Different but equal? Exploring potential catalysts of disparity in remand decision-making in the youth court

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Abstract
The disproportionate use of remand detention (i.e. pre-trial detention) for vulnerable and marginalized youth is an issue of concern globally and demographic disparities in youth remand decision outcomes have been found in many jurisdictions, including England and the Netherlands. This article aims to explore and identify potential catalysts of disparity in the collective process of remand decision-making in youth courts. Drawing from Ulmer’s ‘inhabited institutions’ perspective, and the related ‘court community model’ and ‘focal concerns model’, and empirical findings from research in Dutch and English youth remand courts, this article suggests that several distinctive mechanisms and features of the youth remand decision-making process might function as catalysts of disparity. The findings indicate that the focus on ‘risk’ and ‘welfare needs’, the distinctive context defined by time constraints, limited information, shortages of readily available services, interdependency and interdisciplinary, and high stakes, combined with the profoundly human nature of courtroom workgroup decision-making, make the remand decision-making process in youth courts particularly prone to producing unwarranted disparities. Ultimately, informed by the theoretical perspectives and empirical findings, the article provides insights into how and why disparities might occur in youth remand decisions and offers suggestions for policy, practice and future research.

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Introduction

The vast overrepresentation of youth from ethnic minorities, youth with disabilities and youth from low socioeconomic backgrounds in prisons and detention centres is a reality in many youth justice systems worldwide (Nowak, 2019). Research indicates that this overrepresentation can be partially due to differential offending rates and selective or discriminatory law enforcement practices (cf. Robles-Ramamurthy and Watson, 2019), but can also be fuelled by disparities in court decision-making. Indeed, demographic disparities in remand and sentencing decisions are widely researched and well-documented in many jurisdictions (Bishop, 2005; DeLone and DeLone, 2017; Maroun, 2019; McGrath, 2016; Rodriguez, 2010; Van den Brink et al., 2017; Youth Justice Board, 2021). Yet, as Lynch (2019) points out, the question of whether disparities in criminal justice decision-making exist has been studied and answered many times, but the questions about their sources and how they are produced or sustained have received remarkably less attention in empirical court research. In this regard, Ulmer (2019: 483) calls for more methodological diversity, as he signals that ‘theory and methods in the study of courts and sentencing are out of balance: theories emphasize interpretation, culture, and processes, while empirical inquiries focus largely on statistical studies of aggregates and outcomes’. Overall, there is a need for theoretically informed, qualitative empirical research which unravels court decision-making as a ‘collective process’ (Ulmer, 2019; Van der Woude, 2016) and furthers our understanding of how disparities in decision outcomes are produced (Lynch, 2019), also in the specific context of youth justice.

Building further on previous work (Van den Brink, 2018a, 2019, 2021a; Van den Brink et al., 2017), this article focuses on remand decision-making in youth courts. The disproportionate use of remand detention (i.e. pre-trial detention) for vulnerable and marginalized youth is considered to be an issue of concern globally (Nowak, 2019) and evidence of demographic disparities in remand decision outcomes for youth has been found in many jurisdictions (see Van den Brink, 2019), including England (Youth Justice Board, 2021) and the Netherlands (Van den Brink et al., 2017). Such disparities are seemingly at odds with the principle of equality and non-discrimination under international children’s rights law (Article 2 United Nations Convention on the Rights of the Child) and have profound and long-lasting consequences for the affected youth and society (Van den Brink, 2021b). Disparities in the use of remand disproportionately impact the well-being and future life chances of socially disadvantaged youth (Freeman, 2008; Freeman and Seymour, 2010; Goldson, 2009; Goldson and Kilkelly, 2013; Liefaard et al., 2014; Van den Brink and Lubow, 2019), thereby reinforcing and deepening social inequality (cf. Laub, 2018; Webster, 2018).

This article aims to further our understanding of the collective process of remand decision-making in youth courts and seeks to explore and identify potential catalysts of demographic disparities that lie within this process. Using the ‘courts as inhabited institutions’ perspective (Ulmer, 2019) as a theoretical framework, this article does not
focus on the legal or substantive dimensions of remand decision-making for youth (cf. Van den Brink, 2021a), but rather on the underlying dynamics and processes that shape these decisions. Based on empirical research in youth remand courts in England and the Netherlands, this article scrutinizes the dynamics of youth remand decision-making processes with particular attention to the interactions between the involved youth justice actors and the cultural and practical contexts in which they operate. Informed by the theoretical framework and the empirical findings, this article ultimately explores how these dynamics might function as catalysts for disparities in remand decision outcomes and how these could be addressed in policy, practice and further research.

**Youth courts as ‘inhabited institutions’**

In his recent essay ‘Criminal Courts as Inhabited Institutions’, Ulmer (2019) makes a convincing argument for using the ‘inhabited institutions’ perspective to enrich and deepen our understanding of criminal justice decision-making processes and outcomes (cf. Lynch, 2019). Grounded in organizational sociology, this perspective views institutions – such as courts – as ‘inhabited’ by individual and organizational actors who have agency, rather than as static, top-down structures (Ulmer, 2019: 484). This view highlights that court actors continuously interpret and make sense of rules and structures and that their perceptions, actions and interactions shape and define the organizational order and culture within the court (Ulmer, 2019: 484; cf. Garland, 2013). Ultimately, this perspective implies that ‘implementation of criminal justice policies, including those that govern courts and sentencing decisions, are dependent on the people and organizations that inhabit them’ (Ulmer, 2019: 484).

Ulmer (2019) points out that the inhabited institutions perspective ties in well with theoretical frameworks that are currently widely used for the study of courts and sentencing, particularly the ‘court community model’ and the ‘focal concerns model’. The court community model perceives courts as distinctive processual orders defined by the shared workplace and interdependent working relations of and between the participating agencies, such as the judiciary, prosecution service, defence bar and probation (Eisenstein et al., 1988; Flemming et al., 1992; Ulmer, 2019). According to this model, individual actors who represent these agencies form courtroom workgroups that interact to process cases and jointly produce decisions (Eisenstein and Jacob, 1977; Ulmer, 2019). This implies that court decision-making should be viewed and studied as a ‘collective process’ (Bastard and Dubois, 2016: 159–174; Hutton, 2016: 147–150; Van der Woude, 2016: 16–17). Through the interactions between the different actors and agencies, courtroom workgroups gradually develop distinctive social orders that generate local court cultures, which in turn shape and define formal and informal case processing and disposition norms (Ulmer, 2019). According to Ulmer (2019: 493), approaching courts communities as inhabited institutions means acknowledging that ‘courts are governed by institutional rules and laws but are inhabited by courtroom workgroup actors with agency and court community organizations with their own informal norms, culture, politics, and constraints’.

