised however that we have no direct evidence for any such finding.

³ See Appendix 3.5 for further details.

- the duration of the violence (e.g. ‘prolonged’);
- the object of violence, especially if directed at the police;
- the extent to which public peace is broken;
- the need for deterrence.

The aggravating factors *in individual cases* include:

- the use of weapons (‘missiles or petrol bombs’);
- prominence in the collective action (‘front line’);
- aggressive demeanour (e.g. running towards police lines);
- actions designed to encourage others towards violence, or with this effect (e.g. ‘waving .. arms’);
- the extent of premeditation.

The mitigating factors include:

- plea content (Guilty or Not Guilty);
- plea timing;
- mode of surrender to police;
- expression of (genuine) remorse;
- age;
- previous convictions;
- family background;
- character (including employment and education records, and evidence from references).

Although it is not emphasised in the tariff-setting statement, it is clear from other reports that the courts took account of a range of other factors in individual cases in the usual way, for example, the mental health of defendants.¹

In his statement, Judge Gullick placed great emphasis on the first three mitigating factors listed above, in effect constructing an index of mitigation running as follows from maximum mitigation down to zero mitigation:

- voluntary surrender prior to poster publication, Guilty plea;

- voluntary surrender after poster publication, Guilty plea;
- arrest by police, Guilty plea;
- arrest by police, Not Guilty plea, conviction by jury.

Within each category of Guilty plea, defendants who entered the plea as early as possible in the legal process were correspondingly advantaged, compared with ‘those who choose to run their not guilty pleas up to the wire until they can see the colour of the jury’s eyes’.

The rationale for this approach to sentencing derives from general features of the common law, and indeed shares a good deal with the approach adopted in the other jurisdictions described above. To argue for example that deterrence should not have been a factor, or that plea timing is not really relevant, would be to raise very general questions about the practice of the law that go well beyond the events of 7/7/01.

We have seen that age did play an important role in sentencing, at least for those under 18. What is less clear is how the potentially complicated lists of other factors were converted into specific sentences. Were the factors treated as additive in the technical sense, so that so many months extra were counted for arm waving, and so many months subtracted for remorse? If not, what other metric was deployed? Did the different judges talk to each other about how these rules would be implemented, or was the process more intuitive? There is literally a scale of 1 to 10 here, in terms of years’ duration of sentences. What benchmarks were established on this scale, beyond a general sense of more serious and less serious cases?

It is beyond the scope of the current report to take this issue further, except to note that there may be injustices of treatment to individuals if the guidance implicit in the tariff-setting statement was inappropriately translated into rules for sentencing, or inconsistently applied.²

¹ A case was reported in the *T&A* (27/7/02) of a sentence of 5.5 years for Riot, which was reduced to 2 years for this reason.

² Further investigation would require the application of multivariate techniques to the sentencing data, in conjunction with more detailed analysis of a sample of cases. See Hood, *Race and*

External Proportionality of Sentencing

The issue that stands out from all the preceding discussion is *the exceptional use of the Riot charge in the context of 7/7/01*. On the one hand, it was exceptional for the state authorities to *use* this legal resource, compared with their handling of other examples of public disorder in either Great Britain or Northern Ireland. On the other hand, it was exceptional for the state authorities in England and Wales to *possess* this legal resource, compared with the measures available to the authorities in similar jurisdictions. Section 1 of the 1986 POA is, so to speak, the ultimate deterrent of law enforcement, possessed by few other states.

The argument in justification of this exceptional use might be that the circumstances of 7/7/01 were themselves exceptional, precisely the kind of occurrence, rare in the British context, for which the legislation was specifically designed.

And it may be that the events of 7/7/01 were legitimately distinguished from other cases, in which the Riot charge was not used, by some combination of:

- the scale of the disturbances;
- the level of violence used;
- the object of violence;
- the quality of evidence available.

Thus, the events in Manningham in 1995, and more recently in Ravenscliffe, Harehills, Gipton, Burnley, Oldham and Wrexham were clearly on a smaller scale than 7/7/01. The same goes for the outbreaks of 1991 in Cardiff and Oxford. Events in 1991 on Tyneside, and more recently at Millwall and Temple Newsam (Leeds), were probably on a lesser scale also, though this is not quite so clear – the aggregate number charged on Tyneside was for example larger than the number charged for 7/7/01.

The sheer number of arrests, or indeed participants, is not the only factor that is relevant to the judgement of seriousness, however, since the nature of the targets chosen for violence is also significant. Missiles were thrown at Temple Newsam, and police attacked, but not property. There appear to

Sentencing for a valuable illustration of the required techniques.

have been attacks on property in Harehills, but not police, whereas Manningham 2001 had both forms of violence. There was an inter-ethnic element in Wrexham, Oldham and Burnley, treated less seriously than direct confrontations with police, and similar at most to the city centre events of 7/7/01.

But even if it were established satisfactorily that the main events of 7/7/01 were of a higher order of seriousness than these comparators, a difficulty still remains with this line of argument. The difficulty is that *the scale of disturbances in nearly every historical comparator clearly exceed the legal threshold for riot*. To recall the definition, the threshold for riot is a communal disturbance involving 12 persons or more, at a level sufficient to ‘cause a person of reasonable firmness present at the scene to fear for his personal safety’.¹ The numbers arrested at some of these incidents suggest strongly that the legal threshold for riot was crossed. So it must be explained why the Riot charge was used in 7/7/01, when it could have been used also in these less serious cases. The putative injustice here is not necessarily that the Manningham offenders were treated too harshly, but that offenders on the other occasions were treated too leniently.

And this line of comparative argument must be reconciled also with the fact that Riot charges were not used in cases where the scale and level of violence clearly *exceeded* the scale and level of 7/7/01. These cases almost certainly include Brixton and Toxteth.² One legitimate reason for the difference might be the lower reliability of evidence in the pre-video era, coupled perhaps with the differences in the law prevailing at that time.

