

Response to the Justice Select Committee's inquiry on public opinion and understanding of sentencing

July 2022

Introduction

1. The Criminal Justice Alliance (CJA) is a network of over 180 member organisations working towards a fair and effective criminal justice system (CJS). We promote and amplify constructive criminal justice journalism to shift narratives and build more conducive public understanding for positive change.¹ Our members include organisations who research public opinion on sentencing; those who promote more effective public communication on criminal justice issues; and those who support people with lived experience of the CJS (including victims and their families) to work with the media.
2. We welcome the opportunity to respond to the Justice Select Committee's inquiry on the public's opinion and understanding of sentencing. This response is based on discussions with our members and journalists regarding the Inquiry Terms of Reference, as well as:
 - The CJA's 2021 report, *Behind Closed Doors*, which outlines how the media can better report on criminal justice in a nuanced and constructive way, leading to a more informed public.² We will be developing resources on constructive criminal justice reporting with the National Union of Journalists (NUJ) based on this.
 - The CJA's criteria for good criminal justice reporting, which was developed by journalists and criminal justice experts for the CJA's annual Media Awards. The Awards celebrate journalism, digital media and documentaries that have contributed to a better public understanding of criminal justice.³
 - FrameWorks Institute's 2016 research on effectively 'framing' messages to the public regarding criminal justice reform, was conducted in partnership with the CJA, along with our members Clinks, Transform Justice and the Alliance for Youth Justice.⁴ 'Framing' refers to the way that information is shaped, which then impacts on how the public interpret and respond to it.

Inquiry response

How does the public access information on sentencing? What does the public know about the current approach to sentencing in England and Wales?

3. The public's overall engagement with news and current affairs is high across England and Wales, particularly with broadcast media, social media and local newspapers.⁵ Research shows that coverage of crime and sentencing in the

media influences the formation of the public's opinion and perpetuates the impression that sentencing is excessively lenient. Media analysis by the Sentencing Council (referred to as 'the Council') found that coverage of specific crimes tended to focus on emotive or extreme cases, and the public best remembered sensationalist articles. As such, the public are not forming a realistic and accurate view of sentencing.⁶

4. Research has shown that the public misunderstands both the nature of crime and how the CJS operates in England and Wales. Ministry of Justice (MoJ) research in 2013 found that attitudes to sentencing are largely based on misperceptions of sentencing practices. Most people have a negative view of courts because they believe sentencers are too lenient and they underestimate the severity of courts' current sentencing practices.⁷ More recently in 2019, research from the Council found that around 70 percent of the public think sentencing is too lenient, particularly regarding sentences for serious crimes such as rape and death by dangerous driving. However, this perception lessens noticeably when the public are presented with scenarios based on real criminal cases and the actual sentences people received.⁸
5. The Council also found that the majority of those who responded to its survey overestimated their knowledge of sentencing terminology. Respondents were confident they understood terms such as 'life sentence' and 'statutory minimum/maximum sentence', but through discussion groups, researchers found their actual understanding was far more limited.⁹ We are also concerned that the public do not have a good understanding of racial disparities within sentencing, such as that Black, Asian and minority ethnic defendants are more likely to receive custodial sentences than their white counterparts for the same offence.¹⁰ It is likely that many journalists, as members of the public, lack detailed understanding of different sentences too. [We recommend more granular and ongoing research is done to understand the specific gaps in the public and journalists understanding of sentencing, so these can be more strategically addressed.](#) The public's opinion and understanding of sentencing should be regularly reviewed.

What could be done to improve public understanding of sentencing? What are the barriers to improving public awareness of how sentencing works?

6. To improve public understanding of sentencing, firstly, journalists can report and communicate more constructively to challenge the public's current thinking. Secondly, the media, government and ministers can raise awareness of different sentencing options and their effectiveness at reducing crime.

