



Submission from Quakers in Criminal Justice to the Ministry of Justice January 8, 2025

Response to the Independent Sentencing Review

1 What have been the key drivers in changes in sentencing, and how have these changes met the statutory purposes of sentencing?

The key driver has been a 'tough on crime' discourse, sometimes driven by uniquely distressing crimes that seldom, if ever, reoccur. Under a previous Labour government (Blair 1997-2007), numbers of prisoners rose exponentially with new offences – including the discredited Imprisonment for Public protection - and longer sentences. An example of a driver of long sentences is Schedule 21 of the 2003 Criminal Justice Act.

This continuing focus on punishment, with the corresponding failure to fund proven approaches to rehabilitation and resettlement, is not only expensive and unsustainable but counterproductive in terms of both public safety and rehabilitation. It is interesting to note that public surveys do not show this overwhelming appetite for harsher punishment.

An increased focus on 'managing risk' often phrased as 'public protection' is another driver. There is no such thing as a completely risk-free environment so a balance must be found between prolonged life-limiting restrictions and reasonable measures.

Another driver, in the face of all the evidence to the contrary, is that deterrence works. Research shows that it does not. Certainty of being caught has a far greater impact on deterrence than the severity of the punishment. The issue is analysed in *Criminal Deterrence and Sentencing Severity: An Analysis of Recent Research* 1999, Andreas von Hirsch et al, pub Bloomsbury

2 How might we reform structures and processes to better meet the purposes of sentencing whilst ensuring a sustainable system?

The switch away from punishment to repairing harm and rehabilitation must underpin a change in both structure and process. Part of structural reform entails giving an improved and better resourced Probation Service a more prominent place in the criminal justice system. Reforming the processes would encompass diversion from court/the criminal justice system (for mentally ill people, for example) and a renewed emphasis on community crime prevention. '**Justice Reinvestment**' of this sort has long been advocated to encompass those at risk of criminalisation (such as excluded pupils and looked-after children), benefiting not only the individuals concerned but society as a whole.

Diversion courts specialising in particular types of offences should be expanded; here expertise and experience can unpick complicated situations and direct towards appropriate remediation – which would need to be adequately funded. Once again, success in this area reduces the high cost of reoffending and prison places.

The **length of sentences** should be revisited. We note that, as of June 2021, the number of people serving prison sentences of 10 years or more had almost trebled in 20 years. Sentence inflation must be replaced by a fresh look at the length of sentencing and how best to introduce

‘sentence deflation’. Fear of a condemnatory tabloid and social media response should not restrain a sensible thoughtful reconsideration. In addition, rather than knock-backs which add extra days to a sentence for bad behaviour, days should be deducted off the sentence for good behaviour and taking on helpful roles. Early release could become part of this process. Sentences would therefore need to have this in-built flexibility.

Tim Newell, former governor of HMP Grendon and member of Quakers in Criminal Justice summarises the situation as follows: In the 21st century it is time to reconsider whether punishment / retribution, should continue as the principal objective when sentencing an offender. Offenders are not a race apart, to be managed and stereotyped. What they have done maybe horrifying and evil, but they are nonetheless human beings just like the rest of us. It is fundamental to our beliefs as Quakers, inspired by the teachings of Jesus, that everyone has good in them somewhere. It may be hard to find but it is always there. Condemn the deed, punish if you must, but so much more can be achieved if you also respect and nurture that potential nugget of goodness within every offender. This shifts the emphasis to reform, rehabilitation.

Furthermore, the current approach is demonstratively unsustainable. If we accept that the punishment for the harm caused by the offence is deprivation of liberty, with all that this entails, then the focus (along with resources) should shift to **repairing that harm** and preventing re-offending. This begins with the perpetrator’s self-knowledge and understanding which is best fostered in **therapeutic communities** such as exist in HMP Grendon.

The experiences that bias individuals towards criminal activity are unique and deep seated. They may be based in childhood trauma. Turning your life around calls for painful, internal, mental changes that cannot be forced on the offender. Ever more draconian punishment, bullying, threats and coercion cannot produce the will to explore and make such deep seated change. At best they can induce superficial changes of behaviour that tend to evaporate when the HMPPS withdraws.

