



The Bar Council

## **Bar Council response to the Crown Prosecution Service (CPS) Consultation on “gang” related offences guidance and musical expression in evidence**

1. This is the response of the General Council of the Bar of England and Wales (the Bar Council) to the Crown Prosecution Service (CPS) Consultation on “gang” related offences guidance and musical expression in evidence.<sup>1</sup>

2. The Bar Council is the voice of the barrister profession in England and Wales. Our nearly 18,000 members – self-employed and employed barristers – make up a united Bar that aims to be strong, inclusive, independent and influential. As well as championing the rule of law and access to justice, we lead, represent and support the Bar in the public interest through:

- Providing advice, guidance, services, training and events for our members to support career development and help maintain the highest standards of ethics and conduct
- Inspiring and supporting the next generation of barristers from all backgrounds
- Working to enhance diversity and inclusion at the Bar
- Encouraging a positive culture where wellbeing is prioritised and people can thrive in their careers
- Drawing on our members’ expertise to influence policy and legislation that relates to the justice system and the rule of law
- Sharing barristers’ vital contributions to society with the public, media and policymakers
- Developing career and business opportunities for barristers at home and abroad through promoting the Bar of England and Wales
- Engaging with national Bars and international Bar associations to facilitate the exchange of knowledge and the development of legal links and legal business overseas

3. To ensure joined-up support, we work within the wider ecosystem of the Bar alongside the Inns, circuits and specialist Bar associations, as well as with the Institute of Barristers’ Clerks and the Legal Practice Management Association.

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<sup>1</sup> <https://www.cps.gov.uk/consultation/consultation-gang-related-offences-guidance-and-musical-expression-evidence>

4. As the General Council of the Bar, we are the approved regulator for all practising barristers in England and Wales. We delegate our statutory regulatory functions to the operationally independent Bar Standards Board (BSB) as required by the Legal Services Act 2007.

### **Gangs Guidance questions**

#### **Question 1**

The CPS guidance on 'gang'-related offending is intended to emphasise the importance of guarding against unconscious bias and making assumptions based on racial stereotypes. Some argue, however, that the mere existence of guidance on this issue is problematic, in that it may inadvertently reinforce such concepts, and that specifically drawing attention to the concept in separate guidance might be less preferable than other measures to guard against unconscious bias.

**Question 1: In your view, should the CPS continue to have separate guidance on "gang" related offences? If not, should it address unconscious bias in other guidance, such as the joint enterprise guidance?**

5. Yes, the CPS should continue to have separate guidance on "gang" related offences.

6. This is a worthwhile consultation exercise, and the immediate response reflects the professional and wider experience of a number of specialist practitioners. There is widespread concern that gang related cases attract a degree of bias, racial profiling and assumptions based on stereotypes and misinformation. The recent dismantling of the inherently unreliable and prejudicial gang's matrix following many years of campaigning from Amnesty and other organisations, supports the need for prosecutorial bias, unconscious or otherwise, to be addressed. The concerns expressed, are compounded by the difficulty in the defence accessing experts within the field, thereby enabling them to meet or challenge expert evidence presented by the prosecution.

7. While we agree that gang violence remains a serious social problem and that there will be cases in which clear evidence of gang membership is specifically relevant to an alleged offence, it is important not to conflate the two issues. The fluidity of and variation in the use of the term "gang", absent any agreed upon definition, is of concern and further impacts the disparate outcomes for black and racialised people in the criminal justice system.

8. There is some argument that consideration of matters of race and racial stereotyping may be "political" or "subjective". This perception must be challenged. Recognising prejudice is essential to fair and just decision making by prosecutors and to preventing erroneous assumptions about the criminality or actions of those from black and other racialised backgrounds. Decision makers must reflect on any biases that they may bring to a case involving a black or racialised person or group. Such biases may include making stereotypical

assumptions about an accused person, their family and friends, or associates, this may include factors such as placing undue weight on a person or group's geographical demographic, school or musical or artistic expression. These biases may be unintentional and may impact the decision-making without the decision maker realising it. However, an unintentionally held belief does not mitigate against the harm caused by the holding of and acting on such a belief.