The focal concerns model offers a theory to make sense of how courtroom workgroups produce decisions on a case-by-case basis, particularly when it comes to sentencing
According to this model, sentencing decisions are largely determined by the subjective interpretations of three focal concerns – (1) blameworthiness of the offender, (2) protection of the public and (3) practical constraints – by individual actors within the courtroom workgroup (Kramer and Ulmer, 2009; Steffensmeier et al., 1998; Ulmer, 2019). The focal concerns model is built on the premise that court actors make decisions under conditions of uncertainty, due to incomplete information or other factors (cf. Albonetti, 1991). Therefore, judges and other court actors make situational imputations about defendants’ character and future risk levels based on ‘perceptual shorthands’ and assess what these attributed characteristics mean in terms of their focal concerns (Ulmer, 2019: 496). These character imputations made by court actors seem to be primarily informed by legally relevant factors, but may also be fuelled and distorted – consciously or unconsciously – by stereotypes based on defendants’ race, ethnicity, gender, age, and social class (Ulmer, 2019: 496).

Indeed, a vast body of research has deployed the focal concerns model as a framework to explain disparities in sentencing outcomes (see Lynch, 2019). Yet, as Lynch (2019) critically remarks, many of these studies use the focal concerns model as a purely individual-level construct, thereby largely ignoring the dynamics of the courtroom workgroup in which the individual decision-maker operates. Ulmer (2019), too, highlights that the meaning and interpretations of the focal concerns are highly contextual and embedded in local court cultures. The interpretation of focal concerns should therefore be seen as ‘a form of courtroom workgroup sense making and as a manifestation of courts’ nature as inhabited institutions’ (Ulmer, 2019: 496).

This article studies youth remand courts as ‘inhabited institutions’ and responds to Lynch’s (2019) and Ulmer’s (2019) call for more qualitative and mixed-methods empirical research into how the interactions between actors within courtroom workgroups shape decision outcomes and into how disparities in these outcomes are produced.

**Youth remand decision-making; case studies from England and the Netherlands**

Youth remand and disparities in England and the Netherlands

Remand decision-making in youth courts is an understudied topic in academic research, internationally (Allan et al., 2005; Van den Brink, 2019), but also in England and the Netherlands (Van den Brink, 2021a; cf. Gibbs and Ratcliffe, 2018). This is remarkable. Remand decisions have far-reaching consequences for the lives of youth, as they can lead to deprivation of liberty or other intrusive interventions pre-trial (Van den Brink and Lubow, 2019). Moreover, research indicates that remand decisions can also have significant implications for case outcomes, as youth who are remanded into custody are more likely to receive a custodial sentence after conviction (Van den Brink et al., 2017; Youth Justice Board, 2021). Furthermore, there is substantial evidence that custodial remand disproportionately affects youth who already have a marginalized position in society (Goldson and Kilkelly, 2013; Nowak, 2019).

In England and Wales, there is a vast overrepresentation of Black, Asian and Minority Ethnic (BAME) youth in the youth remand population. National statistics show that 57%
of the youth remand population consisted of BAME youth in 2019, while they make up roughly 18% of the overall population of youth (10–17 years old) in England and Wales (MoJ, 2020). A recent British study indicates that this overrepresentation of BAME youth on remand cannot be explained by differential offending rates (Youth Justice Board, 2021). Instead, the findings suggest that Black and Mixed-race youth are significantly more likely to be remanded into custody than White youth, even when controlled for offence-related factors and other demographic factors (Youth Justice Board, 2021; cf. also Feilzer and Hood, 2004; May et al., 2010). In the Netherlands, there are no publicly available national data on the race or ethnicity of youth who are remanded into custody (Boon et al., 2018; cf. Van Oorschot, 2020). Yet, research indicates that, even when controlled for offence-related, procedural and personal characteristics, youth with a migration background are significantly less likely to be released out of pre-trial custody than their native-Dutch counterparts (Van den Brink et al., 2017). Besides, the Dutch study shows that disproportionality and disparity in remand decisions not only affect ethnic minority youth; the findings also suggest that youth who are diagnosed with an intellectual disability (i.e. intelligence quotient (IQ) < 70 or IQ = 70 < 85 + limited social capabilities) are, under similar circumstances, significantly less likely to be released out of pre-trial custody than their peers without a diagnosed intellectual disability (Van den Brink et al., 2017).

These and other statistics and research findings indicate that disproportionality and disparities in youth remand decision outcomes exist in both England and the Netherlands (as well as in many other jurisdictions across the globe), regardless of the cross-national differences in youth remand legislation and policies and differences in the social, cultural and institutional context in which remand decisions are made (cf. Van den Brink, 2021a). This indicates that exploring possible common underlying drivers or catalysts of disparity in the youth remand decision-making process in the two selected jurisdictions might inform our understanding of how disproportionality and disparity are produced in youth remand decisions more generally (cf. Patton, 1990). For this purpose, the next sections seek to identify the core common features of the process of remand decision-making in English and Dutch youth courts, followed by an exploration of potential catalysts of disparity that lie within this process. Before doing so, the research methodology will be briefly introduced.

Methodology

This article is part of a larger comparative research project on remand decision-making and equality in youth courts (cf. Van den Brink 2021a, 2021b) and draws on empirical research conducted in youth remand courts in England and the Netherlands (Van den Brink, 2018a, 2021a, 2021b; Van den Brink et al., 2017). With the permission of the Ministry of Justice, Her Majesty’s Courts and Tribunals Service and the Crown Prosecution Service (CPS), the author conducted observations and interviews in two Magistrates’ Courts in a big city in England. Spending 32 days in the courts in late 2019 and early 2020, the author observed over 200 youth remand court hearings. Yet, he limited the data collection to the 57 observed hearings that involved a decision on (or relevant to) bail or custodial remand of youths. Furthermore, the author conducted
25 semi-structured interviews with court legal advisors (n = 8), prosecutors (n = 4), defence lawyers (n = 6) and Youth Offending Team (YOT) officers (n = 7). During the interviews, which had an average length of 1 h and 15 min, the respondents were asked about the remand decision-making process and were invited to reflect on the principle of equality in the youth court, partially in response to two vignettes (i.e. fictional youth court cases) that were presented to them at the beginning of the interview.