An aspect of current dysfunction is the lack of proper liaison between the different arms of the criminal justice system. There is no point in asking judges and magistrates to seek more personalised appropriate sentences if the rest of the Ministry of Justice has neither the will nor the means to deliver them. Lack of continuity between the courts, prison, parole and probation undermines the effectiveness of sentences and alienates offenders. This needs to change.

Where there are issues to address that form part of the offending pattern, such as addiction, consideration should be given to **a deferred or suspended sentence** (where possible) while these health needs are treated in the community, followed by a reconsideration of future outcomes after treatment. These interventions require well-funded services, but costs would be offset against a £50,000 annual prison place. The importance of recognising and addressing the widespread damaging effects of Adverse Childhood Experiences is dealt with in detail in Q5.

In conclusion, there is sufficient evidence that even people who have committed serious crimes can and do change in circumstances where they can learn social skills and trust. The work of Quaker psychiatrist Dr Bob Johnson showed how violence could be cured’ when a number of dangerous prisoners gained self-understanding and learned to trust.

3 How can we use technology to be innovative in our sentencing options, including considering how we administer sentences and manage offenders in the community

As technological advances become ever more sophisticated, especially in the applications of electronic monitoring, we express our concern that these solutions are being seen as a partial replacement of rather than an additional tool for a well-funded professional Probation Service.

For a detailed response in this area, we would direct you to the submission of Mike Nellis, expert on uses of technology in this context, and committee member of Quakers in Criminal Justice.

4 How should we reform the use of community sentences and other alternatives to custody to deliver justice and improve outcomes for offenders, victims and communities?

Since anti-social tendencies and Adverse Childhood Experiences (ACEs) are widespread in offenders supervised in the community, frequent human contact is vital to decrease feelings of alienation and aid re-integration. The expertise of the Probation Service should come into play here, NOT another risk assessment, a carefully calibrated ankle tag and the occasional telephone call. To facilitate this vital stage in an ex-offender's progress, we make the argument for a greatly **increased Probation Service**, along with a range of community support. This support would include mental health and counselling input, drug/addiction treatment, educational opportunities, work experience, family support, community chaplaincy and mentoring. Public support for these programmes should be fostered, countering any negative media coverage and pointing out the massive savings in the reduction of costs linked re-offending, estimated at £18 billion a year (figure from Feb 2024).

When consulted, victims often say that their primary concern is that the individual does not go on to harm others; effective rehabilitation is at the heart of realising this concern.

Restorative Justice is now regarded as successful component of young offender programmes, with community involvement. Given this success, it makes sense to extend this tried and tested approach into adult settings. Restorative Justice (RJ) could be an integral part of a sentence to repair harm, help the victim to gain closure and get answers to troubling questions. A referral for RJ could form part of a community sentence with feedback to the judge about the outcome. It must always be born in mind that not everyone is ready or prepared to undertake RJ. *(For further detail on RJ, see submission from the Restorative Justice Council)*

Another success story is the Texas Justice Reinvestment Scheme, still current today: when faced with a similar problem of an ever-rising prison population, the authorities deliberately switched resources from increasing punishment and prisons to community-based alternatives. Twin outcomes were increasing public safety and saving billions of dollars. Links follow:
<https://csgjusticecenter.org/projects/justice-reinvestment/past-states/texas/>
<https://csgjusticecenter.org/2014/06/13/governors-and-members-of-congress-meet-in-washington-to-highlight-justice-reinvestment-efforts/>
<https://csgjusticecenter.org/2024/03/13/biden-signs-six-bill-spending-package-funding-key-criminal-justice-programs/>

A significant factor in maintaining an unsustainably high prison population is **recalls to custody** from the community— something that does not occur at this level in any other European country. We have anecdotal evidence that recall is sometimes linked to extreme pressure on the Probation Service and that people are recalled for administrative breaches such as missing an appointment rather than for risky behaviour. We recommend that no-one should be returned to prison for minor failings which are often due to a chaotic way of life with insufficient support.

5 How should custodial sentences be reformed to deliver justice and improve outcomes for offenders, victims and communities?