9. Government statistics on race in the criminal justice system repeatedly show disparities at all stages of the process. They particularly show that some of the worst outcomes and experiences are for black and mixed-race individuals, this is the case irrespective of proven gang membership.

10. Our response is directed at promoting an informed, relevance-driven, understanding of the relevance of 'gang' culture and certain types of musical and artistic expression at each stage of an investigation and subsequent proceedings within the criminal justice system, for all decision-makers.

11. We accept that guidance is required, and for multiple purposes within the criminal justice system. We are also of the view that the CPS should, in addition to specific guidance on gang related offences, address bias in other guidance such as joint enterprise. Gang related offences are not always connected to a joint enterprise or joint venture case, it is therefore important to continue guidance into all aspects of the prosecutor's decision making, where there is a risk of bias or stereotyping, and where evidence of gang membership and or association exist. Any such guidance should extend to understanding the challenge of defining 'gangs', and the potential relevance of gangs, for those investigating crime, and decision-makers within the CPS in terms of both the evidential and public interest elements of the Code for Crown Prosecutors.

12. Whilst the seriousness of any alleged crime will always be a relevant consideration in terms of public interest, an informed understanding of the culture and operation of joint activity, most specifically by children or young people, may promote an alternative to prosecution in certain situations. In terms of county lines, for example, the same child may concurrently be exploiting others and be the subject of exploitation. Pro-active intervention through civil prevention orders to disrupt evolving criminal activity may be in the public interest in such circumstances, rather than defaulting to prosecution. Long-term outcomes from the criminal justice system for such children and young people are consistently poor.

13. Guidance is also required to ensure that there is a hard-edged focus on the contended relevance of group-based (or 'gang') association in individual cases, rather than misleading and unfair assumptions based on generic and ill-informed adverse stereotypes as to how such groups operate. Referring to those associating in groups as 'gangs' in the absence of evidence of involvement in criminal enterprise, is itself loaded with the risk of false assumptions. Not all such groups operate in the same way, or for the same reasons. As a matter of consistent

professional experience for those contributing to this consultation response, such groups are not generally determined by selection based on race: the associations are by reference to local geography and/or other local institutional association. Whilst certain localities may of course have concentrations of communities from racialised backgrounds, race is not a significant or determining factor in their constitution. Guidance should specifically address this reality.

14. Guidance should obviously explain and address the necessity of defining in clear terms the relevance of association, and/or an interest in specific musical genres, in a specific case. Such music, and the themes and language reflected in such music, will be wholly removed from the experience of many, and the risk of not understanding its widespread cultural popularity is acute.

15. Self-evidently, in certain cases the context for an allegation will be an alleged motivation based on violence between, and/or motivated by, local gang membership. The same applies where lyrics to music produced by those associating with such gangs are specific to the violence under consideration. The corollary however is that in the absence of such specificity, juries need to be warned against false and adverse assumptions based on simply the fact of gang membership or preferences for certain musical genres.

16. In order to guard against bias and making assumptions based on racial stereotypes, decision makers must take steps to ensure that they exercise racial awareness and recognise that institutional and structural racism exists. Taking these steps will enable decision makers to identify and better understand the racial dynamics that attach to gang or purported gang membership. Doing so will assist them in determining whether and how to investigate the relevance of gang membership within a specific case. This will help to develop a fuller or more nuanced picture of the matters in issue in the case.

17. When approaching a case involving a black or racialised person or group, it is important to be aware of the possible role of institutional and structural racism in shaping decision making and how race intersects with other identity characteristics such as gender and class, to further deepen stereotypes and bias.