Earlier, the author conducted similar qualitative empirical research on remand decision-making in youth courts in the Netherlands (Van den Brink, 2018a). Between 2013 and 2016, the author conducted 225 court observations of youth remand detention hearings, spread over five different district courts. In the same period, he conducted a total of 71 semi-structured interviews with Dutch youth court judges (n = 20), prosecutors (n = 10), defence lawyers (n = 11), and professionals working for the Child Protection Service (n = 10), youth probation service (n = 10) and youth custodial institutions (n = 10). Meanwhile, together with colleagues, the author also conducted a quantitative study on remand decision-making in three Dutch youth courts, which consisted of the systematic analysis of 250 court case files of youth who appeared before a youth remand judge (Van den Brink et al., 2017).

Together the above-mentioned English and Dutch studies have produced a wealth of empirical data on remand decision-making in youth courts (cf. Van den Brink, 2021a). It should be noted, however, that the largely qualitative case study design implies that the samples of the studied courts in England and the Netherlands, the observed cases and the selected interview respondents cannot be considered representative for the English and Dutch youth justice systems as a whole (Schwandt and Gates, 2018). Nevertheless, qualitative case study designs in court research have proven to be capable of generating findings that further our conceptual and practical understanding of how court decision-making works (cf. Feeley, 1979; Travers, 2017; Ulmer, 2019). The general knowledge about the process of remand decision-making in youth courts produced by the empirical case studies can, in turn, be used to advance our understanding of how disparities in remand decision outcomes are produced (cf. Lynch, 2019).

**Youth remand decision-making as a collective process**

*Youth remand decision-making: the focal concerns*

In a previous publication, the author provided an extensive comparative analysis of the institutional and legal frameworks of youth remand in England and the Netherlands and the substantive dimensions of remand decision-making in youth courts in the two respective jurisdictions (Van den Brink, 2021a). Based on the comparative analysis of the empirical findings, it was concluded that, despite the differences in remand legislation and policies, remand decision-making in youth courts in both jurisdictions essentially boils down to conceptions of ‘risk to the public’ and ‘welfare of the youth’ and the decision options – e.g. alternatives to remand in custody – that are practically available (Van den Brink, 2021a). Phrased in focal concerns theory terminology (cf. Steffensmeier et al., 1998), it can be stated that youth remand decisions seem to be largely determined by the subjective interpretations of three ‘focal concerns’ – (1) risk to the public, (2) welfare of
the youth and (3) practical constraints – by individual actors within the courtroom workgroup. Yet, the meaning and interpretations of these focal concerns are also shaped by the interactions within the courtroom workgroup and embedded in local court culture (cf. Ulmer, 2019). The interactions between the actors and organizations within the courtroom workgroup will be the focus of the next sections.

A ‘collective process’

While it is ultimately up to the judge(s) or magistrates to make the decision on the remand detention of a youth, remand decision-making is in essence a ‘collective process’ (cf. Van der Woude, 2016). A judicial decision on remand can be seen as part of a dynamic chain of decisions and interactions between different actors in which the output of one actor provides input for another actor (Van der Woude, 2016). The outcome of a judicial decision on remand detention is, thus, largely shaped by decisions of, and interactions between the divergent actors involved. These interactions do not only take place during, but also prior to the youth remand hearing.

The empirical research in the two English youth courts indicates that many formal and informal interactions between stakeholders take place prior to the hearing. When a youth has been arrested and is kept in custody, he or she is usually brought before the youth remand court the next day (among youth court practitioners these cases are referred to as ‘overnight cases’). In the morning of the remand hearing, a YOT worker visits the young person in the cells inside the court building and tries to contact the parents and social services and the YOT from the youth’s home borough to gather as much information as possible about the young person in the short period of time before the hearing. In the meantime, YOT workers also interact with the prosecutor and the defence solicitor. The latter two often also have informal bilateral interactions about their positions in the case. These informal conversations between the YOT worker, defence solicitor and prosecutor usually take place inside the courtroom, between hearings, when the magistrates/judge are/is not present. Sometimes the prosecutor and defence lawyer also exchange views on legal matters with the court’s legal advisor before the start of the hearing. All these interactions can shape the respective positions of these stakeholders regarding bail and remand, which they subsequently present orally to the court during the remand hearing. Sometimes (not always!) the magistrates (or judge) also communicate(s) directly with the young defendant, who generally – at least in most of the observed ‘overnight cases’ in the two courts – remains behind glass in the secure dock of the courtroom. One or both parents or guardians are also present, but usually do not have an active role during the remand hearing. At the end of the hearing, after the magistrates have been informed about the legal matters by the court’s legal advisor, they make their remand or bail decision.

When a young person has been arrested and kept in police custody in the Netherlands, he or she has to be brought before an examining judge within 3 days and 18 hours. In the meantime, a social worker from the Child Protection Service visits the young person in the police cell, contacts the parents, school, youth probation and other services to gather information about the personal circumstances of the young person. The Child Protection Service prepares a written report to inform the prosecutor and the examining judge, which includes advice on whether the young person should be released and, if so, under which
conditions. The defence lawyer also visits the young person in the police cell, provides legal assistance during police interrogations and starts preparing their defence to be presented at the remand hearing. Based on police information about the offence and the information about the personal circumstances of the young person provided by the Child Protection Service, the prosecutor can submit a written request to the court to remand the young person in custody, articulating the grounds which make a custodial remand according to the prosecutor necessary. In practice, the prosecutor is not physically present during the first remand hearing. During the remand hearing, the young person, who sits next to his or her defence lawyer in front of the examining judge, is questioned about the offence and his or her personal circumstances. Moreover, a representative of the Child Protection Service further explains their report and advice and the defence lawyer presents a defence on behalf of the young person and often requests a release from custody. The present parent(s) or guardian(s) of the young person also get the opportunity to share their views with the judge. Based on the written case files and reports and the information presented during the remand hearing, the examining judge makes a decision.

*Inter-practitioner dynamics untangled*

While there are institutional, cultural and practical differences in the dynamics in and around the youth remand court in England and the Netherlands, the comparative research findings indicate several common features and mechanisms that seem to define and shape these dynamics and play a key role in how youth remand decisions are produced. Three core common features will be highlighted.

