

# Independent Sentencing Review 2025: Clinks response to the call for evidence



**Our response**

Submitted January 2025

# Introduction

Clinks is the national infrastructure organisation for the voluntary sector in criminal justice in England and Wales. We support, promote and represent over 500 members and advocate on behalf of the estimated 1700 organisations working with people in the criminal justice system and their families.

Clinks is the current holder of the HMPPS infrastructure grant, and we manage the secretariat for the Reducing Reoffending Third Sector Advisory Group (RR3). We are grateful to the Review Chair and panel members who made time to hear from senior leaders on the RR3 about their specialist areas.

The voluntary sector delivers services and support to people in the criminal justice system, most frequently to people in prison and on probation. The sector provides specialist skills and expertise, including lived experience, that HMPPS cannot provide alone. Evidence shows that the voluntary sector can be better than statutory providers at forming positive relationships with prisoners (Dominey, 2019; Mills & Meek, 2016; Tomczak & Albertson, 2016), and can build self-confidence, feelings of belonging, hope and patience, and provide a break from the 'prisoner' identity (Abrams et al., 2019; Tomczak & Albertson, 2016; Tomczak & Thompson, 2019), all of which support rehabilitation and desistance from crime.

We are very pleased to respond to the call for evidence. In formulating our response, we have drawn on the evidence and expertise of the voluntary sector, through a survey and focus groups, our annual 'State of the sector' research and wider evidence on how the voluntary sector can support effective sentencing policy and administration. Our response focuses on themes 3-7.

# Technology and innovation

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

Electronic monitoring (EM) and GPS tracking can be viewed as an attractive alternative to prison, given the ability to monitor and restrict liberty but also enable people to remain at home, care for their families and sustain or gain education or employment. While we broadly support the expansion of EM, there is a need to consider how that expansion will work for different groups of people, as well as readiness and resourcing for that expansion to happen at pace.

Tags can be uncomfortable or even painful to wear. The case of Gaie Delap, *whose health condition prevented an ankle tag being fitted*, highlighted in a particularly stark way the need for any technological solutions to be inclusive of all potential users, else they cannot serve their intended purpose. Sensory issues mean tags can be especially challenging for some neurodivergent people – a group who are overrepresented in the criminal justice system. Organisations reported that women had found it hard to work with an ankle tag because of requirements for jobs in retail or hospitality making the tag visible.

The technology and its administration can be unreliable: organisations often report issues including a person whose tag was fitted two days before the end of their licence period, to faulty equipment that registers people as outside their zone even when they are at home. It is not always possible to contact either the monitoring provider or probation, causing distress, exacerbating trauma or complicating compliance. A system that doesn't evidence compliance is equally unlikely to evidence non-compliance, and more widespread use of electronic monitoring – for example in place of a prison sentence – would require confidence on the part of sentencers and probation that the data they provide is both reliable and utilised.

## Recommendations

### *1. Explore how technology can be used proactively for prevention and support*

Provided EM can be delivered in a timely and reliable way, and is flexible to the needs of a wide range of potential users, while delivering robust data that can be used, we propose its use to proactively support desistance as well as simply gather data. This could be particularly beneficial as a brake for people in treatment and/or recovery where apps or devices could notify relevant statutory or voluntary staff to intervene. For example, if a particular area or location is a trigger for drug use, or indicates potential contact with associates, a notification could alert a support worker or probation officer who can then respond. Or a notification to the wearer's phone or device could disrupt negative thought patterns, remind them of the progress they have made – or the consequences of making the same decisions. The use of 'nudges' is commonplace in everyday life – our cars let us know when we enter a different speed limit zone, our phones can remind us of things on arrival at a particular location. These proactive uses could prevent reoffending and reduce the use of recall, by creating a better understanding of an individual's risks, monitoring them and planning mitigations.

Being smarter with curfew times could also have an impact - night time curfews are the norm, but a timeframe that engages with individual risks and needs could be more effective – for example, a 30 minute curfew every two hours can impact on shoplifting/support recovery.