The importance of video to the prosecutions in both Bradford and Wrexham has been emphasised already. The situation in Northern Ireland has changed also in this respect, as noted in the previous section. But the comparison with Northern Ireland serves to make the additional point that the quality

¹ POA 1986, Section 1.

² Orgreave is an important case in which the scale of violence exceeded that in Bradford, and in which Riot charges *were* used, albeit under the pre-1986 law. Orgreave is considered below.

of the evidence, and the technical capability of collecting it, are not the only factors affecting the response of the criminal justice system to public disorder. The sentences passed for such offences in Northern Ireland have been very different from those imposed on people convicted of involvement in rioting in England and Wales, even in the years since the video technology became available in both jurisdictions.

As a result, concerns have been raised by the police and by some politicians, both about the apparent lack of seriousness with which public disorder is treated by the courts in Northern Ireland, and also about the length of time it frequently takes for cases to be dealt with.

Turning to the international comparison, it is interesting to note that in order to receive the most severe sentence for rioting in the United States, which has had an explosive history of disturbances, a rioter would have to be responsible for deaths or serious damage to property, and to have used deadly weapons in the process. Whereas in most US states, the maximum sentence for mere participation in a Riot is about one year in jail.¹ Meanwhile in Canada, where there has been significantly less rioting, it is much easier to fall within the definition of riot, but the maximum sentence is three years. Additionally, Canada's more progressive hate crime laws would also hold a person responsible where their incitement of hatred resulted in a riot. They would face up to two years in prison. Although these points alone are insufficient to show whether the sentences given for those participating in the Bradford disturbances were fair or unfair, it does indicate that the sentences are harsher than in the US, Canada and Australia.

Summary of Comparative Evidence

In summary, the response of the Criminal Justice system to 7/7/01 involved a situation in which:

- the scale of the disturbances and level of violence were at an intermediate level, more serious than the most recent examples of other disturbances in Britain,

but less serious than some cases in Britain in the past, and those common in both Northern Ireland and the USA;

- the video evidence made prosecutions feasible;
- the legislation made long sentences available to the judicial authorities;
- communal violence of the given type was not naturalised in the political or social systems, as it is in Northern Ireland and parts of North America, or even perhaps was in connection with the Miners' Strikes by 1984.

Two issues for the future arise from this analysis, both related to the discretion available to the prosecuting authorities under current legislation.

First, there needs to be greater clarity about the circumstances on the ground under which Riot charges are subsequently used, given that the authorities appear to be guided by a threshold of scale and intensity different from that indicated by the statutory definitions of offences. This problem is exacerbated by the decentralised nature of legal decision-making in the UK, which may be a virtue in many contexts, but will lead here to inevitable questions about uniformity of treatment, and consequent doubts about comparative justice.

Second, there needs to be greater clarity about the broader contexts in which Riot charges are used, and the longer-term purposes for which they are used. Although the legal authorities will no doubt resist this use of the term, there is a politics of sentencing which comparative analysis brings out.

One aspect of this – especially evident in the comparison with Northern Ireland – is the extent to which the naturalisation of violence influences the decision to prosecute for Riot. Were the charges for 7/7/01 chosen legitimately to mark the exceptional level of violence for the British context, and to act as an exceptional deterrent, so as to *prevent* Bradford becoming like Belfast in the future? And if so, will this strategy serve its purpose? Or was the violence seen as exceptional partly *because* of the ethnic background of the rioters,

¹ See the previous section for more detail.

and their social distance from those making the decisions in the criminal justice system?

A significant comparison in this respect is with the climactic confrontation of the Miners' Strikes of the 1970s and 80s. Manningham 2001 and Orgreave 1984 were two pitched battles between the police and large crowds of working class males. There were significant police casualties in both cases, but fortunately no fatalities on either side. Members of both crowds felt that they were acting in defence of their communities.¹ Large numbers in both cases were charged with Riot. In one case – Manningham – average sentences of over 4 years were handed down to the adult rioters. In the other – Orgreave – all the defendants were acquitted.

The apparent discrepancy of treatment between the two cases can be resolved nevertheless on closer inspection. The role of the police at Orgreave was extremely controversial, and arguably provocative, both in the months prior to the confrontation and on the day itself. And the incident was in any case the climax of a long campaign against the mineworkers orchestrated to some degree by the Government of the day. There has been no comparable criticism of the role of the police or of the government in connection with the Bradford disturbances (though there is considerable disquiet at the tone and content of statements made by local and national politicians *after* the event).

Most importantly, the quality of evidence in the Orgreave cases was poor and its inconsistencies were exposed, among other ways, by the defence's use of film evidence. In Bradford, the quality of evidence has proved compelling, and not even the families' support group has called for the sentences to be overturned. The emphasis has been on the disproportionality of the sentences, not the fact of convictions. This difference in the quality of the evidence seems sufficient to account for the legal outcomes in the two cases. Perhaps the police learned a lesson from Orgreave that was applied later in Bradford.

¹ No judgement is made here about the relative plausibilities of these beliefs. The common link is the belief itself.

'Rough Justice' and Deterrence

A situation of public disorder is by definition a situation where 'normality has broken down'.² This means that, among other things, the police are unable to intervene in the normal way to arrest suspects. Traditionally, this has left the police with two kinds of response, either to wade into the crowd with counter-violence, or to nab those members of the mob, relatively few in number, whom police officers *are* in a position to apprehend.

These responses might be described as 'rough justice', relying on both senses of 'rough'. The response tends to be *severe*, reflecting a situation running out of control (from the viewpoint of the authorities), and it tends to be *approximate*, since those caught out are not necessarily those members of the public primarily responsible for the violence, the majority of whom are liable to escape.

Indeed it may be that these two aspects are linked in the historical approach of the common law to public disorder. The fact that the sentences for Riot are severe may reflect the difficulty of catching anyone to charge with the offence. Without the draconian penalty, the low rate of detection would leave the law with little deterrent effect. The law was harsh historically, in other words, partly *because* it could only be approximate in its application.