*Interdependency and interdisciplinarity.* The first common feature of remand decision-making in youth courts in England and the Netherlands relates to interdependency and interdisciplinarity. Magistrates or judge(s) do not make their remand decisions completely isolated. They make their decisions in a social and institutional context, in which they rely on information and expertise provided by different stakeholders and depend on the availability of external resources and services. The empirical findings indicate, for example, that in cases where there are concerns about the risk of reoffending and/or the welfare of the young person, the judge(s) or magistrates heavily rely on the package of (bail or suspension) conditions presented by the YOT (in England) or the Child Protection Service and youth probation (in the Netherlands). As one of the interviewed Dutch youth court judges explains:

I just want to know [from the Child Protection Service and youth probation] to what extent it is responsible to suspend custody for this boy. And if I still find the suspension conditions too soft and too little concrete about how they will reverse the risk of reoffending, I will not go along. But if there is a sufficient plan of action on the basis of which I think ‘the risk of reoffending can be reversed’, then I will follow their advice. (...) So my decision very much depends on what the Child Protection Service and youth probation offer and whether I think that is a responsible approach.
If these instances fail to present a solid package in court, for example, due to the lack of readily available interventions or daytime activity programmes that are deemed necessary for the particular young defendant, this may well obstruct the judge(s) or magistrates from granting the young person bail, even when bail was ideally the judge’s or magistrates’ most favourable decision.

Mutual dependence seems to be a key driver of interactions, negotiations and collaborations between other actors in the remand procedure as well. An example from the English youth court research concerns the informal interactions between YOT and the prosecutor prior to the remand hearing. During the interviews, several YOT officers explained that they always ask the prosecutor in advance whether he or she is planning to object to bail and if so, what the prosecutor’s main concerns are, so that they can draft and/or adjust their bail package accordingly. By addressing the prosecutor’s concerns in the bail package, the YOT officers hope to gain the prosecutor’s support for their bail package and increase the likelihood of the magistrates granting the young defendant bail. At the same time, the prosecutor, in turn, relies on the YOT’s information and ability to create a bail package when determining his or her position on whether or not to object to bail and to seek a remand in custody. As an interviewed prosecutor explains:

YOT is really important as well, because they’re absolutely amazing. They will come and say: we’ve got a bail package for him, he can live here, a curfew, not to go there, and we will work closely with him. I think it’s quite important as well to say: I’m opposing bail, is there a package you can get? If it’s the [YOT from the] local authority which he [the young person] is in, they will get a package ready for him. I think that’s really important. […] It can change my position and that has happened in court before.

Apart from dependency on each other’s information, resources or support, actors also rely on each other’s expertise. In fact, interdependency in the collective process of remand decision-making strongly relates to the interdisciplinary character of this process. Remand decisions of the youth court are legal decisions, as they find their procedural and substantive basis and justification in the law. Yet, remand decisions essentially revolve around the notions of ‘risk’ and ‘welfare of the child’, which are notions that go beyond the legal discipline. Against this background, it is no surprise that the remand decision-making procedure does not only include legally trained professionals, such as judges, legal advisors, prosecutors and defence solicitors, but also trained social workers and other experts, specialized in youth development, from the YOT (in England) or the Child Protection Service and youth probation (in the Netherlands).

The observations and interviews in the English youth courts indicate that the input and expertise of the YOT are generally very much appreciated by the other actors in the courtroom and seem to play an important role in the remand decisions. Similarly, as evidenced by both qualitative and quantitative analyses (Van den Brink, 2018a; Van den Brink et al., 2017), the research findings on youth remand decision-making in the Netherlands reveal that judges very much rely on the advice of the Child Protection Service when it comes to the decision on whether or not to suspend the remand detention order. As one of the interviewed Dutch judges explains:
The advice of the Child Protection Service… I attach great importance to that. They are the experts in this area, we are not. I think we need very good arguments if we don’t want to follow their advice.

Generally, it is known that judicial decision-makers tend to rely on the expertise of external experts if decisions touch upon areas that go beyond the specific expertise of the decision-maker (cf. Van Es et al., 2020). This may be especially true for complex decisions that are defined by high levels of uncertainty and high stakes, such as remand detention decisions. From this perspective, judicial reliance on experts from other disciplines might also be explained to a certain extent as a judicial coping mechanism to justify their decisions for themselves and others and to create a sense of ‘shared responsibility’ for hard decisions with uncertain outcomes.

**Time pressure and limited information**

A second common feature, which distinguishes the remand decision-making process from decision-making during trial and sentencing, relates to *time pressure* and *limited information*. Given the short period of time between the arrest and the hearing in the youth remand court, judge(s) or magistrates and other stakeholders often have to make their remand decisions on the basis of limited and preliminary information about the offence and the young person, especially when the young defendant is a first-time offender and not known to the system. This can have profound implications for remand decisions, as was clearly illustrated by an observed English case of a 15-year-old girl without prior convictions who was accused of a violent street robbery. At her first appearance in the youth remand court, the District Judge considered that given the lack of available information about her personal circumstances it was uncertain whether a bail package would be sufficient to protect the public from death or serious personal injury. The judge referred to the ‘unknown risk’ as the main justification for his decision to remand the young defendant into custody. A week later, when more information was available and a bail package was prepared by the YOT, the young defendant was granted conditional bail.

In the Netherlands arrested young persons in police custody have to be brought before a judge within 3 days and 18 hours. Within this time frame, which is in practice usually shorter, the Child Protection Service officer visits the young person in the police cell, contacts parents, school, youth probation and other services and prepares a written report about the young person (usually around 10 pages) to inform the judge prior to the first remand hearing. In the English system, the time is even more limited. Arrested young persons are brought before the remand court within 24 (or 48) hours and the YOT starts gathering information as soon as the young person has arrived in the cells of the court building on the morning of the remand hearing. The YOT officers do not prepare a written report for the first remand hearing, but present their information orally to the court. In relation to this, one of the interviewed YOT officers explains:

I think that the principle that prevails here [in England] is swift justice, so that principle is more important then let’s say the principle of full information would be. That also means
that the court is aware that they are making a decision with limited information, assuming that the young person is not known. […] We recently had a meeting with courts. We were looking actually at remands and were reviewing, kind of having a learning space to look at the decisions that had been made in the past year or so. And one of the things that the court said was exactly this: it’s a very high pressure moment where we have little information about the young person and we have to make a very important decision. […] So we [the YOT] realized that we need to give them a little bit more information. Even if it’s little, but as much as we can gather.

From a comparative perspective, the English youth remand procedure seems to put more emphasis on swiftness, even if this means that sometimes only limited information is available at the remand hearing. The Dutch remand procedure allows the police and prosecutor slightly more time to conduct their investigation and the Child Protection Service to complete their report, even if this means that some young persons have to stay in a police cell for 3 days. It should be noted, however, that the lengthy police custody time limits for young persons in the Netherlands have been subject to critique and are currently under review (RSJ, 2020) and that the information presented in the reports is still very preliminary.