Tools that support people with communication difficulties, including speech or language challenges, and assess neurodivergent needs would enable better dialogue and this, combined with integrated and more complete data, could support pre-sentence reports, enabling sentencers to review an individual's needs and progress either pre-sentence or on previous sentences, and provide information about available interventions that address unmet needs, such as domestic abuse, mental health issues, and substance misuse. These could be attached to community sentences.

## ***2. Formalise partnership working and data sharing between and across statutory and voluntary sectors so that information is available at the right time***

In addition to EM, technology alongside other innovative practice has the potential to improve information sharing – enabling better quality assessments, which in turn support sentencers in making better informed decisions, in a timely way and data quality for measuring impact. Of course, this has been the promise of every IT programme across the public sector, but every new programme is an opportunity to really make that a reality, and it starts with a commitment to getting it right.

As noted in the [10 year prison capacity strategy](#) in-prison IT systems are also outdated and no longer fit for purpose. The promised investment in new systems and digital tools will be a significant step forward in administering sentences by streamlining activities and automating manual processes, allowing staff time to be better utilised.

Court users are using different systems which doesn't help with information sharing to aid sentencing decisions e.g. Delius (Probation), Rio (Health), SystemOne (Liaison and Diversion) and it is easy for information to be missed at the point of sentencing. This makes it difficult to build a holistic picture of a person, and to have a full and accurate picture at a hearing. Consideration must be given to when and how information is shared between professionals in the voluntary and statutory sectors. Organisations often report challenges in seeing or contributing to pre-sentence reports, even where they have information that may have influenced the recommendation to the court.

## ***3. Identify and pursue opportunities to use technology to facilitate rehabilitative activity***

Expanding digital access in prisons can facilitate remote learning, rehabilitation, and resettlement planning. This is important for everyone but the potential benefits with domestic abuse perpetrators or defendants was raised by organisations working with victims, perpetrators and across the women's sector. Perpetrators often are not sentenced until repeated offences have occurred, by which time the behaviour is entrenched. Even then, short or suspended sentences mean the victim remains at risk of harm.

The panel will no doubt receive many responses calling for longer sentences for violence against women and girls. Regardless of sentence length, we suggest the most important factor is that perpetrators are monitored and given timely access to proven interventions – including at arrest stage, before conviction and during bail. Interventions should also be available to potential perpetrators, not only those with an index offence of domestic abuse. The OPD pathway services offers a blueprint for longer term programmes with a relational element that includes MBT, relationship skills for DV perpetrators, and more intensive and specialist support as required. Any pathway’s effectiveness depends on the availability of multi-agency support, and flexible, person-centred provision to address multiple and complex needs, rather than a one size fits all intervention.

The Drive Project, the rollout of which is being evaluated following a **successful three year pilot which resulted in:** physical abuse reduced by 82%; sexual abuse reduced by 88%, harassment and stalking behaviours reduced by 75%; and jealous and controlling behaviours reduced by 73%. Drive repeat and serial cases appeared less often at MARAC (Multi-Agency Risk Assessment Conference) than the control group, the difference was statistically significant and was sustained for a year after the case was closed. In the absence of a national response to domestic abuse perpetrators, technology could offer a way to ensure perpetrators in and outside prison have access to the rehabilitative interventions that are proven to work, either through video conferencing or online access to resources.

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Other interventions that could be facilitated by technology were suggested by specialist organisations:

- Early intervention for online sexual offences to prevent escalation – recognising that this would need secure, controlled technology for communication and support within accountability programmes.
- Tailored interventions for young men aged 18-30 to address harmful notions of masculinity and align with their unique needs, delivered via in prison technology and using specialised programmes in the community.

#### ***4. Consider how restorative justice principles could contribute to every sentence***

Restorative justice is an effective way to meets the needs of victims and reduces the frequency of reoffending. When integrated with or as an alternative to sentence reductions, restorative justice can improve victim satisfaction and public confidence.

