# New sentencing guidance risks creating a two-tier justice system



The Ministry of Justice’s recent mandate compelling pre-sentence assessments to factor in the "historical background and cultural context" of ethnic minority offenders marks yet another troubling step towards a fractured justice system. Implemented in January, this policy directs probation officers to weigh trauma linked to racism or discrimination—whether personal, intergenerational, or connected to historical events—when crafting reports for judges. This approach risks embedding identity politics deep within the judiciary’s workings, undermining the principle of equal treatment under the law.

The new guidance, detailed in the MoJ's Probation Court Services Policy Framework, highlights certain groups as uniquely burdened by “complexities” and “vulnerabilities,” effectively giving some offenders special considerations. While framed as an attempt to achieve equity, it instead institutionalizes disparity, threatening to erode public confidence in law enforcement and sentencing fairness.

This radical shift comes amid the suspension of the Sentencing Council’s guidelines, which had previously recommended mandatory pre-sentence reports specifically for minority defendants facing custodial sentences. Emergency legislation has now been introduced to halt that policy, but the underlying philosophy remains.

Shadow Justice Secretary Robert Jenrick rightly raised alarm in the Commons, challenging whether this new approach signals the advent of a two-tier justice system. He condemned the insistence on factoring in “intergenerational trauma” and “culture” into sentencing as a clear abandonment of individual accountability, calling out the Labour government’s embrace of cultural relativism over equal application of the law.

The Justice Secretary’s hollow assurances of upholding “equality before the law” do little to reassure citizens that all defendants will receive fair treatment. The fact remains that giving weight to ethno-cultural factors distorts sentencing guidelines and risks leniency for some offenders at the expense of victims’ rights and public safety.

As this government stokes division by embedding identity politics at the heart of judicial decisions, there is a pressing need for a principled opposition that champions true equality and personal responsibility. Advocates argue that justice must be blind, not tailored to cultural identities, and that rebuilding trust requires a return to a system where the law is applied uniformly.

Only with such unwavering commitment to fairness can confidence in the justice system be restored, resisting the Labour administration’s misguided policies that threaten to turn Britain’s courts into battlegrounds of political correctness rather than bastions of impartiality. The new narrative emerging from recent government maneuvers underscores the vital role of an informed opposition voice pushing back against the dangerous slide towards a divided justice system.

Source: [Noah Wire Services](https://www.noahwire.com)

## References

* <https://www.gov.uk/government/publications/sentencing-guidelines-pre-sentence-reports-bill/sentencing-guidelines-pre-sentence-reports-bill-fact-sheet> - This fact sheet explains the Sentencing Guidelines (Pre-Sentence Reports) Bill that prohibits courts from referencing race, ethnicity, or other personal characteristics in guidelines about when pre-sentence reports should be requested, supporting the claim about emergency legislation stopping policies that mandated pre-sentence reports specifically for minority defendants and aiming to avoid differential treatment before the law.
* <https://researchbriefings.files.parliament.uk/documents/CBP-10245/CBP-10245.pdf> - The research briefing details statistics and legislative context around sentencing guidelines and pre-sentence reports, including data on the proportion of judges from ethnic minority groups and the suspension of previous guidelines, corroborating the article's discussion of changes in sentencing policy and concerns about ethnic considerations.
* <https://pa.media/blogs/fact-check/fact-check-new-sentencing-guidelines-were-written-by-independent-body/> - This fact-check article clarifies the rationale behind pre-sentence reporting guidelines including inclusion of ethnic, cultural, and faith minorities as cohorts where reports may be particularly important. It supports the article’s point that the approach was framed as addressing disparities but is contested for potentially institutionalizing differences.
* <https://academic.oup.com/bjc/article/64/5/1189/7612940> - This academic article presents empirical evidence of sentencing disparities involving ethnic minority defendants in the Crown Court, supporting the article's claim about racial disparity and the complexity involved in sentencing ethnic minority offenders.
* <https://www.mountfordchambers.com/pre-sentence-reports-for-specific-cohorts-a-move-in-the-right-direction/> - This legal commentary discusses the merits and concerns of requiring pre-sentence reports for specific cohorts including ethnic minorities, corroborating the claim that the new probation officer mandates reflect a shift toward considering cultural and historical context and the debates surrounding fairness and equality.