A human process

The dynamics that lie at the heart of the remand decision-making process are, as a third common feature, shaped not only by the roles that the practitioners play, but also by the people who play these roles and ‘inhabit’ the institutions (cf. Ulmer, 2019). Judges, magistrates, legal advisers, prosecutors, defence solicitors, YOT officers (England) or Child Protection Service and youth probation officers (the Netherlands) have their own formal roles in the youth remand courtroom workgroup and interact with each other as representatives of their agencies or organizations. Yet, these inter-practitioner interactions are in essence interpersonal interactions. Indeed, the empirical findings suggest that these exchanges are not only defined by the formal roles these practitioners play, but also by how two (or more) individuals personally connect with each other in a particular context at a particular moment in time. Observing the (informal) interactions between prosecutors and defence solicitors in the courtroom between the hearings, for example, many exchanges were constructive and polite. Other exchanges, however, were close to hostile, such as an observed conversation between a young solicitor (‘the principles of youth justice demand that you do not oppose bail!’) and a clearly agitated prosecutor (‘don’t lecture me on the principles of youth justice!’).

In this respect, one of the interviewed YOT officers explicitly underscores the importance of investing in personal relationships with all other parties in the court and building up trust and faith between parties as key ingredients for making good, informed and trusted decisions:

You have those informal conversations outside of the court room or in the court room, before the magistrates come in. Therefore, I think it is really important to build relationships with all parties. Our YOT is relatively new in this court, after being 10 years in another court
building, which means that you have to start building relationships all over again. But I think that is really important, even to have nonsense conversations. Because you build up trust, you build up faith, you understand people. You build up relations that help you to make good, informed, trusted decisions.

Other respondents also acknowledge that when a practitioner is well-known and trusted by the other parties in the courtroom, his or her opinion ‘holds just that little bit extra weight’ (Defence solicitor, English youth court). This was also witnessed during the court observation research. During an observed remand hearing in an English youth court, a 16-year-old boy who was suspected of robbery seemed to have all odds against him with regard to his chances of being granted bail. The prosecutor objected to bail, the present YOT worker did not seem to be very engaged and the defence lawyer presented a seemingly poorly prepared bail application. Yet, in the midst of the remand hearing, just when the dynamics in the courtroom seemed to direct the magistrates towards a refusal of bail, another YOT worker entered the courtroom. This YOT worker’s presence and input completely changed the tone and dynamics of the hearing. The YOT worker, who was clearly well-known and well-respected by the other courtroom actors, persuaded the prosecutor to withdraw his objection to bail and seemingly convinced the magistrates too, as they ultimately decided to grant the young defendant conditional bail.

This case – as well as the interview citations – illustrates that the collective process of remand decision-making is a profoundly human process (cf. Hogarth, 1971; Tata, 2020) and that the functioning of courts largely depends on the people who inhabit them (Ulmer, 2019).

**Catalysts of disparity in youth remand decision-making?**

What can we learn from the insights into the features of the remand decision-making process in youth courts in England and the Netherlands when it comes to addressing disparities in remand decision outcomes in further research, policy and practice? This section seeks answers to this question.

Before doing so, it is important to take into account that youth court workgroups (i.e. youth court actors and agencies) operate and produce remand decisions in a broader societal context of profound and structural inequalities – often along the lines of race and ethnicity, gender, class and disability – across multiple interlocking systems, including education, health care, employment, housing, and law enforcement (cf. Dowd, 2018; Van den Brink, 2021b; Webster, 2018). These societal inequalities deeply impact youth’s daily lives and future life chances and increase the likelihood of the most disadvantaged youth ending up before the youth court disproportionately (Dowd, 2018; McAra and McVie, 2018; Van den Brink, 2021b). Besides, given the very nature of youth remand and the focal concerns of the youth court actors who produce remand decisions – (1) risk to the public, (2) welfare of the youth, and (3) practical constraints – it is not hard to imagine that youth’s vulnerabilities can be easily perceived or framed as ‘risks’ or ‘welfare needs’ that require remand or other interventions pre-trial, thereby
potentially fuelling disparities in remand decision outcomes (Van den Brink, 2019, 2021a; cf. Youth Justice Board, 2021).

As will be illustrated in this section, these dynamics seem to be bolstered by the inherent and distinctive features of the process of youth remand decision-making, which, all together, seem to make youth remand decisions particularly prone to disparities. Moreover, it will be argued that the empirical findings combined with the theoretical perspectives that view youth remand courts as ‘inhabited institutions’ (cf. Ulmer, 2019), not only reveal possible catalysts of disparity in remand decision-making, but also provide potential directions as to how such catalysts of disparity could be addressed in policy and practice.

Interdependency, interdisciplinarity and cumulative disadvantage

Firstly, the finding that the ‘collective process’ of youth remand decision-making is defined by interdependency and interdisciplinarity has implications for how disparities in remand decision outcomes are produced. These core features imply that disparities at one decision point can permeate the entire remand decision-making process and ultimately shape outcomes. Especially assessments and advice from youth welfare workers, that are – partially due to their interdisciplinary nature – often followed by judges or magistrates and other courtroom actors, appear to be potential catalysts of disparities in remand decision outcomes. The findings of the Dutch quantitative study of remand decisions indicate that youth with a migration background and youth with an intellectual disability are significantly less likely to receive a positive advice from the Child Protection Service to be released out of custody, which is reflected in the judges’ remand decision outcomes (Van den Brink et al., 2017). A recent British study, too, suggests that ethnic disparities in remand decision outcomes seem to be largely explained by ethnic disparities in the outcomes of practitioner assessments of risk and welfare needs (Youth Justice Board, 2021). According to this study: ‘differences in practitioner assessments of vulnerability and risk might reflect biases in judgement or actual societal differences in circumstances and wellbeing between children of different ethnicities’ (Youth Justice Board, 2021: 63).