We have also seen that historically, mere presence was also enough – the crime was simple membership of the riotous assembly. This approach might properly be called collective punishment, or indeed 'community sentencing', since the individual is selected for sanctioning almost at random from the crowd, as a representative member of this temporary assembly.³ And if the community of the crowd is itself representative of some larger constituency, then the scope of the term 'community sentencing' might be extended properly to match.

In fact, however, a combination of a change in the law, to emphasise the individual's contribution to the collective

² Quote from CPS interview.

³ See Allen, pp. 46-8 for his discussion of 'community sentencing'.

event, and a change in technology, to enable direct evidence of the contribution to be collected, transforms this historical situation of law enforcement, and raises corresponding questions about justice.

First, and contrary to Christopher Allen's suggestion, the punishment of the Manningham defendants was both less indiscriminate and more complete than in previous incidents of a comparable kind. Granted, there were doubtless a number of people who escaped detection on 7/7/01. Perhaps the police camera jammed at the vital moment, or the tele-heli was flying in the wrong direction. But by historical standards, and from this perspective alone, there was a closer approach to legal justice in the response to these events than in previous cases.

Allen supports the accusation of 'community sentencing' by emphasising the serious effects a long custodial sentence might have on the offender's family and friends.¹ We know from the residential data that these effects will indeed be concentrated in specific areas of Bradford. So the community is allegedly being punished because the consequences of the sentences extend beyond the rioters themselves.

It is not clear however that this argument provides independent grounds for challenging the length of the sentences. One reply to Allen might be that, if the sentences are otherwise justified, it was the offenders' responsibility to take the effects of possible imprisonment into account. These effects cannot be blamed on the law or the system, when they are the predictable consequences of committing a serious offence. Riot is in this respect no different from any other crime.

There is however a more subtle argument that the availability of video surveillance leads to a comparative injustice in the case of riot. We may contrast the situations of two adults, the first confronting the police on the streets before the video era, and the second confronting the police in Manningham in 2001. The expected prison sentence faced by the latter is considerably higher than the expected sentence faced by the former, simply because the availability of video technology increases

dramatically the probability of indictment for a public order offence.² This can have happened without any change in the law, or, we may suppose, any difference in the actions committed by the persons in the two different situations, or in the situational context itself.

The deterrent effect of the law is thus increased dramatically by the rise in its chances of implementation. This consideration raises an issue of comparative justice. If we assume that Parliament chooses a level of sentencing that reflects a certain view of the sentence's deterrent effect, then the availability of the new technology has increased the level beyond that intended by Parliament at the time the legislation was passed. We leave as a question whether this consideration should make any impact on the severity of sentencing for the more serious public order offences.

Social Power and Social Justice

We have seen from the discussion of hate crimes that the law is beginning to take explicit account of certain social factors in its attitude towards sentencing policy, both in the UK and in other jurisdictions, notably Canada.

The general proposition is that peculiar dangers arise when those with social power in a given situation are animated by hatred directed against less powerful groups. This combination finds its most reprehensible expression in genocide, but the law should take account of similar motivations in less extreme circumstances.

It follows from this idea that hatred is an aggravating factor in the sentencing of crimes committed by those in the more powerful social position against those in the less powerful position. This is distinct from a possible complementary principle, that occupancy of a less powerful social position,

² The term 'expected sentence' is used here in both the colloquial sense and the statistical sense, that is, the length of a sentence multiplied by the probability of facing it. This probability may have increased by an order of magnitude in the video era, given the estimated ratio of up to 9:1 between the number of possible prosecutions for 7/7/01 with and without video evidence.

¹ Allen, p. 48.

or at least being the victim of hatred in connection with occupying such a position, should be a mitigating factor in crimes committed in the opposite direction – by members of the less powerful group *against* the more powerful group.

There is only one case where such principles were taken into account explicitly in connection with 7/7/01. A prison sentence of three months was passed against a white defendant found guilty of racially-aggravated Threatening Behaviour.¹

It is not entirely clear otherwise how issues of social justice could or should have been brought into the sentencing decisions. It might be argued that since the defendants were mainly Asian, and that Asians suffer disadvantages in British society from racism, and in some cases Islamophobia also, the sentences should have been reduced to take this background injustice into account. This argument might be connected with a narrative of community self-defence to describe the motivations of the rioters, protecting ‘their’ areas from attack either by racist political groups, or from the police as representatives of a racist society.²

On the other hand, it might be pointed out that there was no direct threat to Manningham on the evening of July 7th, not least because the police had already taken steps to defend the community by banning the march in the City Centre planned for the same day by the National Front.

And the question of social power is by no means unequivocal. If those on the streets are perceived in terms of their ethnic identity, they are at the receiving end, in terms of the spectrum of social power. But in their identity as men, they are part of the dominant group, and might be said to forfeit claims to special consideration as a consequence, since the

police and the rioters were from this point of view simply two groups of men in mutual contention.

Power exists moreover relative to social context, so that those in the weaker position in society as a whole may be the wielders of power themselves in local situations. Which situation(s) should the law take into account when applying its calculus of social justice?

And motivations point in different directions too. There can be negative phenomena directed outwards from generally-disadvantaged groups. There are aspects of the behaviour of the crowd on 7/7/01 that raise difficult issues in this regard, including the way in which violence was directed at targets associated with non-Asian culture, especially licensed premises. ‘Community self-defence’ can pass by degrees into local territorialism. Should the sentences have been *increased* to take account of this aspect, if the adverse motivation were proven in particular cases, and if the legislation on hate crimes had been available to the prosecution?

These questions are raised not in order to come to an overall verdict on the sentencing, but to suggest how difficult it may be to put into practice a potentially-laudable concern to relate legal justice more closely with social justice. If the underlying concern is indeed with justice, then this must be done in a way that is consistent across all applications. And the perceptions of both social power and social justice are sufficiently dependent on viewpoint and interpretation that much work would be required to create an account of them with the level of authority and degree of consent required for progressive extensions of their use into the legal process.