### **Gang Culture Evidence: Inequality in the Process of Obtaining Expert Witnesses**

18. The need for the decision maker to consider the source or provenance of gang related material was set out in Amnesty's report [Trapped in the Gangs Matrix](#)<sup>2</sup>, which revealed that the information held in the now dismantled "Gangs Matrix" and other similar gangs lists did not reflect actual behaviours or risks associated with a particular individual or gang, but was broadly based on unreliable data, feelings or hunches and multiple forms of hearsay. However, decision makers still rely on lists or intelligence created primarily by the police. Much of the material relied upon comes from unidentifiable sources. As a result, the defence is often unable to challenge evidence or assertions of gang membership or association.

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<sup>2</sup> [Trapped in the Matrix – Secrecy, stigma, and bias in the Met's Gangs Database, Amnesty International](#)

Similarly, where the assertion of gang membership comes from a person's connection to an area or association with a person or group of people, the prosecutor fails to recognise the social factors connected to people from certain demographics.

19. Guidance must reflect the fact that "Gangs" as (as defined by the police and the CPS) and serious youth violence are not the same thing. Serious youth violence occurs in all communities while Gang related offending does not.

20. A difficulty frequently encountered by defence legal teams is the instruction of an appropriately qualified expert on 'gang' culture. These difficulties often lead to an inequality of arms between parties.

21. The CPS readily have access to police officers with sufficient experience to qualify as experts in gang culture and terminology, by dint of their professional experience policing on local borough and in other police roles. Consequently, the rules permit such officers to give opinion evidence as to the meaning of terms encountered within music videos, defendant's personal journals/ notes on phones, and within communications between defendants. They are also permitted to give opinion evidence as to the context of 'gang colours' and 'gang memorabilia', within common household items and clothing. Such evidence is often relied upon as an important plank in the prosecution armoury as going towards motive, gang association and identification of defendants as gang affiliates.

22. To adequately address such evidence, defendants either need to give evidence themselves as to the 'true' meaning of such terms or references, or to call an expert to rebut the prosecution version. This is when the difficulties frequently arise. The Legal Aid Agency requires quotes, which itself is the cause of significant delays. The greater hurdle, however, is the dearth of available overriding experts in gang culture. Director of the National Centre for Gang Research Ltd, Dr Simon Harding, is the only dedicated expert specialising in gangs in England and Wales. Aside from Dr Harding, as of January 2026, the UK Register of Expert Witnesses and the National Expert Witness Agency contains only three individuals listed as able to provide expert opinion evidence on gang issues, located in Birmingham, Newport Pagnell and Cheshire. It is understood that a fourth has been discredited by the NCA, leaving the pool of experts from which the defence can seek assistance extremely small.

23. In our view, CPS guidance needs to cater for this inbuilt inequality. The CPS are invited to seek the expert guidance and assistance of Dr Simon Harding, to ensure that those defendants who are unable to instruct an expert are not disadvantaged by the lack of legal aid or prohibitive delays in the instruction of expert process.

## **Question 2**

The term "gang" (often used interchangeably with "street gang") can be defined in various ways to describe a wide range of collective behaviour or allegiance in the context of criminal

offending - from localised street activity to international organised crime. Stakeholders have adopted different definitions, and some examples are shown below.

**Question 2: In your view, how should the Crown Prosecution Service (CPS) define the term “gang” in its guidance (whether specific guidance, or in its guidance in general)?**

**Examples:**

<p><b>Section 34(5) of the Policing and Crime Act 2009, as amended by the Serious Crime Act 2015<sup>3</sup></b></p>	<p><i>A group that a) consists of at least three people and b) has one or more characteristics that enable its members to be identified by others as a group. Examples include: a common name, emblem or colour, a leadership or command structure, association with a particular geographical area and involvement in particular unlawful activity.</i></p>
<p><b>Metropolitan Police Service<sup>4</sup></b></p>	<p><i>A relatively durable, predominantly street-based group of young people who see themselves as a discernible group, have identifiable structural features and engage in criminal activity and violence, often linked to specific territories and conflict with other gangs.</i></p>
<p><b>Youth Endowment Fund<sup>5</sup></b></p>	<p><i>A group of young people who think of themselves as a gang, probably with a name, and are involved in violence or other crime.</i></p>
<p><b>HMICFRS<sup>6</sup></b></p>	<p><i>Criminal groups concerned with perpetuating a threat of violence or harm across a geographical area related to their main activities. Gangs tend to be less organised or co-ordinated than organised crime groups, but their criminal activity often overlaps with OCGs.</i></p>

24. The focus of criminal justice should always be on whether the alleged wrongdoing of an individual is properly made out on the law and evidence. The danger with focussing on a ‘gang’ is that the central question as to whether the named individual engaged in criminal conduct, with the requisite criminal mindset can become a secondary consideration.