Indeed, disparities in remand decisions might be partially produced through biased assessments of ‘risk’ and ‘welfare’ (see the next section), but the findings of the empirical studies in England and the Netherlands also suggest that disadvantages that youth experience in interlocking systems, such as education, health care and the child protection system, can easily culminate in the remand decision. A striking example of a case in which disadvantages related to a youth’s disability impacted the remand decision, observed in a Dutch youth remand court, concerned a 17-year-old defendant with an IQ of 50, the emotional development of a 2-year-old and severe behavioural problems. This young defendant started a fire in his room in the care home where he resided and was charged with arson. Even though the entire ‘courtroom workgroup’ – i.e., the defence solicitor, child protection officer, youth probation officer, the prosecutor and the judges – agreed that a youth custodial institution was not a suitable place for this vulnerable defendant, they also agreed that he could not be released from custody at that moment, because the child protection agency and youth probation had not found a
youth care home that was willing to offer this defendant – who could not go back to his parents either – a suitable place to stay. Consequently, the court followed the advice of the Child Protection Service and youth probation to keep the defendant remanded in custody in a special care unit of a youth custodial institution until they would find a suitable place in a care home, even though there were, strictly speaking, no formal legal grounds to keep the defendant in remand.

Moreover, the findings of the empirical research in the Dutch and English courts also provide indications that vulnerabilities and inequalities that may exist in the educational system can be easily brought into the remand decision-making process. The observations and interviews in Dutch youth remand courts suggest that many child protection officers, youth probation officers as well as judges perceive school or another structured daytime activity as a key requirement to prevent reoffending and safeguard the youth’s welfare pending trial. The findings from the observations in the Dutch courts show that if a youth is not enrolled in school it often takes the youth probation service days or sometimes even weeks to arrange an alternative daytime activity programme. This may prevent a youth from being released out of custody until there is a solid ‘plan of action’ with regard to his or her daytime activities. As one of the Dutch remand judges notes during an interview:

If the child protection officers says: ‘he [the young defendant] has been excluded from school and this was the third school in a row, we don’t know what to do next’ and he has no other structured daytime activities. Sometimes defence solicitors still ask the court to release the defendant from custody. But what does that mean? That the child sits at home on the couch all day? I don’t think that’s a wise thing to do, also from a pedagogical point of view.

Indeed, also the findings from the quantitative analysis of youth remand decisions in Dutch courts suggest that youth who are not enrolled in school and do not have another structured daytime activity are significantly less likely to be released out of pre-trial custody (Van den Brink et al., 2017). This practice, however, runs the risk of importing disadvantages that some children experience in the educational system to the youth justice system (cf. also Dowd, 2018), thereby potentially fuelling demographic disparities in remand decisions, since official statistics persistently show that children with a migration background, children with disabilities and children from a low socioeconomic background are overrepresented among the so-called ‘early school-leavers’ in the Netherlands (CBS, 2017, 2020).

The findings of the empirical research in the English youth courts, too, provide examples of how youth’s problems at school and youth’s involvement in the youth justice system can intersect and can permeate the remand decision-making process. Several respondents point out that school exclusion is a big problem in their locality, especially among youth with a minority ethnic background. The court observations and interviews indicate that youth going to school can be a strong argument in favour of bail and many respondents emphasize the importance of the youth’s school attendance while on bail, which – as one of the interviewed court legal advisors notes – is ‘a mechanism for making him [the young defendant] busy and not to go out and do other things [like committing offences]’. At the same time, however, several respondents point out that justice
System involvement can significantly complicate school enrolment, which can create a vicious circle of cumulative disadvantage. As an interviewed English defence solicitor explains:

Schooling is a huge problem. They are excluded children out here. Children that can’t go to school, children that want to go to school. They tell me they’ve applied to all these different colleges but they can’t get in because they’ve got a previous conviction for a knife. A boy I’ve represented that didn’t have a previous conviction for a knife but had been stabbed couldn’t get into a college last week. Magistrates saying ‘you are not in school, when you come back next time I’d like to see you in education’. But you can’t get them into education! Once they are in the criminal justice system it’s very difficult.

Overall, the examples above illustrate that youth remand courts are inhabited by courtroom workgroup actors who are interdependent, but who also heavily rely on external stakeholders, resources and systems, including the educational system, the child protection system and the health care system. The examples also show how this interconnectedness between stakeholders and systems can lead to a practice in which youth’s disadvantages in various areas of life can cumulate and permeate the remand decision-making process. From a policy perspective, this implies that reform efforts that intend to address and tackle disparities in remand decision outcomes should not be narrowly focused on one particular courtroom actor or organization or one specific decision point. Instead, addressing and tackling disparities in remand decisions requires collaborative reforms, as to which all relevant courtroom workgroup members and other local stakeholders and interlocking systems are committed (cf. Van den Brink and Lubow, 2019).6

**Time pressure, limited information and ‘perceptual shorthands’**

Secondly, time pressure and limited information as distinctive features of remand decision-making also seem to play into the particular susceptibility of this process for generating disparities in remand outcomes. Focal concerns theory suggests that making decisions under high levels of uncertainty, due to limited information, makes judges and other youth court actors more routinely resort to ‘perceptual shorthands’ to make situational imputations about the youth’s character, risk level and welfare concerns, which may also be fuelled and distorted – consciously or unconsciously – by stereotypes based on race, ethnicity, gender, age, disability and social class (cf. Ulmer, 2019: 496).

The methodology used in the empirical studies in the Dutch and English youth courts is not designed to directly assess the existence of such ‘perceptual shorthands’ in remand decision-making. Nevertheless, the court observations and interviews do indicate that – due to limited information and time pressure – practitioners’ first impressions of the youth and the parents might play a pivotal role in the remand decision. In the Dutch study, for example, several interviewed child protection officers point out that the youth’s home situation is a key factor in their advice on whether the youth should be released from custody. At the same time, the child protection officers acknowledge that, at this early stage of the proceedings and especially if the youth is a first-time
offender who is not known to the system, their view on the youth’s home situation, as reported in the advice to the judge, is sometimes largely based on one conversation or interview they had with the youth and his or her parents. Several interviewed Dutch remand judges also referred to the youth’s home situation as an important factor in the remand decision, as to which they mostly rely on the report of the Child Protection Service and on their own impressions of the youth and the parents during the hearing. One of the interviewed Dutch remand judges explicitly raises, however, that this practice runs risk of – unintentionally – fuelling ethnic and class disparities in youth remand decisions:

Unfortunately, we often come across young people who do not have a positive home situation at all. I find that difficult. [...] As a judge, that makes you feel less confident in the feasibility of a conditional release. [...] It is indeed true that a young person with an apparently good home situation is more likely to be released from custody compared to someone with a bad home situation, or who we think has a bad home situation. [As to the latter,] I think aspects of culture might also play a role there. You will probably know that youth with a migration background are relatively more often in remand detention for similar offences than native Dutch youth [respondent refers to an outcome of a research]. I can imagine that factors like that play a role. Parents who have difficulties with expressing themselves in the Dutch language, parents who do not really understand the child protection officer or probation officer and who think at some point ‘what’s going on here?’… If you compare them to parents who are very eloquent and who know exactly what to say to convince the child protection officer, probation officer and the court to have trust in them… I can imagine that this plays a role in the court’s decision on whether it is responsible to suspend the remand in custody or not? Nevertheless, it is of course very concerning to see such a research outcome, to put it mildly. It doesn’t have to be discrimination, but I think these factors can play a role.