Journalists communicating more constructively and challenging the public's thinking

7. The CJA's 2021 report, *Behind Closed Doors*, outlines the challenges that journalists face when reporting on criminal justice, and some of the difficulties encountered by CJA members when dealing with the media. To improve public understanding of sentencing, journalists could communicate more constructively and challenge the public's current thinking by:
 - **More solution-focused or 'constructive' journalism.** Too often, journalists catastrophically-frame stories on crime and violence rather than explore its

solutions. This leads the public to think crime is more common than it is and can lead to a sense of fatalism.¹¹ In solutions-focused journalism, or constructive journalism, reporters instead focus on rigorously investigating and reporting on the solutions to key societal problems. The Guardian, the BBC and The New York Times have all recently launched constructive journalism projects. [We recommend more news organisations consider establishing solutions-focused initiatives to investigate effective solutions to crime and reoffending \(including different sentencing options\).](#)

- **Providing context with constructive headlines, imagery and language.** Journalists often do not have time to properly explore criminal justice issues in depth and therefore provide little to no analysis of the root causes of crime, or how individual cases sit within the wider CJS and/or social policy context. Sensationalist headlines, stereotypes and negative terminology impact public understanding and debate, especially as the public are increasingly consuming news by scanning headlines and images on social media, rarely reading articles in full and as such missing any nuanced reporting within the article itself, resulting in a misinformed public. [We recommend a criminal justice media advisory service is established to provide advice and guidance to journalists and reporters on portraying criminal justice issues accurately, including on sentencing.](#)
- **Responsibly including the experiences of people who have been directly impacted by the CJS and being trauma-informed.** People with lived experience often bring fresh perspectives to key challenges within criminal justice and many people want to publicly share their stories, including their experiences of receiving custodial sentences.¹² Journalists are often keen to interview people with lived experience or to feature a 'case study', but the CJA have found this can often be a negative interaction. Journalists could portray individuals' and their families' experiences more authentically, humanely and sensitively, in order to hear more diverse views and real-life experiences regarding sentencing, break-down public beliefs about 'offenders' and who commits crime. One member told us that journalists often report on tragic cases where children have been killed or victims of serious violence, without sufficient understanding of how vulnerable a victim's family is following a court case or sentencing. Even if journalists are sympathetic, any sensationalist reporting can lead to community tensions and grieving families later regretting giving media comments, including on sentencing, when their emotions were heightened. When reporting on these cases, journalists need a greater understanding of the vulnerability, bereavement, grief and trauma that victim's families face. [We recommend more guidance, resources and training on grief and trauma-informed reporting are developed, which are co-produced with victims and others with lived experience of the CJS, and made available to journalists.](#)¹³

8. Media reporting can improve public understanding of criminal justice, rather than creating or further solidifying myths and misperceptions, by framing certain messages to 'interrupt the dominant belief that severe punishment effectively reduces crime and increases public safety'.¹⁴ The way in which a communication is framed shapes how the public interpret and respond to information. When new frames enter public discourse, the public's understanding of an issue or problem, including what kind of solutions they

support, can shift and can make new types of action possible. Robust strategic communications research carried out by the FrameWorks Institute in 2016 on behalf of the CJA, jointly with members Transform Justice, Clinks and the Alliance for Youth Justice, showed that the public in England and Wales have deep, cultural understandings ('beliefs') of crime and justice issues.¹⁵ FrameWorks found that the public's dominant beliefs were that punishment (i.e. prison and long, difficult sentences) is a solution to crime and a highly effective deterrent. But the public also share some more productive beliefs, which can be capitalised on to shape communications that make action for sentencing reform possible:

- **Crime has societal causes.** The public can adopt a contextual view when thinking about the causes of crime. They can recognise how a person's environment may shape criminal behaviour. For example, they understand that poverty can lead people into crime, because they need to steal to survive. People also understand that if someone is surrounded by people who commit crime, they are more likely to commit crime.
- **The importance of rehabilitation.** The public can acknowledge that CJS approaches that rely solely on punishment are ineffective, and support rehabilitation as one of the key purposes of the CJS.
- **The need for alternatives to prison.** The public can see that, given how imprisonment can have a significant impact on someone's life conditions and can exacerbate problems, the CJS should offer alternatives that lead to more productive outcomes for society. Research by CJA member Transform Justice found that although public awareness of options other than prosecution and prison is low, that the majority of the public support them when explained.¹⁶ [We recommend the Committee build their knowledge of this research. We also recommend that government policy makers and press teams have training to understand these framing principles, which are based on robust messaging research.](#)