It must be recognised nevertheless that the events of 7/7/01 were, among other things, an outburst of anger, frustration and discontent on the part of members of a social group disadvantaged in a variety of respects. The final question of justice, and perhaps the deepest one, is whether incarceration is the most effective way of addressing such an outburst and if not, whether alternatives need to be sought to better restore peace in the community.

¹ This was the defendant from Scarborough whose actions contributed to the initial disturbances in the City Centre. The sentence is concurrent with a 6-month sentence passed in relation to separate charges for Section 3 Affray and Section 47 Assault.

² It is an interesting question whether this principle would mitigate the actions of, say, the white defendants caught up in the same events. Does the principle apply at the level of the collective action, or at the level of the individual offender?

Restorative Justice

Restorative justice is a departure from traditional corrections models, which rely on retribution. It represents a new direction that emphasises rehabilitation and healing as a method of dealing with offenders. In a restorative justice model, incarceration is not an effective way to reform people or a guaranteed means of deterring further criminal activity. Instead, restorative justice initiatives incorporate input from the community and the victim to determine appropriate ways of dealing with an offender. This gives the decision-maker more flexibility to consider different and creative options which, due to their specific nature, might better address the complex and difficult problem of recidivism. Moreover, community participation in offender rehabilitation empowers local people to address crime being committed in their own community. By drawing on their personal experience and knowledge of the parties, the justice system will be better able to meet the needs of the community, the victim and the offender.

Though there have been no accounts of the use of restorative justice for rioters, these techniques have been used for many other offences including minor economic offences, assault and even sexual assault. Although perceived as taking a 'soft approach' to dealing with criminals, restorative justice techniques have succeeded empirically in areas where traditional methods have failed. Studies

detailing the advantages and disadvantages of restorative justice techniques demonstrated higher levels of victim and offender satisfaction and perceptions of fairness and lower rates of recidivism.¹ More importantly, these approaches to dealing with offences were successful at creating a greater sense of safety, control and harmony in the community.

Due to these successes, restorative justice techniques like victim-offender mediation, circle sentencing and family-group conferencing have been legally recognized in Canada, the United States and in New Zealand. Given that disturbances have often been a vehicle for voicing social discontent, restorative justice methods provide some promising tools in restoring a sense of justice for both victims and offenders. It seems particularly appropriate that where riots tear the social fabric, the sanctions against disorder should incorporate some awareness of how that fabric might be re-sewn together.

¹ See C. Fercello and M. Umbreit, *Client evaluation of family group conferencing in 12 sites in 1st Judicial District of Minnesota* (Minneapolis - St. Paul: Center for Restorative Justice & Mediation, School of Social Work, University of Minnesota, 1998); and H. Hayes, T. Prenzler, and R. Wortley, *Making amends: Final evaluation of the Queensland community conferencing pilot* (Brisbane: Queensland Department of Justice, Juvenile Justice Branch, 1998. www.gu.edu.au/school/jad).

Appendix 1: Judge Gullick's 'Tariff-Setting' Statement, issued to a person charged with Riot, 3.11.01¹

You have pleaded guilty to the offence of Riot. That charge arises out of events which occurred in this city on the afternoon and evening of Saturday, July 7 and the early morning of Sunday, July 8 this year.

As is clear from the evidence which has been presented to me in your case and in particular from the two videos which we have all seen, there was over a period of about 12 hours, public disorder on a massive scale which involved both burning, looting, and destruction, and also sustained and ferocious violence, directed principally at the police.

Over 1,000 officers had to be sent to Bradford that day, some of them from as far as Northumberland; a third of them were injured as a result of the violence done to them.

Riot is the most serious public disorder offence which was enacted in the Public Order Act of 1986. Parliament has decided that the maximum sentence for those who participate in a riot should be one of ten years imprisonment. I trust that maximum sentence indicates to all, the very serious light in which our legislators have viewed this offence.

Riot can take a multitude of forms; but at its heart is the fact that people are on the street in such numbers that the level of violence perpetrated by them is such as will cause fear, both to those who are on the street going about their lawful business, to those who are on the street in order to secure and maintain the peace and to those who live nearby and who cannot but be affected, distressed or terrified at what is happening, particularly when what they see affects or is perceived to affect their personal safety or the safety of their homes.

The offence itself is the more serious when those involved are using weapons, be they missiles or petrol bombs, and it is aggravated when the object of the unlawful violence are the very persons who are entrusted by society with the job of maintaining law and order on the streets and ensuring that those who wish to go about their lawful business may do so in peace. Where, as here, there is wanton, vicious, and prolonged violence of the highest degree lasting over many hours, I am not concerned with its origins. It is the degree of and the duration of, the mob violence that matters and the extent to which the public peace is broken.

An examination of the events of July 7th, 2001 in parts of this city, reveals a clear picture of a long-lasting concerted attempt of very grave proportions by aggressive force of numbers to harm, if not to overpower, the police and to cause mindless damage and general mayhem. The effect of that behaviour was to strike fear in the hearts of ordinary decent law abiding citizens of this city.

It also caused many police officers, some of whom were experienced and worldly-wise, to fear for their lives or to fear for the lives of those under their command. In those circumstances, any participation whatsoever of whatever duration in an unlawful and riotous assembly of that type, irrespective of its precise form, derives its gravity from becoming one of those who by sheer weight of numbers pursued a common and unlawful purpose.

On the one hand, I must have regard to the total picture as it has been presented to me, and on the other I must pay heed, as I have done, to the specific acts of an individual such as yourself. However, it must be made crystal clear to everyone that on such tumultuous and riotous occasions, each individual who takes an active part by deed or by encouragement, is guilty of an extremely grave offence, simply by being in a public place and being engaged in a crime against the peace.

While it is plain that there were many, many people on the street that night, a goodly number of whom, for a whole variety of reasons, may never be prosecuted, may never be called to answer for the acts which they perpetrated, and thus will escape punishment, nevertheless in my judgement it is neither wrong in principle nor a matter which should affect the sentence of those who have been prosecuted, that the appropriate sentence should be given those who are before the Court.