Research published by the **Ministry of Justice in 2001** found that, in a randomised control trial of the use of restorative justice with adults, restorative justice reduced the frequency of reoffending, leading to £9 in savings to the criminal justice system for every £1 spent on restorative justice. 85% of victims who took part were satisfied with the process. The government’s analysis of this research has concluded that restorative justice reduces the frequency of reoffending by 14%.

Restorative justice can be used at any stage of the criminal justice process. In 2009, an economic analysis of pre-court diversion for young people **found the potential for a net benefit of £1bn over ten years.**

A systematic review of evidence in 2013 found that restorative justice **both reduces reoffending and improves victim satisfaction.**

The effectiveness of innovative approaches to rehabilitative activity depends on sustained investment, a commitment to a whole-system approach, partnership working between voluntary and statutory sectors and sufficient time and resource to measure effectiveness. Properly funded voluntary organisations have the capacity, flexibility and expertise to deliver effective services, but depend on statutory partners to facilitate this – by providing access, referrals and information. Demonstrating effectiveness – to secure funding and access – takes time, yet statutory funding for these services is typically under three years, or even less. The prevalence of short-term funding cycles acts as a significant barrier for voluntary organisations in being able to provide the most effective service - intensive, sustained support.

# Community sentences

## *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?*

Sentencing inflation, driven by mandatory minimums, starting points in Schedule 21 CJA03 and other legislative changes that increase sentences and mean people spend more of their sentence in prison, has increased the prison population and contributed to over-prescription in community sentences. This can include suspended sentences where community sentences would have created more opportunities for rehabilitative activity, and “net-widening,” where people are sentenced to higher levels of supervision and requirements than necessary. In addition, organisations report having worked with people over extended periods pre-trial due to court delays, making positive progress, only for that work to be undone when the person receives a prison sentence.

His Majesty’s Chief Inspector of Probation highlighted disparities between youth and adult probation services, noting that adult systems often focus excessively on punishment rather than addressing individual needs. The imposition of any sentence, reporting requirements, unpaid work, programme attendance, and a criminal record are punitive. If that premise is accepted, then all activity attached to the sentence should be designed to rehabilitate.

Other challenges to effective community sentences include:

- Limited support services, especially for women and marginalised groups.
- Probation environments can deter attendance, especially for people at risk of encountering negative influences.
- Sentencers do not always consider – and may not be aware of - broader needs which may contribute to offending. Combined Rehabilitation Activity Requirements (RARs) could provide more comprehensive support.
- A lack of sentencer confidence in the viability and effectiveness of community sentences and availability of effective provision of support.
- The stigma of convictions and barriers to employment perpetuate cycles of offending.

## Recommendations

### *1. Expand deferred sentencing and include voluntary sector providers in court assessments*

Deferred sentencing, which allows for intervention and support during the deferral period, has shown promise in New Zealand. Sentencers have had the provision to defer sentences since 1973, although its use has declined since then. Current guidance from the Sentencing Council is that deferred sentences will be appropriate in only very limited circumstances. We propose this is reviewed and circumstances in which sentencing should be deferred are considered holistically and in light of the wide range of interventions and support available from voluntary sector providers – who in any case are often working with people who find themselves frequently in front of the court.

### *2. Increase the use of treatment orders – and fund sufficient treatment places*

Expansion of community sentences must be resourced and one aspect of this is to better use diversion services such as CSTRs. Organisations report huge benefits arising from the London Women’s primary MHTR service, which enables access to primary mental health support they would struggle to get through community mental health provision.

Similarly, there is some access to drug and/or alcohol treatment via Drug Rehabilitation Requirements (DRRs) and Alcohol Treatment Requirements (ATRs). However, there is a need for more residential rehabilitation and for criminal justice specific placements for people whose risk and/or need is greater. These placements could follow a prison sentence or, where appropriate be a mandated part of a community sentence.