9. Members and journalists also told us that in some instances, lawyers and MPs are challenging journalists' sensationalist news articles on social media, where a journalist have reported on a sentencing hearing or case in an unbalanced way. When judges' sentencing remarks are published, it enables experts to query sensationalist reporting to better inform the public. [We recommend that all sentencing remarks are made publicly available immediately after the hearing, without journalists having to submit a request which can delay access.](#)

Raising awareness of different sentencing options and building confidence in other ways to reduce crime

10. Members told us that harsher sentencing won't improve public confidence and were concerned this approach would lead to sentence inflation in perpetuity. Research from CJA member The Sentencing Academy shows that most people remain unaware of changes in sentencing policy and CJA member Prison Reform Trust have stated that ministerial announcements introducing 'tougher' sentences, lead the public to think sentences 'must have been getting softer'.¹⁷

11. Members told us that when the public thinks of a criminal justice response, they default to courts and prisons and believe that other non-custodial sanctions are not punishment. There is low public awareness of other effective ways to reduce crime and resolve crimes for victims by not going to court, such as through restorative justice (RJ). Evidence shows that RJ can support victim's ability to cope and recover and improve their satisfaction levels, as well as reducing reoffending. RJ focuses on acknowledging and addressing harm and holding those who have committed crimes accountable through a dialogue with the victim.¹⁸

Public understanding of Restorative Justice

The All Party Parliamentary Group (APPG) for Restorative Justice found low levels of public awareness and understanding of restorative justice and practices.¹⁹

- Awareness of RJ is lacking in the wider public, despite efforts to raise its profile by organisations such as CJA members Why me? and Restorative Solutions CIC, and programmes such as BBC Radio Four's documentary, The Punch.²⁰
- There is a lack of expert communications support to publicise the work of organisations delivering RJ and its benefits. For example, CJA member The Mint House have raised that victims sharing their experiences of the RJ process with the public directly often has the most impact. However, the personal nature of this work makes this difficult.²¹
- There is a need for a national public campaign to raise awareness of and help re-frame RJ beyond the public's narrow understanding of 'meetings between victims and those who have committed crime', when in fact there are various RJ practices, including restorative and community conferences, victim reparations and indirect mediation.
- [We support the APPG's recommendation for the MoJ and Home Office to publish an updated national action plan for RJ. This should include a specific communications strand to raise public awareness, which should be co-produced by communications and framing experts, restorative professionals and those with lived experience of RJ.](#)

12. Members told us that expanding the public's view of different sanctions would likely help improve public confidence, as they become more aware of a number of ways to address harms caused by crime and reduce the likelihood of future victims.²² The new duty to consult on Unpaid Work could raise awareness of this community sentence if it meaningfully involves the public in the design and delivery of purposeful reparative programmes, as suggested by CJA member Centre for Justice Innovation.²³

13. In addition, members told us that there is a wide gap between judges' and sentencers' understanding of what works to reduce crime, and the latest evidence on the effectiveness of sentences and reducing reoffending. [We recommend the Council establish a 'What Works Centre' to research, promote and help implement more effective sentencing practices.](#) The Council could look to the College of Policing's What Works Centre for Crime Reduction, as

the College collects and shares research on crime reduction and supports to operationalise the latest evidence for use in policing practice.²⁴