Those who choose to take part in activities of this type must understand that they do so at their peril. It must be made equally clear, both to those who are apprehended and to those who might be tempted to behave in this way in the future, that the Court will have no hesitation in marking the seriousness of what has occurred and it will act in such a way in the present case as will, I hope, send out a clear and unambiguous message as to the consequences to the individual of participating in events such as were seen on July 7th. It is a message which I trust will deter others from engaging in this type of behaviour in the future.

The people of this great city were rightly shocked and appalled at the scenes which they witnessed on the night of July 7th. Due to the medium of television, those scenes were transmitted certainly nation-wide, if not

¹ 'What a judge told Bradford rioter', www.thisisbradford.co.uk.

world-wide. There was that evening a sustained period of ugly and ferocious violence, lawlessness and mayhem such as has never been seen in this city before. Missiles were thrown, petrol bombs were hurled, barricades were erected, cars were set alight, and so on.

These events shattered the peace and caused many millions of pounds of damage. The people of this city are all entitled to look to the law for protection and to the courts to punish those who behaved so violently and viciously.

It would be wholly unreal, therefore, for me to have regard to the specific acts which you committed, as if they had been committed in isolation. In my judgement, it would be a wholly wrong approach to take the acts of any individual participant in isolation. Those acts were not committed in isolation and, as I have already indicated, it is that very fact that constitutes the gravity of this offence.

What the court has to pay regard to, is the level and nature of the violence used, the scale of the riot, the extent to which it is premeditated, the number of persons engaged in its execution, and finally in the context of the overall picture, the specific acts of the individual Defendant.

In your case, I have seen a bundle of photographs 'JJ26', and also two videos. The first video lasts about ten or 15 minutes and seeks to give a flavour of what occurred over a period of several hours in and around the city centre, and the White Abbey Road area of Bradford on Saturday, July 7th. It can only give the most passing of impressions as to what occurred, given the length of the actual disturbances, but as one would expect from film, it graphically and vividly portrays events as they occurred over that lengthy period.

That first video also shows the highly commendable, but regrettably unsuccessful, attempts of those older and wiser than you, community leaders and the like, trying to usher you and others away and off the street. In your interview with the police, you too acknowledge the presence of such people on the street. You did not take their advice.

The second video I have seen is a compilation tape depicting specific acts perpetrated by you when you were seen on the street between 5.55 and 8.20 p.m., that evening. On a number of occasions, you threw missiles at police vans or at police officers. On one occasion, you ran to within yards of a line of police officers stretched across the road, and you threw two missiles at them. You are to be seen on a number of occasions in the front line of a group of people who were clearly intent on attacking the police and I have no doubt having viewed that video on a number of occasions that your actions in waving your arms were designed to encourage and further may well have encouraged others to behave as you had done.

When you were interviewed, you were shown that video and you acknowledged your presence upon it; you acknowledged what you had done and you expressed remorse. When you were charged, you were very sensibly given a copy of that video and I have no doubt that access to it at that stage has in part brought about your early plea of guilty.

I am of the opinion, having regard to the facts of this case as I have set them out, that the offence to which you have pleaded guilty is so serious that only a custodial sentence can be justified for it. Mr Wood on your behalf with his characteristic realism concedes that that must be so.

I bear fully in mind that you surrendered yourself to the police within hours of the publication of your photograph in the local press, although your situation is to be distinguished from that of the person of whom the police were totally unaware and who goes to the police station and confesses to a crime. Here your photo was in the public domain, but nevertheless, I have discounted your sentence to take into account the specific circumstances of you going promptly to the police station of your own accord, as opposed to waiting at home to be arrested by the police.

I bear well in mind also that you admitted, when you were questioned, that you had thrown both stones and other missiles at the police and that on one occasion you had thrown a piece of metal which you later told the probation officer was a length of scaffolding pole.

I bear very much in mind that you entered a plea of guilty to this indictment upon your very first appearance in this court, having been sent here under the provisions of Section 51 of the Crime and Disorder Act 1998.

In all those circumstances, I am able to reduce the sentence which I otherwise would have imposed had you indicated a plea of guilty at a later stage in the police inquiry or pleaded guilty at a later stage in the court proceedings, or been convicted by a jury.

Cases decided over the years, have made it plain that I must make it demonstrably clear to those who express remorse at an early stage of a police enquiry and who go on to indicate pleas of guilty at an early stage of the court proceedings that to do so will produce demonstrable benefits for them in terms of a reduced or discounted sentence.

I wish to emphasise to you that that is precisely what I have done in arriving at the sentence in your case. Being the first person, of what I understand to be potentially well in excess of 100, to be sentenced in relation

to these events you have as yet no yardstick for comparison, however, I trust that in the coming weeks and months you will learn of sentences imposed upon others who are in a different position to you, either in terms of the level and nature of their participation or in relation to the stage in the proceedings when a plea of guilty was entered or indeed if it be the case, if they are convicted by a jury and that you will see that I have been true to my word.

It is likewise right that I should make it plain that those who choose to run their not guilty pleas up to the wire until they can see the colour of the jury's eyes that they should know that that discount will be substantially and visibly reduced from that which they would otherwise have earned for an early guilty plea, and of course for those who are convicted by a jury, no reduction in sentence will be given at all.

Having regard to the sentence which I am about to pass upon you, your case will not be considered by the Parole Board until you have served at least half your sentence in custody. Unless the Parole Board recommends earlier release, you will not be released until you have served two thirds of the sentence. Your release will not bring the sentence to an end. Instead, the remainder will hang over you. If after your release and before the period covered by the sentence you commit any further offence, you may be ordered to return to custody to serve the balance of the original sentence outstanding at the date of the new offence, as well as being punished for that new offence.

Any time you have spent in custody on remand in connection with the offence for which you are now being sentenced will count as part of your sentence to be served unless it has already been counted.

After your release, you will also be subject to supervision on licence until the end of three quarters of the total sentence. You will be liable to be recalled to prison if your licence is revoked, either on the recommendation of the Parole Board, or if it is thought expedient in the public interest by the Secretary of State.