*Between April 2022 and March 2023*, there were 46,551 adults receiving treatment for drug and alcohol problems in secure settings – 98% of them in prison. Over half (52%) of adults leaving treatment were transferred for further treatment, either to community treatment (34%) or to treatment in another secure setting (18%). The proportion of adults successfully starting community treatment within 3 weeks of release was 43% so this is a key attrition point.

The government and some panel members have expressed interest in the Texas approach. The *state first implemented Justice Reinvestment policies in 2007* due to prison overcrowding and the urgent need for 17,000 prison places at a cost of \$2bn - mirroring the situation in England and Wales. Over \$200m dollars was diverted from the prison building budget to create thousands of treatment spaces for drug and alcohol recovery, and for mental health. The reforms included stronger support systems for probation and parole supervision, including incentives for compliance and penalties for violations. Instead of returning individuals to prison for minor or technical probation or parole violations, a system of graduated sanctions was developed, including short-term jail stays or additional supervision.

As well as substantial cost savings, the reforms meant a reduced rate of imprisonment (even while it rose in comparable states) and a reduction in parole and probation revocations.



### 3. Enhance probation resources and powers

Probation is under enormous pressure and any move to increase the use of community sentences – while widely supported by the evidence – will increase that pressure and potentially have unintended consequences if not sufficiently resourced. This includes tightening up processes for enforcement. Some organisations are concerned that breach reports – for non-compliance with an order, rehabilitation requirement or CSTR – are not picked up for weeks at a time. This is of particular concern for suspended sentences where there is a risk escalation. Unlike prison sentences, there is no recall option to manage escalating risk so enforcement measures and processes should be reviewed.

The voluntary sector offers capacity and expertise but we also propose the following:

- Make the Probation Reset permanent. Reset suspended all Community Orders and Suspended Sentence Orders with rehabilitation activity requirement, and all licences after the final third, with some exemptions. Making this change permanent would prioritise probation resources at the start of supervision terms, when people are most vulnerable, while making the best use of staff time.
- Incentivise compliance rather than punish non-compliance, by empowering people to request revocation of their orders upon demonstrating good progress. While legislation allows this, it remains underutilised.
- Increase resources for PSRs and remove restrictive targets – as identified above, technology and a more proportionate approach to requirements attached to sentencing would allow the focusing of resourcing on those who need it most.
- Expand technological tools to improve accessibility and support for people with specific challenges, such as neurodivergence or mental health needs. Promote the rights of people to engage in and manage their own rehabilitation journeys actively.
- Adopt combined orders and meaningful unpaid work activities that align with individual needs and strengths. **Enhanced Combination Orders** (ECOs) in Northern Ireland are designed to focus on rehabilitation, practice, and desistance through a multiagency, multidisciplinary, and collaborative approach. Participants are assessed by psychologists and offered a tailored programme which can include programmes, victim focused work or unpaid work. As well as being cost effective, people completing an ECO had a **reoffending rate of 31%, compared with 46.5% for those serving less than 12 months in prison.**

### 4. Take a sustained approach to building sentencer confidence

Building confidence takes time and is multi-faceted. Magistrates training on any changes to community sentences is imperative. It is likely that one off training will not be sufficient – sentencers can tend to be risk averse and reticent to hand down orders that are unfamiliar or not well understood. Sentencers must be confident that sentences are appropriate and beneficial, and that the system is sufficiently resourced for them to be carried out.

In addition, we propose:

- **Enhanced RAR Utilisation:** Ensure RARs address the root causes of offending and provide opportunities, hope, and skills for personal development.
- **Expanded Support Services:** Address housing, education, and employment needs during and beyond the sentence - including through reforms to current pre-release processes that have been developed by the [RR3 Special Interest Group on Accommodation](#).
- **Holistic Approaches:** Recognise that rehabilitation is not linear; failure to complete a RAR may indicate the need for additional support rather than punitive measures.
- **Lived Experience Inclusion:** Integrate insights from people with lived experience to inform probation practices.
- **Focus on Poverty and Root Causes:** Recognise the role of socioeconomic factors in offending and design interventions accordingly. This could include a cross-government approach to specific public policy challenges, including homelessness and mental health.