25. Decision makers are encouraged to focus their attention on the actions (and, where appropriate, omissions) of the individual suspect, rather than expending their resources on determining whether the individual is a member or associate of a ‘gang’. Whilst recognising that such affiliation or membership may be indicative of an individual’s intentions or beliefs, proof of gang membership or affiliation should not be an end.

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<sup>3</sup> [Statutory Guidance, Injunctions to Prevent Gang-Related Violence and Gang-Related Drug Dealing, Revised Guidance](#)

<sup>4</sup> Serious youth violence: County lines drug dealing and the Government response [CBP-9264.pdf](#)

<sup>5</sup> Youth Endowment Fund, Children, violence and vulnerability 2024, Report 1 [CVV24 R1 OverallViolence.pdf](#)

<sup>6</sup> [Urban street gangs - His Majesty’s Inspectorate of Constabulary and Fire & Rescue Services](#)

26. The inclusion of “youth” in some stakeholder’s definitions is unhelpful and discriminatory. Not all young people have criminal mindsets or engage in criminal activities. The reverse is also true; many adults (groups as well as individuals) engage in criminal behaviour. The age of the suspect should have no bearing on their inclusion or exclusion from a definition of a criminal group. Likewise, the inclusion of clothing, colours, insignia and group names are unhelpful and shift the focus away from the behaviour of the individuals concerned. There will be occasions when the age of the suspect may be a relevant marker, and therefore in the context of the case as a whole, be a relevant consideration for the decision maker.

27. Where the suspect is a child or young person and there is evidence that gang membership is relevant to the commission of the offence or allegation under consideration, decision makers must consider the position or status that the child or young person has within the structure of the gang. Consideration should be given to factors such as whether the child or young person has been the victim of modern slavery, the influence or otherwise that the child or young person has within the gang, the influence that others, older or more influential may have on the child or young person and how easy or difficult it is for the child or young person to relinquish ties with the gang. Importantly, decision makers must consider the overall relevance to the specific offence under consideration before determining whether or how to present gang membership as an important factor in the prosecution of the case. Such factors should be considered as a matter of course.

28. While defining the term “gang” is a matter for the CPS, we suggest the following is considered: *“A group of three or more individuals who each share an identity rooted in criminal purpose and engage in criminal activity, committed in furtherance of the gang’s interests”*. This definition should be used within specific guidance as well as its general guidance, and reference to definitions adopted by other stakeholders should be avoided. This narrow definition ensures that the focus remains fixed on the behaviour of the individual in the criminal context under consideration, and avoids dangerous assumptions made solely or mainly on the basis of association, race or demography and goes some way to addressing the bias implicit in the stereotypes generated by the wider definitions.

### **Question 3**

The current CPS guidance states that prosecutors should guard against unconscious bias and should not make assumptions about gang membership.

**Question 3: Is this the correct approach for the CPS to set out in its guidance, and if so, what else can be included in guidance to ensure prosecutors guard against racial stereotypes concerning gang membership or affiliation?**

29. We agree that this is the correct approach for the CPS to set out in its guidance.

30. We consider, however, that the inclusion of examples of common assumptions about gang membership based on racial stereotypes, would strengthen the guidance. These assumptions include, but are not limited to, the following:

### **1. The adultification of Black children and young people**

31. Adultification refers to the practice of viewing and treating children as if they are older than they are. Such assumptions may be based on a child's physical appearance, such as their height, stature or facial hair, or engagement in certain behaviours, such as offending, having additional responsibilities, such as caring for others, or perceived characteristics such as 'maturity' or 'independence'. This can be further exacerbated by a child's racial and ethnic background and other aspects of their identity<sup>7</sup>.