Subsequently, this interviewed Dutch remand judge acknowledges that judges – like other humans – are not immune to predispositions, stereotyping and ‘othering’, which might permeate the remand decision-making process:

Judges, too, have all kinds of predispositions, such as: ‘I see ‘them’ [youth with a migration background] appear more often in the crime statistics, you live in a ‘bad’ neighbourhood, so there must be a very solid package of conditions first before I release you from custody’. Whereas with ‘our’ Frederik-Jan [an example of a boy with a typically Dutch upper-class name], who is out-of-control but still in high school and lives with his parents in an affluent neighbourhood, who might be worse and scarier than his Moroccan or Antillean counterparts, he gets released from custody due to his appearance. This happens. And again, this is not [intentional] discrimination, but it is something we [judges and other practitioners] should be very alert to. It needs to be a topic of discussion over and over again and you continuously need to reflect on what you are doing.

In the English study, too, respondents illustrate how making situational imputations about the risk and welfare of a young defendant, based on limited information and under time pressure, can easily be distorted by stereotypes and bias. A striking
example provided by an interviewed YOT officer concerns her experience with the assessment of the vulnerability of a young Black defendant:

What I also see is when it comes to vulnerability… When is someone ‘vulnerable’? It is way easier to convince people of this when the child is tiny, White, with blond hair: ‘look at him, he is so small’. But if he is 6 foot 2 and Black and big, people just have different reactions to them, which causes a knock-on effect on how they are dealt with. For example we also have decisions, when young people are remanded, about where they go. So whether they go to a Young Offenders Institution or to a Secure Training Centre. We do an assessment and we send it to the Youth Justice Board and generally they do what we want. I had a kid who was remanded for possession of a fire arm. We said: ‘he is really vulnerable, we are really worried about him’, but he was challenged all over the place, particularly by the cell staff: ‘why is he vulnerable?’. But what does vulnerable look like? It apparently doesn’t look like him. His offence doesn’t in itself make him vulnerable, but he was exploited. He was big and tall and Black, he was easy to remand, easy to make decisions about him not being vulnerable, while he actually was.

What does ‘vulnerable’ look like? What does ‘high risk’ look like? Who are ‘easy to remand’? These questions, raised by the interviewed YOT officer, are – from a focal concerns theory perspective – highly relevant to capture how ‘courtroom workgroup sense making’ (cf. Ulmer, 2019: 496) under the pressure of time, uncertainty and limited information can fuel disparities in remand decisions. Indeed, following the focal concerns perspective, remand decisions are likely to be even more susceptible to the mechanism of potentially biased ‘perceptual shorthands’ than sentencing decisions, where there is generally more time and information available. This hypothesis, however, requires further empirical testing in future research.

Finally, it should be noted that some of the YOT’s in the locality of the English youth remand courts that were the subject of the research appeared to be very engaged and proactive in aiming to prevent bias and disproportionality in their work. Apart from unconscious bias training, which is mandatory for most civil servants in England and Wales, YOT officers in these localities are trained in identifying youth’s ‘diversity needs’, reports are cross-checked on potential biases before they are submitted to the court and critical reflections and discussions regarding bias and diversity should be an integral part of the work process of YOT officers. Even though such reflections and discussions might sometimes be – as an interviewed YOT manager puts it – ‘uncomfortable’, they may well prevent decision-makers from easily resorting to biased ‘perceptual shorthands’ to make imputations about the youth’s character, risk level and welfare concerns. An interviewed YOT officer notes in this regard:

We have a lot of internal conversations as well, with the therapists [from the YOT] who question you. So I once had a Roma traveller kid. I don’t know anything about Roma travellers, so everything I say is just a wild judgment. And then the therapist asks: why do you think that?; why do say that? I think that’s very important, that you are constantly questioned and constantly question yourself. So we are forced to look at ourselves.
Overall, youth remand courts are ‘inhabited’ by actors who – like all humans – have certain predispositions and biases which, under the pressure of time and limited information, may permeate the ‘courtroom workgroup sense making’ of youth’s risk-level and welfare concerns in the remand decision-making process (cf. Ulmer, 2019). At the same time, those same local court actors and organizations can contribute to establishing a local culture of awareness of potential biases and can introduce work processes containing mechanisms that serve to identify and address such biases. This will be further explored in the next section.

**Inhabited youth courts: Responsibility and diversity as drivers of reform?**

In line with the ‘courts as inhabited institutions’ perspective (Ulmer, 2019), the empirical findings of the studies in the Dutch and English courts suggest that individual court actors and their interpersonal relations and interactions indeed define the organizational order and culture within the court and shape the remand decision-making process and its outcomes (cf. Ulmer, 2019). This has important implications when it comes to addressing disparities in remand decision-making. It means, first of all, that individual youth court workgroup actors – not only the judge or the magistrates – are powerful and therefore have a responsibility as an individual actor to prevent disparities in the remand decisions which their courtroom workgroup jointly produces and to contribute to a fair and inclusive court culture. One of the interviewed YOT officers from an English court clearly illustrates how she personally perceives this responsibility when it comes to the language used inside and outside the courtroom:

> What I notice in the system is the language used: the White boys are just White boys who commit offences all the time, but are never called a ‘gang’. The Black boys are always called a gang. Judges will always ask: are they in a gang? CPS and police say: they are in a gang. I don’t like language like that. I think we should stop saying ‘gang’. Because if you stop saying it, you have to say what you mean. And what you are then saying is: he has got a group of friends and they are all involved in similar activities. Because if you say: ‘he is in a gang’, he is labelled. The weight that that carries is so heavy in lots of decisions thereafter. So CPS is saying ‘he is gang-connected’, because the police is saying that, and then the judge takes it over. Tiny little things like that, language, can have a huge impact. I try to be very conscious with language in my own reports. […] Because we can stop that. That is how much power we have. We can have a conversation with the police, who then put it on their system, who then send it to the CPS, who then submit it to the judge. So we have so much power, so we have to be so responsible about what we say and what we think and what language we use.