14. The Council has a statutory duty to have regard to the need to promote public confidence in the CJS when producing sentencing guidelines. It is welcome that the Council have stated that they have interpreted this provision widely, as ‘an obligation to actively promote public confidence in the system and in sentencing.’²⁵ The Council’s strategic objectives for 2021-26 includes work to strengthen confidence in sentencing by improving the public’s knowledge and understanding.²⁶ It has set out actions to achieve this, including maintaining insights into public confidence in the CJS and its changes over time through surveys; producing more accessible guidelines; giving evidence to the Committee more regularly and engaging with young people in schools, who have lower levels of trust and confidence. The Council is publishing its progress against this objective, which shows national media outreach. However, more needs to be done if the Council wants to effectively engage and communicate with the broader public.²⁷ [We recommend the Council makes pro-active efforts to engage with different segments of the public and recruit staff members dedicated to stakeholder and community engagement.](#)
15. We welcome the Council’s intentions to create more accessible guidelines and increase engagement with the Committee and young people. However, [we recommend the Council go further in its outward-facing work, hold more meaningful consultations and engage with a wider range of stakeholders.](#) For example, CJA member the Magistrates Association has run its ‘Magistrates in the Community’ initiative, where sitting magistrates visit offices, community, religious and social groups, as well as schools and colleges to increase public understanding of the magistrates’ courts.²⁸
16. The Council also has a statutory duty to consider the relative effectiveness of different sentencing options in preventing re-offending when preparing or revising sentencing guidelines. CJA member Transform Justice have argued that the Council have done very little to challenge increasing prison-sentences despite the lack of evidence of their effectiveness, nor has it done enough to encourage greater use of non-custodial sanctions and measures, such as community-based treatment requirements and RJ.²⁹ The Council’s own impact assessments have shown that some of its guidelines have directly contributed to sentence inflation.³⁰ [We recommend the Council adopt a more proactive role in steering the overall direction of sentencing policy and practice, and raising public understanding of non-custodial sentences, in order to counter their contribution to sentence inflation.](#)
17. A recent parliamentary debate on the delayed Royal Commission on Criminal Justice included calls for it to include an ‘in-depth consideration of sentence inflation’ and a ‘review of community-based sentencing.’ [We recommend the Royal Commission considers sentence inflation and its harms, a review of how the use of community sentences could be increased, and how to raise public understanding of these issues.](#)³¹

The views expressed in this response are not necessarily those of any individual CJA member or funder.

For more information, please contact Hannah Pittaway, Senior Policy Officer, on: hannah.pittaway@criminaljusticealliance.org.uk.

References

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- ⁵ See page 37 in The Sentencing Council, [Public confidence in sentencing and the criminal justice system](#) (2019).
- ⁶ See page 6 in Criminal Justice Alliance, [Behind closed doors: How journalists can better shine a light on criminal justice](#) (2021).
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- ⁹ See page 4 in The Sentencing Council, [Public confidence in sentencing and the criminal justice system](#) (2019).
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- ¹¹ Criminal Justice Alliance, [Behind closed doors: How journalists can better shine a light on criminal justice](#) (2021).
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- ¹³ See [Trauma Reporting](#).
- ¹⁴ FrameWorks Institute, [New Narratives: Changing the Frame on Crime and Justice](#) (2016).
- ¹⁵ FrameWorks methodology consisted of interviews with 12 criminal justice experts; a literature review; interviews with 20 members of the public; two sets of on-the-street interviews; and a survey of 6,350 members of the public across England and Wales. FrameWorks Institute, [New Narratives: Changing the Frame on Crime and Justice](#) (2016). FrameWorks Institute, [Reframing Crime and Justice in England and Wales](#) (2014).
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- ¹⁹ APPG for Restorative Justice, [Restorative Justice Inquiry Report](#).
- ²⁰ BBC Radio Four, [The Punch](#) (2021).
- ²¹ Examples of such testimonies can be found on [Why Me?'s website](#).
- ²² Centre for Justice Innovation, [How can we promote the use of community sentences as an alternative to harmful short term custody?](#) (2019).
- ²³ Centre for Justice Innovation, [The future of unpaid work](#) (2022).
- ²⁴ College of Policing, [What Works for Crime Reduction](#).
- ²⁵ See page 15 in The Sentencing Council, [Annual Report 2020-21](#).
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- ²⁷ See strategic objective five in The Sentencing Council, [Achieving our strategic objectives](#) and The Sentencing Council, [Annual Report 2021-22](#).
- ²⁸ Magistrates Association, [Magistrates in the Community](#).

²⁹ Transform Justice, [The Sentencing Council and criminal justice: leading role or bit part player?](#) (2020).

³⁰ Transform Justice, [The Sentencing Council and criminal justice: leading role or bit part player?](#) (2020).

³¹ Hansard, Lords Chamber, [Criminal Justice: Royal Commission](#), debated on Monday 7 February 2022.