32. The concept of race based adultification is where notions of innocence and vulnerability are not afforded to certain children<sup>8</sup>. It is a form of racial bias that manifests in the perception and treatment of minority groups, particularly Black children, as being inherently less innocent and being more mature, threatening and culpable than their white peers<sup>9</sup>. Black children in the United Kingdom are nine times more likely to be jailed than white peers and more often labelled as 'gang concerns' or 'risks to others' upon entering custody, despite similar vulnerabilities across ethnic groups<sup>10</sup>. Adultification can lead to the misinterpretation of immature or childish behaviour as evidence of gang affiliation.

### **2. Collective intent/Joint enterprise**

33. The gang narrative is more likely to be applied to defendants from racialised groups, particularly young Black men and teenagers, irrespective of whether they have committed a criminal offence<sup>11</sup>.

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<sup>7</sup> Listen Up 'Pushing Forward' report 2025 [https://listenupresearch.org/wp-content/uploads/2025/06/Pushing-Forward\\_Report.pdf](https://listenupresearch.org/wp-content/uploads/2025/06/Pushing-Forward_Report.pdf)

<sup>8</sup> Listen Up 'Pushing Forward' report 2025 [https://listenupresearch.org/wp-content/uploads/2025/06/Pushing-Forward\\_Report.pdf](https://listenupresearch.org/wp-content/uploads/2025/06/Pushing-Forward_Report.pdf)

<sup>9</sup> Aamna Mohdin, 'They saw me as calculating, not a child': how adultification leads to Black children being treated as criminals' The Guardian (5 July 2022) <https://www.theguardian.com/society/2022/jul/05/they-saw-me-as-calculating-not-a-child-how-adultification-leads-to-black-children-being-treated-as-criminals>, NPCC Police Race Action Plan Progress Report – July 2024

<sup>10</sup> Ministry of Justice Analytical Services, 'Exploratory analysis of 10-17 year olds in the youth secure estate by Black and other minority ethnic groups' (Ministry of Justice, September 2017) <https://assets.publishing.service.gov.uk/media/5a8223cbcd915d74e3401f0b/Exploratory-analysis-of-10-17-year-olds-in-the-youth-secure-estate-by-bame-groups.pdf>

<sup>11</sup> Nisha Waller, Gang Narrative and Broken Law: Why "Joint Enterprise" still needs fixing (31 August 2022) <https://www.crimeandjustice.org.uk/gang-narratives-and-broken-law-why-joint-enterprise-still-needs-fixing>

34. Teenagers from black and other racialised groups are disproportionately charged and convicted as secondary parties. The language used by decision makers must be considered. “Gang” membership is often used as evidence of encouragement or assistance. Assertions that defendants were all part of a ‘gang’ who were ‘in it together’ are familiar amongst practitioners. This ‘gang narrative’ is significantly more likely to be applied to defendants from racialised groups (Williams and Clarke, 2016)<sup>12</sup>, with young black men being most likely to be defined as ‘gang members’ by the police and other legal authorities, irrespective of whether they have committed a criminal offence<sup>13</sup>.

35. Accordingly, decision makers must look beyond mere association and focus on whether there is evidence from which a jury can infer that a suspect had the intention to assist or encourage the principal.

**3. The systematic perception of rap music genres, such as grime and drill, as indicators of criminal behaviour or gang involvement.**

36. Rap music genres, commonly performed by young Black men and children, are a form of artistic expression in the same way as other genres of music. Performers are drawn to rap for a variety of reasons unconnected with crime. Rap music and lyrics that have no connection to criminal activity have no probative value and more often than not create a risk of undue prejudice. (this is addressed in section 2 below).