The prime aim of the sentence should be to outline how an offender will move forward from their offence to resettlement in the community. What is most likely to help this offender reform? What work needs to be done on unaddressed **Adverse Childhood Experiences (ACEs)**? More on this

follows, contributed by Hugh McMichael, a former doctor also in Quakers in Criminal Justice, who has made a study of this area. He has also worked as prison chaplain.

He points to a seminal report by Fellitti et al, 1998, on the use of a 10-question survey to identify ACEs which predicted future health concerns. Some 11,000 peer-reviewed papers were reviewed by the influential publication The Lancet in 2017. It was found that people with 4 or more ACEs (out of a possible 10) are 4 times more likely to suffer from anxiety or depression, 5 times more likely to use illicit drugs or have problematic alcohol use, 8 times more likely to be either perpetrators or victims of violence and 30 times more likely to attempt suicide compared to those with no ACEs. Since such people struggle to find a reason to live, their search may lead to abuse of alcohol or illegal drugs, with potential criminal consequences. A recent study (Ford et al) in a Welsh prison showed that 49% of inmates had 4 or more ACEs, compared to 14% of the general population. Two key findings will be highlighted here:

- 1) Almost all people convicted of a violent crime were brought up in homes where there was domestic violence.
- 2) Brain scanning techniques show that the brains of children brought up in 'chaotic' families develop differently anatomically. Specifically, the size and shape of the **amygdala** part of the brain is different. The amygdala is that part of the brain which initiates instant defensive or aggressive responses to perceived threats. Events which are seen as non-aggressive by unaffected people may therefore be treated as threatening to those with ACEs. (Evidence for this is derived from brain scans showing different response to images shown to the subjects.)

There is strong corroborative evidence that criminal behaviour follows childhood trauma from the work of Williams & Marryat, reference below:

- 65% of boys with convicted parent will offend.
- 25% of male prisoners and 50% of female prisoners have been in care.
- 40% of prisoners (England & Wales) were permanently excluded from school, and a further 20% were temporarily excluded.
- 41% witnessed violence in the home.
- 37% had incarcerated family members
- 59% played truant regularly
- 54% had children when under the age of 18^[1]_{SEP}

These findings affect criminal justice policy, including sentencing. Children brought up in adverse circumstances experience a world which is not friendly to them and may be actively hostile. Their world may be a place in which they have to struggle to survive, aided by a heightened sense of threat due to modified amygdala. Behaviours in childhood are very strong predictors of future criminality, closely related to antisocial behaviour. Punishment will tend to make their world feel even more hostile. It is crucial to note that people whose experience of society has been antisocial to date are much more likely to change if offered understanding and support, rather than punishment.

Not all people with 4 or more ACEs go on to become criminals. Looking at **Attachment Theory** (Winnicott), this indicates that having just one trusted adult can make a great difference to the child and their subsequent emotional life. So the damage can be undone, and that includes finding a trusted person in prison. That is what happens in Norway and Germany where prison officers have 2 years training and where recidivism rates drop from up to 60% in England and Wales to 20%. Their aim is to offer support to help imprisoned people become less antisocial and to become positively-contributing citizens in society when released.

Grendon Prison is run as a (series of) Therapeutic Communities with the aim of reducing antisocial behaviour. The Chief Inspector of Prisons (May 2023) summarised his findings there, as follows:

- Prisoners described excellent relationships with staff, who were there to support them through an often long and painful journey to make sense of their past and learn to regulate their emotions and behaviour in the future.
- The prison was one of the safest in the country, which was remarkable given the histories and offences of the prisoners, and assaults and use of force were very rare.
- Studies have shown lower levels of reoffending for men who stay longer than 18 months.

The observations on the low level of violence within the unit supports the notion that ‘these difficult men’ have found a way of co-habiting – the beginnings of social rather than antisocial behaviours. Similar observations have been observed in other therapeutic units to which the most violent of offenders have been sent, namely Barlinnie (Scotland) and Parkhurst (Isle-of-Wight). And the low levels of recidivism, for example in Norway, further supports the use of therapeutic communities.

Sentencing should be modified by the estimated time it may take to undo much of the antisocial conditioning each ‘criminal’ may have received. The worse the crime, the more antisocial is likely to be the experiences of the perpetrator but an active rehabilitation programme is likely to be shorter than any current sentencing. Norwegian experience is a probable practical guide.

