

Director of Public Prosecutions
Rose Court
2 Southwark Bridge
London
SE1 9HS

3rd April 2012

Dear Keir Starmer QC

Re: The racial abuse of Mauro Demetrio by PC Alex MacFarlane, Beckton, East London and the racial assault on a 15 year old boy (unidentified).

With reference to the above cases we are deeply concerned to read that the Crown Prosecution Service did not bring a prosecution against the perpetrators/s in the above cases. As a civil liberties, human rights and racial justice organization we are deeply concerned about the implications of your failure to take appropriate action as it legitimises racial abuse within the police service.

It is understood that PC Harrington has been captured on CCTV allegedly assaulting a young black teenager just hours after his colleague, PC MacFarlane, was recorded abusing Mauro Demetrio with serious racial slurs. Both Metropolitan police officers were not prosecuted. It is further understood that PC Harrington was present when PC MacFarlane racially abused Mauro Demetrio but no action was taken against him.

It is now understood that PC Joe Harrington has been placed on restricted duties after he was allegedly seen kicking the 15-year-old to the ground and kneeling him, in the custody area of an east London police station. Part of the incident was recorded on CCTV.

We are concerned that the same CPS lawyer gave advice on both cases not to bring charges. We seek clarification on what grounds it was determined that "no alarm or distress" was caused by the racist abuse in which Mr. Demetrio alleges he was strangled and left traumatized by the racist abuse supported by the recording of the telephone evidence. In addition it is unclear why the CPS deemed that there was no realistic prospect of conviction in the case of PC Harrington's assault on the fifteen year old boy which was witnessed by Mr. Demetrio and in part was captured on CCTV. It is also understood that medical staff were also called to the scene after the young boy was experiencing breathing problems. On the basis of existing evidence there appears to be sufficient grounds for the CPS to bring a prosecution case against the officers for the offence of an assault aggravated by racist behaviour, words and conduct. The CPS website lists the definition of a racially aggravated offence in the following terms:

“Racially aggravated offences are offences where the offender shows or is driven by racial hostility. They are offences where:

- *At the time of committing the offence, or immediately before or after doing so, the offender demonstrates hostility towards the victim based on the victim's membership (or presumed membership) of a racial group;*
- ***Or** the offence is motivated (wholly or partly) by hostility towards members of a racial group based on their membership of that group.*

Which offences can be racially aggravated?

Racially aggravated offences for assault, criminal damage, harassment and public order were introduced under the Crime and Disorder Act 1998:

- *actual bodily harm (Section 47 of the Offences Against the Person Act 1861)*
- *common assault.*

http://www.cps.gov.uk/news/fact_sheets/racially_aggravated_offences/

Our work with BME young people over the last few years have highlighted the disproportionate use of stop and search by the police in a manner which shows contempt for young people's rights and dignity. We are also deeply concerned about the disproportionate presence of BME young men within the prison population. The failure of the CPS to prosecute perpetrator/s in this case (and possibly others) suggests systemic and structural failures in relation to dealing with police race hate crime.

Mr Keith Vaz, Chair of the Home Affairs Select Committee, has reported to have also expressed his concerns at the CPS: "I'm very surprised that the CPS did not consider that charges should be brought."

We now understand that the CPS is reassessing the case of PC MacFarlane but in view of the CPS's response to the above cases we are seeking clarification in the following areas?

1. Why was the MacFarlane case not assessed properly the first time round?
Please outline the reasons for the position the CPS has taken and what evidence did you consider in reaching your decision?
2. In this instance the racial abuse was taped, but we remain concerned that in the absence of overt evidence, the CPS is more likely to overlook allegations of police abuse. What safeguards does the CPS observe to ensure that such oversight is not routine? Are these safeguards independently assessed?
3. Please provide us with a list of all cases where a decision was made not to prosecute officers for racially motivated incidents in the last two years and how this compares to the total number of cases that were prosecuted.

In relation to the PC Harrington case, we are seeking clarification in the following areas:

1. Why did the CPS lawyer not deem that there was a realistic prospect of conviction as there was CCTV evidence, independent witness evidence and medical evidence that supported the allegation of a physical assault?
2. Please clarify if the CCTV evidence, independent witness testimony and medical evidence were submitted to the CPS reviewing lawyer?

We believe that in order to restore trust in the CPS, there should be an independent review of allegations of police race hate incidents that the CPS has decided not to prosecute.

Clearly there are deep rooted issues of racism that still persist within the police service today which need to be looked at as a matter of public interest. The failure of the CPS to prosecute clear acts of racial violence and abuse potentially undermines the confidence of BME communities in the criminal justice system.

We trust you will investigate the concerns we have highlighted carefully and look into the cases again with a view to bringing prosecutions against the officers responsible.

We look forward to hearing from you at your earliest convenience.

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