**Question 4: Is there anything else you think CPS guidance on “gang related offences” should include to support fair, effective and independent prosecutorial decision making?**

37. Considering the detailed answers above, there is nothing further to add.

**Musical expression**

**Question 1:**

**What action should CPS consider concerning current content on drill music in the “gang-related offences” guidance? You may also wish to provide your reasons why.**

- a. Remove it from the “gang related offences” guidance and create separate, reframed guidance on musical expression evidence specifically?
- b. Keep it in the “gang related offences” guidance but reframe the content?
- c. Retain the guidance in its current form, without making changes?

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<sup>12</sup> Dangerous associations: Joint enterprise, gangs and racism

<https://www.crimeandjustice.org.uk/sites/default/files/Dangerous%20associations%20Joint%20Enterprise%20gangs%20and%20racism.pdf>

<sup>13</sup> <https://www.amnesty.org.uk/press-releases/met-police-using-racially-discriminatory-gangs-matrix-database>

**d. Remove it entirely from all forms of guidance, as guidance on this issue is counter-productive?**

38. We are of the view that evidence of a person's musical expression either in the form of drill music or for that fact, any other musical genre, should not be admitted in evidence against them unless the criteria as set out by the CACD is met. Proper consideration of the criteria, with guidance, would prevent the introduction of unreliable or unduly prejudicial material into the criminal justice process.

39. Where the lyrics of a drill song is specific to the person and offence under consideration, and where that song clearly incriminates that person in respect of that specific offence, the prosecution should be entitled to decide whether that song forms part of the prosecution case (subject to other considerations).

40. Important matters for decision makers to consider will relate to the cultural context in which the music and or lyrics were created, the extent to which the music in question is a reflection of the conventions of its genre, whether the creator of the music or lyrics was the suspect or someone else; the time between the creation of the musical expression and the alleged offence and whether the matter in issue can be proved by other evidence.

41. Decision makers must consider that the overuse of drill music as evidence in cases involving serious criminal offences, reinforces existing stereotypes, prejudices and racial disparities in the criminal justice system, and ignores some of the cultural factors surrounding the use of music as a form of art or expression in predominantly black and other racialised communities.

**Answer 1:**

42. We recommend that the CPS remove drill music from gang-related guidance and create separate, reframed guidance on musical expression evidence.

43. There is a clear need for specific guidance around drill evidence. We note that drill evidence is prevalent, and the Police are routinely seeking guidance from Prosecutors about how it can be used. The CACD have also made clear it is admissible and it routinely features in criminal trials. However, media coverage and sensitivity over racial bias in the criminal justice system means it is a controversial area of evidence which Judges expect prosecutors to heavily scrutinise before using.

44. The CACD have consistently declined to intervene in drill cases or provide any separate test for its admissibility other than the standard approach to bad character, and they have re-affirmed its admissibility.

45. The lack of guidance means practitioners are in the dark over how drill evidence can be used appropriately, for example to show:

- a. Affiliation to an existing gang, where membership of that gang is a matter in issue (e.g. in a gang-motivated killing).
- b. Identification, where a person can be identified in a drill video to demonstrate their connection to certain geographics areas, co-defendants or witnesses/complainants.
- c. Intent or motive, whereby the person's drill demonstrates an intention to kill (or target) a specific person who goes on to be the victim of a violent crime.
- d. Propensity to commit violent offences, where a drill video shows that a person has been involved in a history of violence (where not resulting in convictions, but where the examples in the drill video can be matched up with known violent incidents in the local area). This can be of relevance in 'tit-for-tat' cases where a murder or other violent crime is said to be a revenge killing.
- e. Admissions, where a person admits involvement in the offence they are charged with in a drill video.
- f. Knowledge, where a person's knowledge of a forthcoming offence is a matter in issue (e.g. in joint enterprise cases), their involvement in a drill video pre-empting an attack.

46. The CPS gangs guidance contains only 8 lines on the use of drill music. The focus is also on how drill can be itself criminal (e.g. incitement offences). Whilst this is accurate, it doesn't deal with the actual ways practitioners can use drill in evidence.