References on ACEs

Vincent J Felitti, MD, FACP et al. American Journal of Preventative Medicine Volume 14, 245-258 (1998) Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults. The Adverse Childhood Experiences (ACE) Study.
 Lancet 2017 Open Access DOI:[https://doi.org/10.1016/S2468-2667\(17\)30118-4](https://doi.org/10.1016/S2468-2667(17)30118-4)
 Ford, K et al 2019, *Understanding the prevalence of adverse childhood experiences (ACEs) in a male offender population in Wales: The Prisoner ACE Survey*. Public Health Wales; Bangor University, Wrexham.
https://www.dcy.gov.ie/documents/publications/Parents_Perspectives_on_parenting_styles.pdf
 Winnicott. <https://neurolaunch.com/winnicott-attachment-theory/>
 Kim Williams et al. Prisoners childhood and family background. Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners. Ministry of Justice Analytical Services March 2012 nin.tl/3muqVUe
 Marryat L, Frank J. Factors associated with adverse childhood experiences in Scottish children: a prospective cohort study. BMJ Pediatrics Open 2019;3:e000340

The above shows that an understanding of ACEs and their effects is crucial in reforming those who have first been victims of violence, neglect and trauma. A practical knowledge of helpful strategies is essential to make real progress with these individuals and greatly improve rehabilitative outcomes. As with Restorative Justice, addressing the needs of those with ACEs, should greatly reduce antisocial behaviours in the community and recidivism – saving millions if not billions of pounds. HMPPS staff initial training and ongoing professional development should highlight ACEs: how to recognise them and how to help the individual to heal.

6 How should we reform the way offenders progress through their custodial sentences to ensure we are delivering justice and improving outcomes for offenders, victims, and communities?

It is our observation that long aimless prison sentences with little purposeful activity and limited access to useful programmes actually undermine rehabilitation. Committal to custody has to be seen as a beginning not an end. Legislation and sentencing policy cannot just imprison the offender and leave reform as a hoped-for side-effect of punishment. The justice system has an over-arching duty to facilitate and encourage offenders to reform.

The nature of the experience in prison (education, work, therapeutic interventions, drug treatment, mental health support) together with preparation for release, is all-important. Resettlement work

will become increasingly focused in open conditions, with ROTL and home leave to develop links with the community.

Long-term public safety, and closure for victims, depends on a change in both the offender's attitude to and behaviour towards the community at large. An un-reformed offender has no internal defence against repeating the behaviour for which they were convicted. A sustainable and safer justice system must make rehabilitation a priority. This is a necessary outcome for the benefit of society to which a reformed individual could make a contribution.

7 What, if any, changes are needed in sentencing to meet the individual needs of different victims and offenders and to drive better outcomes?

The needs of victims are especially well represented in the report of the **Independent Commission into the Experience of Victims and Long-term Prisoners**, led by Bishop James Jones, former Bishop of Liverpool and of Prisons. Findings included that victims of crime feel 'overlooked, disregarded, neglected, marginalised and further traumatised' by the criminal justice system, and that sentencing for serious offences is not working to rehabilitate prisoners or offer redress or resolution to victims. This report should be studied for the detailed observations and recommendations it makes.

Restorative Justice has already been flagged up as a useful intervention for both victim and offender, which can be included within a custodial or community sentence.

Established research on the causes of offending should inform sentencing, along with practical directives on how best to remedy the damage caused by Adverse Childhood Experiences

A person should never be remanded in custody because the programmes they need are not available in the community. Instead, this treatment should be provided in the community where ties of family and local activities can be maintained.

Over-crowded, squalid, violent, under-staffed prisons have no chance of promoting better outcomes, whatever the changes in sentencing policy. Easing overcrowding, introducing more comprehensive staff training and ensuring well-maintained buildings are a pre-requisite for achieving the key aim of successful rehabilitation. Meanwhile, lessons could be learned from establishments that are running regimes which develop skills and build cooperation and self-reliance, such as HMP Oakwood (currently).

We invite the Ministry of Justice to enter into dialogue with us about the issues raised in this submission.

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