You are 19 years old and you have no previous convictions. You come from a caring and concerned family who very commendably gave every assistance to the police, despite the fact that they knew in so doing that it was their own son whose prosecution they were assisting. Needless to say, you have never been deprived of your liberty in the past and I bear in mind that fact. You are academically capable and you have worked well since leaving school.

I have read a number of letters which have been handed to me from people who know your family well. All speak highly of you and of the distress which has been caused to your father and grandfather in particular by your present situation. I have also read a letter from your present employer who speaks of you in highly complimentary terms.

I have read a detailed and comprehensive report about you from a probation officer. That report records your remorse for what you did, remorse which I accept is genuine, and your sorrow and disappointment at the example you have set other younger members of your family and indeed others in the wider community. Your family have been resident in this country for many years and I am told that this is the first occasion that any of them has troubled the courts. Today is thus a very sad day for them as they endure the shame which your irrational and irresponsible actions have inflicted on them.

I bear in mind also all the matters advanced by Mr Wood, who as one would expect has placed before me all those matters which could materially affect and mitigate your sentence. He asks me to bear in mind the effect of loss of liberty upon you, in terms of your future life rather than to be over-mindful of the length of the sentence.

He submits that the risk of re-offending is low and that you have learnt a lesson and that you will continue to learn it when you are in the institution to which you will be sent. He preys heavily in aid of your remorse and your early plea of guilty. As I have indicated, I have given you the greatest possible credit for that, but I must pay heed to precisely what you did and to your involvement in that dreadful incident, as he puts it, when you were on the streets of this city for about two and a half hours acting in the disgraceful manner which has been shown to us on the second video.

At the conclusion of all that I have heard and considering all the evidence which has been placed before me and the most helpful submissions of your counsel, the sentence which I pass upon this indictment, in your case, commensurate with the seriousness of the offence, recognising, as I do, the need in all the circumstances both to punish and to deter is one of five years detention in a young offenders institution.

Appendix 2: Statistical Issues

2.1 Definition of ‘Principal Charge’

Since some individuals faced more than one charge, and some charges led to more than one type of punishment (‘disposal’ in police terminology), possible ambiguities arise in the presentation of statistical data, because of the elements of double-counting involved. The approach adopted here is to classify each individual by the *principal* charge they faced and/or the *principal* sentence they received. Where there is a public order charge in addition to other charge(s), the public order charge counts as the principal one. Where there are two public order charges, the more serious counts as the principal one. In a few cases, this may mean that a sentence of, for example, 3 years 8 months reported in connection with Riot includes an element of 4 months in relation to Possession of Cannabis. The aggregate statistics are affected very little by this choice of presentation method.

2.2 Data Sources: Bradford and Northern Ireland

Unless stated otherwise, all the information about cases arising from the Manningham disturbances has been taken from the Operation Wheel data-base, disclosed to the researchers under agreement between the West Yorkshire Police and the University of Bradford. This has been cross-checked however with information arising from other sources, especially the local press, both the Bradford *Telegraph and Argus* and the *Yorkshire Post*.

There is a very high degree of consistency between these sources, in so far as comparisons can be made, and the coverage in the press, especially in the *T&A*, is extensive. It is possible to identify 202 of the 256 cases from press reports, including many of the juveniles from circumstantial details, given that their names cannot be revealed. There are press reports on a further 7 juveniles with insufficient details to match their cases to entries in the Wheel data-base, yielding an aggregate coverage of over 80% of the cases. There are only about 40 cases in which there is any discrepancy at all between the official source and the public information, and these involve minor differences, such as close alternative spellings of names or close variants of address locations in Bradford. In these respects, the public in Bradford has been kept very well informed, and accurately informed, about the progress of the criminal justice process.

Data on prosecutions and convictions for public order offences in Northern Ireland is not readily available in a comprehensive format. The Police Service of Northern Ireland, the Northern Ireland Office (NIO) and the Director of Public Prosecutions all have some information but the data from the various sources is not always comparable. The data from the NIO is the most comprehensive and was used for this report.

2.3 The Importance of Video

It is possible to construct a measure of the importance of the video evidence to the prosecution process as follows. A number of individuals were arrested on the evening of 7/7/01. Of those who were arrested subsequently, most were identified as a direct result of the public poster campaign, derived solely from the video record. So it is a safe bet that the latter prosecutions could not have taken place without the video footage.

But it is clear that the video evidence also played a significant role in many cases in which the accused person was initially identified by other means, including the cases of those arrested on the evening itself.

The analysis of the video footage led to the assignment of an index number by Operation Wheel – a ‘subject number’ – for each person separately identified on film. So we can be *sure* that the video evidence made *no difference* to the prosecution *only* in those cases where prosecutions took place of individuals without a subject number, who were not ‘captured on film’. All the relevant data are given in Table A1.

Principal Charge	Arrested on 7/7/01	On Poster	On Video	Total Charged
Section 1	2	156	178	178
Section 2	14	25	44	44
Section 3	2	3	7	7
Section 4	10	1	11	11
Other	7	0	9	16
Total	35	185	249	256

Table A1: Defendants by Principal Charge and Source of Identification Evidence

We see that all but 7 of the total number of 256 defendants were captured on video, and none of these seven individuals faced public order charges. So it looks as if *the video evidence played a role in every single public order prosecution*, subject to confirmation from the analysis of individual cases. Moreover, only 2 of the 178 charged with Riot were arrested on the night, and only 22 came to the attention of the police by routes other than the poster campaign. By contrast, nearly all of those charged with the least serious offence – Threatening Behaviour – were arrested on the night. The figures for the intermediate levels of offence stand between these two cases.

2.4 The Ethnic Background of Defendants

The ethnic classification used by the West Yorkshire Police, which includes the categories of Afro-Caribbean, Asian, Dark European or White, is not immune from criticism. ‘Dark European’ would raise eyebrows in sociological circles; ‘African-Caribbean’ is usually preferred to ‘Afro-Caribbean’, and the important dimension of religious background is missed out. Moreover, the police records do not establish an ethnic classification in every case (largely because they do not need to do so for police purposes), and it is not clear if the classifications that are made derive from self-ascription, which is the favoured research technique.