Moreover, the empirical evidence supporting the premise that youth remand courts should indeed be viewed as ‘inhabited institutions’ bolsters the notion that demographic diversity – in terms of, inter alia, cultural and ethnic background, gender and age – within the courtroom workgroup is key when it comes to addressing and tackling disparities in decision-making. Demographic diversity within the courtroom workgroup might contribute to a more fair and inclusive court culture and can prevent biased imputations and decisions, as an interviewed legal advisor from a British youth court vividly illustrates:
Diversity is important, because – for example – a magistrate who comes from ‘Suburbia’, who is not used to Black people or whatever, it is not that they are deliberately going to make decisions that are biased towards a Black child, but they may not necessarily understand the reasons why this child is now living with an uncle and why dad is living in Nigeria. But to an African family, that’s no problem. If you come from a Nigerian family, we inherit from our mother’s side. So if I have children, it is my brother’s responsibility to keep an eye on my kids, even though my kids have got a father. So if my husband decides that he is not going to look after my kids, the family expects my brother to step in. So if a kid like that comes into court and says ‘I am living with my uncle’, the magistrates might think ‘that is irresponsible’ [from a White, Western perspective], while to us that is the ultimate responsibility! So that’s why it is important that we keep an open mind. But those prejudices will always be there, everyone has them, but the most important thing is that you know you got them and that you guard against them. So training and an ethnic mix of people are important. Because if you have a bench with only White people, then there is no other experience to bounce ideas off or to be educated in that sense.

Overall, when it comes to addressing disparities in youth remand decision-making, the findings suggest that it is important that youth remand court workgroups are ‘inhabited’ by a diverse group of actors who feel both an individual and a collective responsibility to prevent and address disparities and are willing to collaboratively work on establishing a fair and inclusive court culture and practice.

Concluding remarks

This article has aimed to explore and identify potential catalysts of disparity in the collective process of remand decision-making in youth courts. Drawing from Ulmer’s (2019) ‘inhabited institutions’ perspective, and the related ‘court community model’ and ‘focal concerns model’, and empirical findings from research in Dutch and English youth remand courts, this article suggests that several distinctive mechanisms and features of the youth remand decision-making process might function as catalysts of disparity in remand decision outcomes. The findings indicate that the focus on ‘risk’ and ‘welfare needs’, the distinctive context defined by time constraints, limited information, shortages of readily available services, interdependency and interdisciplinary, and high stakes, combined with the profoundly human nature of courtroom workgroup decision-making, make the remand decision-making process in youth courts particularly prone to producing disparate outcomes. In this high-pressure process, disadvantages which some youth experience in several areas of their lives can easily cumulate and culminate in the remand decision and courtroom workgroup actors run the risk of routinely resorting to potentially biased ‘perceptual shorthands’ to make imputations about the youth’s risk-level and welfare needs, which can all together contribute to remand decision outcomes that disproportionately affect socially marginalized and vulnerable youth, especially youth with ethnic minority backgrounds, youth with disabilities and youth from low socioeconomic backgrounds.

Indeed, disparities in remand decision outcomes and the vast overrepresentation of vulnerable and marginalized youth in remand detention is a reality across the globe
(Nowak, 2019) and deserve particular attention in policy, practice and research. Remarkably, in many Continental-European jurisdictions, such as the Netherlands, official policies that aim to address and tackle disparities in criminal justice and youth justice decision-making are strikingly absent (cf. Boon et al., 2018; Van den Brink, 2018b; Webster, 2018). In various Anglo-Saxon jurisdictions, such as England and Wales, such policies are in place (Judicial College, 2020; Lammy, 2017; MoJ, 2017; see: Van den Brink, 2021b), but the effective implementation of these policies into practice proves to be difficult (Justice Committee, 2019; Youth Justice Board, 2021). Against this background, Ulmer’s (2019) ‘courts as inhabited institutions’ perspective provides a useful framework to guide and structure reform efforts in policy and practice. This framework, on the one hand, acknowledges that courts are to a certain extent governed by formal laws and policies, thereby underscoring the importance of developing laws and policies to prevent and tackle disparities in youth and criminal justice decision-making. On the other hand, this framework is also built on the premise that the implementation of criminal justice laws and policies into court practices is dependent on the people and organizations that inhabit the courts. Supported by the empirical findings presented in this article, this framework therefore suggests that reform efforts should ideally be locally organized, practitioner-driven and collaborative, as they require an individual and a collective sense of responsibility among the members of the courtroom workgroup and related stakeholders to establish a fair and inclusive court culture and practice. Demographic diversity within the courtroom workgroup might contribute to this.

Finally, this article has aspired to illustrate that Ulmer’s (2019) ‘inhabited institutions’ perspective, and the related ‘court community model’ and ‘focal concerns model’, offer a helpful analytical framework for studying and understanding the process of remand decision-making in English and Dutch youth courts and for exploring how and why disparities in remand decision outcomes might occur. In doing so, this article suggests that Ulmer’s (2019) analytical framework, which was originally developed to study and understand “American criminal courts and their practices” (Ulmer, 2019: 491), offers a suitable lens for studying different types of courts (e.g. criminal courts and youth courts), different types of decisions (e.g. sentencing and remand decisions) and specific issues regarding these decisions (e.g. disparities) in divergent contexts (i.e. also outside the United States). Moreover, this article adhered to Ulmer’s (2019) and Lynch’ (2019) call for more qualitative and mixed-method empirical research into youth and criminal court decision-making and disparities, which hopefully inspires future researchers to look beyond the currently dominant quantitative approaches in this field of study. Ultimately, as Ulmer (2019) and Lynch (2019) rightly point out, methodological diversity is key to advance theoretical and empirical scholarship on youth and criminal courts and to further our understanding of how disparities in court decision-making are produced.

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Notes
1. The author intended to also interview judges and magistrates, but his request to do so was unfortunately denied by the Judicial Office.
2. For a more elaborate methodology of the empirical research in the English youth courts, see Van den Brink (2021a).
3. For a more elaborate methodology of these Dutch empirical studies, see Van den Brink (2018a) and Van den Brink et al. (2017).
4. YOT workers are generally social workers who work with young people who are in conflict with the law (cf. youth probation officers in other jurisdictions).
5. Legal advisors are qualified solicitors or barristers who advise the lay magistrates on the law prior to and during court hearings as well as during their judicial deliberations.
6. It should be noted that examples of such efforts do exist at the local level. During the fieldwork in the English youth courts, for example, the author came across a YOT manager who recently set up a ‘disproportionality group’, which consists of local youth justice actors and agencies who proactively and collaboratively engage in efforts to prevent and tackle ethnic disproportionality across the youth justice system in their locality.

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