47. There is also a documented risk of drill being misused which may render convictions unsafe. Practitioners should be aware of the dangers of drill and how experts can be used to present it. This includes citing caselaw on lyrical interpretation, the use of gang experts, how a jury should be directed on drill evidence, and the risks of unfair stereotyping.

48. One common pitfall is to incorrectly assume there is an automatic link between drill music and gangs, which is why separate guidance is more appropriate. Drill by its nature is often produced by groups, and those groups may have a defined identity and/or be from a specific geographic area. The lyrics may refer to that geographic area and may also glorify violence. But that does not mean the drill group automatically has a criminal purpose and therefore does not always meet the definition of a gang. In the absence of any evidence the group has a criminal purpose or a criminal history, assuming the drill group is a gang because of the lyrical content of their music is counterproductive.

49. However, there clearly have been links between gangs and drill. Some gangs have a criminal purpose and use drill as a form of 'marketing'. It would be wrong to try and deny this reality when there have been clear examples of it in criminal trials. Consequently, we also recommend the gangs guidance is updated to include a short paragraph referring practitioners to the musical or artistic expression guidance.

## **Question 2**

Drill music, while sometimes associated with gang activity, is also a widely accessible and mainstream form of musical expression that often does not relate to real life criminality, providing a creative outlet and a path to success for many artists. Stakeholders and academics have noted that much of the content in musical expression is fictional or exaggerated for artistic purposes. However, there are also instances where lyrics or videos do relate to actual criminal activity and where it is relevant and admissible evidence.

**Question 2a: When considering the use of musical expression – such as drill music – as evidence in criminal proceedings, what information would assist prosecutors to make informed decisions, whether about context or to assess the reliability of evidence?**

50. We recommend that the guidance contains:

- (1) An explanation of what drill is, how it is created, and the context it can be made in (including both legitimate and criminal contexts).
- (2) Examples on how drill can be legitimately used in criminal trials and what matters in issue it can go to.
- (3) A clear list of the recent caselaw on the crossover between gangs evidence and drill.
- (4) A toolbox on how drill can be presented and the need to use suitably qualified experts.
- (5) Warnings about how drill can be misused and the importance of considering the context it was recorded in, and the need to carefully scrutinise how it links with the matters in issue.

51. We also recognise that music evolves rapidly. Whilst we maintain that drill is so prevalent that it needs mentioning by name, and should feature throughout the guidance, it should be made clear that the principles will apply to other forms of musical expression. This also better reflects the CACD's refusal to put drill in a 'special category' of evidence, but rather to see all musical expression evidence of this nature as catered for by the bad character provisions of the Criminal Justice Act.

**Question 2b: Should contextual information be provided to prosecutors through guidance? If you think it should, what content would it be useful to include?**

*(For example, should guidance address the broader cultural context within the genre, the artistic intent, or typical uses of language and imagery within the genre?)*

52. We would suggest the guidance does touch on the nature of drill and its context in the way we've advised above. Practitioners need to understand the common misconceptions around drill and the need to clearly link drill evidence to the matters in issue in a criminal trial to prevent unfair prejudice to the defendant. That is best done by reminding prosecutors of the dangers of relying on drill music inappropriately.

53. However, we would caution that the guidance should not intrude on the need for expert evidence. Drill music is a polarised area of criminal law and academia, and it would be inappropriate for the CPS to try and tackle the debate in too final a way. It is also fast-evolving and guidance which attempts to address the current ways language/imagery is used may quickly become out-of-date.

54. It would suffice to remind practitioners of the expert debate in this area and to broadly summarise the arguments around it. For example, noting that it can be a valuable tool in a criminal prosecution when used in the ways suggested above, whilst acknowledging that is a contextual artform that may sometimes have an innocent explanation.

55. It would also be prudent to emphasise the need to call suitably qualified experts if the drill evidence is to be contested, and the different forms of expertise required around drill. For example, lyrical interpretation and the rivalries of local gangs may be two separate expert issues for a trial, but both may need to touch on the drill evidence.

**Bar Council**

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