On the basis of police identifications and inferences from names, it can be estimated nevertheless that about 224 of the 254 male defendants are of Asian background. The overwhelming majority of these are likely to be Muslims. Judging by the ‘Singh’ surname, there are two defendants of Sikh background. There is at least one African-Caribbean defendant, a juvenile, and at most a very few other African-Caribbeans. This leaves about 25-27 defendants still to be classified, nearly all white, with at most 2 ‘Dark Europeans’.

2.5 The Age Distribution

The full age profile is given in Table A2. Note that the ages given are those of the defendants on July 7th. 2001. These figures may differ from those given in the press, which sometimes reported the age at the date of trial, up to three years later.

Age on 7/7/01	No. of Defendants	Age on 7/7/01	No. of Defendants	Age on 7/7/01	No. of Defendants	Age on 7/7/01	No. of Defendants
13	5	22	16	31	4	40	1
14	6	23	11	32	3	41	0
15	13	24	7	33	2	42	0
16	17	25	11	34	4	43	0
17	28	26	9	35	1	44	1
18	21	27	3	36	1	45	0
19	25	28	5	37	3	46	2
20	27	29	3	38	0		
21	21	30	5	39	1	Total	256

Table A2: Defendants by Annual Categories of Age on 7/7/01

2.6 Employment Record and Previous Convictions

Table A3 provides information on employment situation and antecedent involvement with the criminal justice system. The figures reported apply to the 45 individuals arrested but not charged, and to the 3 individuals bailed at court, in addition to the 256 defendants referred to in previous tables. This makes a new total of 304 offenders. It should be noted that these are aggregate statistics compiled by the police, and, unlike other data, have not been constructed specially for this report by the research team from individual case records.

Conviction Record	Employed	Unemployed.	Students	Not Known	Total
No Previous Conv.	41	33	39	2	115
Previous Convictions	38	75	15	11	139
Cautions etc.	18	22	7	3	50
Total	97	130	61	16	304

Table A3: Offenders by Employment Status and Previous Convictions

2.7 Analysis of Differences between Mean Sentences

Complete distributions of the lengths of prison sentences are available for a number of different categories of offender in relation to the events in Manningham, and also in relation to Ravenscliffe and Wrexham. [See the Tables in the main text].

The standard test for the difference of mean values has been applied to each of the pair-wise comparisons between these categories of offender. This test is known to be robust in respect of the underlying shape of the distributions of the random variables. As is usual, the denominator (n-1) rather than (n) has been used to estimate the standard deviation of the sampling distributions.

Category of Offence and Offender	Number of Cases (n)	Mean Sentence (Months)	Sample Standard Deviation
Manningham Riot (Adults)	110	50.44	17.91
Manningham Riot (Juveniles)	12	19.92	15.97
Manningham Violent Disorder (Adults)	22	17.05	8.98
Ravenscliffe Violent Disorder (Adults)	6	21.17	8.06
Wrexham Violent Disorder (Adults)	15	30.93	15.13

Table A4: Data on Sentence Distributions

Manningham Riot (Juveniles)	30.5 [12.6]			
Manningham Violent Disorder (Adults)	33.4 [6.6]	2.9 [12.7]		
Ravenscliffe Violent Disorder (Adults)	29.3 [9.5]	-1.3 [14.5]	-4.1 [9.75]	
Wrexham Violent Disorder (Adults)	19.5 [10.9]	-11.0 [15.5]	-13.9 [11.1]	-9.8 [13.1]
	Mann. Riot (Adult)	Mann. Riot (Juvenile)	Mann. V.D. (Adult)	Ravenscliffe (Adult)

Table A5: Pair-wise Differences of Sentencing Mean Values (Months)

The Results presented in Tables A4 and A5 confirm the intuitive impression of the data. The figures in square brackets give the two-sided 1% Confidence Intervals for the corresponding pair-wise comparisons.

The mean length of prison sentences for adult Riot offenders in connection with Manningham is significantly different from (and, of course, higher than) the mean sentence for every other comparator at the 1% level. The difference between the mean sentences for Violent Disorder for adults in Wrexham and in Manningham is likewise significant at the 1% level (with the Wrexham sentences in this case higher than the Manningham ones). Otherwise, none of the pair-wise differences is significant at the 1% level, or indeed at the 5% level, although the detail of the latter test is omitted here.

These results nevertheless require very careful interpretation. The test for the difference of mean values assumes that each of the sentences imposed in a given category, for example, a sentence for Riot handed down to an adult in connection with Manningham, is drawn as a random sample from an underlying distribution with a constant mean value. The test then asks how likely it is that the mean value of the sentence in another category is the same. If this likelihood is less than, say, 1 in a 100, then the difference of means is said to be 'significant at the 1% level', as reported in some cases above.

The problem, however, is that each sentence is best seen not as a random sample of the distribution of the outcomes of all prosecutions for Riot in, say, Manningham, but better as a random sample of the outcomes of all prosecutions for Riot, *with the identical evidence*, or even perhaps, *with the identical circumstances of arrest, and every other factor that might legitimately affect the level of sentencing*. Since these conditions will in general vary among cases within the same category, the assumption will not in general be warranted that the data are drawn from populations with a constant mean value. The standard analysis is offered nevertheless to give some assurance that the relationships discussed in the main text are not based on purely random processes.

Appendix 3: Judicial Issues

3.1 Concealment of Identity

Legal powers to deal with concealment exist under the Crime & Disorder Act 1998. This adds to Section 60 of the Criminal Justice and Public Order Act 1994 and gives an officer in uniform the power to:-

- require any person to remove any item which the constable reasonably believes that person is wearing wholly or mainly for the purpose of concealing their identity;
- seize any item which the constable reasonably believes any person intends to wear wholly or mainly for that purpose.

3.2 The Court Process

<i>Court</i>	<i>Age Range</i>	<i>No. of Defendants</i>
Youth Court	Young Person	46
Magistrates Court	Young Person	3
	Adult	24
Crown Court	Young Person	20
	Adult	161
	Others	2
Total		256

Table A6: Defendants by Court Process and Age

The two 'Others' in the Table include one Caution, and one defendant deceased before sentence was passed.

3.3 The Appeal Process

<i>Appeal Outcome</i>	<i>No. of Cases</i>
Withdrawn	3
Rejected	24
Upheld	16
Outstanding Case	1
Total	44

Table A7: Appeals by Outcome

<i>Reduction (Months)</i>	<i>No. of Cases</i>
4	1
6	5
9	2
12	3
18	4
24	1
Total	16

Table A8: Successful Appeals by Sentence Reduction

The mean value of sentence reduction is 11.5 months. The reductions of 18 months include 3 Absolute Discharges of 14-year old defendants.

3.4 Judicial Outcomes

<i>Principal Charge</i>		<i>Total</i>	<i>Not Proceed*</i>	<i>Other⁺</i>	<i>Cautions & Fines[‡]</i>	<i>Comm. Orders</i>	<i>Custodial Sentences</i>		<i>Total</i>
							<i>D & T[#]</i>	<i>Prison</i>	
Riot	Youth	61	1	4	0	8	36	12	61
	Adult	117	1	2	0	4	0	110	117
Viol. Dis.	Youth	6	1	0	0	2	3	0	6
	Adult	38	8	0	0	7	1	22	38
Affray		7	0	1	0	5	0	1	7
Thr. Beh.		11	1	1	4	3	0	2	11
Other	Youth	2	1	0	0	1	0	0	2
	Adult	14	3	1	2	4	0	4	14
	Total	256	16	9	6	34	40	151	256

Table A9: Judicial Outcomes

* The 'Not Proceeded with' category includes Not Guilty Verdicts (1), and cases Withdrawn (6) or Discontinued (9). + The 'Other' category includes Absolute (3) or Conditional (2) Discharges, Suspended Sentences (1), Curfew Orders (1), and deceased defendants (2).

[‡]There is one Caution and 5 Fines. # 'D&T' refers to Detention and Training Orders.

<i>Length of Sentence (Months)</i>	<i>No. of Convictions</i>	<i>Length of Sentence (Months)</i>	<i>No. of Convictions</i>
10	1	51	6
12	4	54	27
18	3	57	7
24	3	60	11
30	4	63	2
33	1	66	3
36	9	72	1
40	2	78	1
42	1	84	2
44	1	90	1
45	1	96	2
47	1	102	1
48	14	108	1
		Total	110

Table A10: Adult Prison Sentences for Riot by Length of Sentence

3.5 Ethnicity and Judicial Outcomes

There are 6 adults imprisoned for Riot whose names or police records suggest are white (or at least non-Asian). The mean sentence in these cases is 53.5 months, higher than the mean sentence for all adults (50.4 months). One African-Caribbean woman was sentenced to 51 months – almost exactly the average. All 12 of the juvenile defendants imprisoned for Riot have Asian names, but there are 4 juvenile defendants given Detention & Training Orders who have non-Asian names. The mean sentence for this group is 16.5 months, slightly higher than the mean sentence for all D&T orders (15.4 months).

Inferences of either the presence or absence of discrimination need to be made with extreme caution, for reasons similar to those given in the discussion in Appendix 2.7.

Appendix 4: Sequence of Opinion-forming Events

Date	Event
15 April 2001	Lidget Green (Bradford) disturbances
21-29 May 2001	Oldham riots
5 June 2001	Harehills (Leeds) disturbances
22-24 June 2001	Burnley disturbances
7 July 2001	Bradford riots
8-10 July 2001	Disturbances in other parts of Bradford
11 Sept 2001	September 11th
17 October 2001	Bradford Council deferred a decision to conduct an investigation on the riot (and no subsequent decision was taken)
3 November 2001	Judge Gullick, in passing sentence, gave a widely-reported 'tariff-setting speech' (see Appendix 1)
December 2001	Government published the Cantle report into Bradford, Burnley & Oldham riots
April 2002	Judge Gullick was made an Honorary Recorder of the City, an award which polarised public opinion. By then he had sentenced nearly 30 people. Cllr Ralph Berry, a former probation officer, was one of those who pressed for the award (see also below Sept 2002).
April 2002	Suicide of an accused person
June 2002	Awards were given to police for actions during the riot.
July 2002	Fair Justice for All campaign launched at St Georges Hall
September 2002	Cllr Berry (above) said that those imprisoned would need help to enable them to positively re-contact with society on their release. This resulted in some harsh public reaction against him, notwithstanding his support of the earlier Gullick award above (which was not mentioned this time).
September 2002	Judge Gullick defended the sentences he had previously given during a sentencing speech on a case.
October 2002	Appeal Court turned down Ravenscliffe appeals (T&A 17.10.02)
December 2002	BBC documentary 'Trouble Up North'. Some public reaction to this film, which was sympathetic to the rioters families, seemed to be negative.
January 2003	Appeal Court reduced some sentences, partly on the basis that there was fear in the Asian community of racial attacks (<i>Guardian</i> 31.1.03)
January 2003	Local press reports linking Ravenscliffe sentences and Manningham ones & quoting people making that comparison
April 2003	Bradford Vision's Community Cohesion officer said that help would be given to reintegrate released prisoners into society. This seemed not to be met with such negative public reaction as did Cllr Berry's similar earlier statement (see above).
2003	<i>Fair Justice: The Bradford Disturbances, the Sentencing and the Impact</i> . Report by Christopher Allen, published by Forum Against Islamophobia & Racism.
February 2004	Judge Gullick spoke, by invitation, at Ahmadiyya Muslim Association's Eid reception in Bradford.
March 2004	Appeal Court reduced, by relatively small amounts, the sentences of four of those charged.

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