# Prison sentences, progression and incentives

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

*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?*

Prison is, by definition, punitive – the deprivation of liberty, separation from family and friends, removal of possessions and autonomy should not be underestimated. Prisons should not be used as places of safety, or as a solution to mental health, drug or alcohol use or other problems. The short sentences that proliferate in these circumstances do not provide sufficient time for effective rehabilitation yet strip people of protective factors – employment, housing or support networks.

It is now widely accepted that the current population pressures are a result of increased sentences for serious offences, including murder, and their impact in sentence inflation across the board. As of September 2024, there were 8,501 (8,155 men and 346 women) serving indeterminate and life sentences. Additionally, 8,467 people were serving extended determinate sentences (EDS). While wholesale reform of homicide sentencing is outside the scope of this review, consideration of very long tariffs and the needs of people long and indeterminate sentences offers opportunities to develop a rehabilitative prison culture that would impact the wider prison population.

## Recommendations

### *1. Limit the use of prison sentences under twelve months – especially those under six months*

There is broad support across the voluntary sector for a presumption against sentences of under twelve months, and even the abolition or automatic suspension of sentences under six months - particularly for women. This is accompanied however by concerns about up tariffing and the probation capacity issues highlighted above. A whole system approach – such as the [Women's Steps to Change project in Sussex](#) – can counter the risk of up tariffing, while more partnerships with specialist voluntary sector organisations can provide capacity to police and probation and enable effective relationship building that is more challenging for police and other statutory staff.

Sentencers should also have access effective and ongoing learning around trauma-informed approaches what support is – and is not - available in prison.

## *2. Consider maximum sentences for all offences where range exceeds 10 years (including starting points for mandatory life sentences)*

Life sentence tariffs have increased significantly over the last two decades, with no positive impact on public safety or evidence of deterrence. People who have committed serious offences should receive sentences long enough to convey punishment for their serious crime, but that offer a chance to address their risk and demonstrate and progress. Any reversal of sentence inflation would be politically challenging after years of tough on crime rhetoric, but it is inescapable that these sentences – and this rhetoric – have driven the current population crisis.

## *3. Ensure rehabilitative opportunities are available from the start – and incentivise their take-up*

Progression within sentences is hindered by a lack of education, employment or rehabilitative activities that are culturally competent and meet the needs of the individual, and little incentive to engage in what is there. This can affect prison behaviour, which can result in additional days added to the sentence (29,223 additional days were awarded between April and June 2024), or a further sentence, or delay to parole for those on extended or indeterminate sentences.

Accredited behaviour programmes are prioritised by earliest release/parole date, so people serving long sentences have limited access to the learning or support that could help them address their own risk factors.

Attaching a rehabilitative activity requirement to prison sentences – as with community orders – could help with planning and sequencing at a system level. Unless or until there are sufficient rehabilitative activities available there should be no penalty for failing to access it.

Education is not funded beyond level 2 and a lack of teaching staff mean even this is unachievable. While improving functional skills is and should be a focus for those who need it, access to the creative arts, as well as further and higher education, stimulates ambition and a rehabilitative culture. Creative programmes in justice settings affect mental health, behaviour and overall resilience and can improve in-prison behaviour, better engagement in prison routines, and build the skills and qualities necessary for lasting rehabilitation. Completion of Higher Education while in prison has been shown to reduce reoffending by up to 25%. Currently funding for Higher Education is only available in the six years prior to release. Amending this, as recommended by the House of Commons Education Committee in 2022, would enable long-term prisoners to build skills that would enable employment on release.

Creating meaningful incentives – including progress to open conditions, temporary release and earning time off a sentence could also incentivise engagement in rehabilitative activity, but it has to be there in the first place.

#### ***4. Consider 'second look' legislation and existing review mechanisms for indeterminate sentences***

Evidence shows that people typically age out of crime, and yet young adults – particularly young men – serving mandatory life sentences are frequently serving very long tariffs. Many are convicted under the joint enterprise doctrine, which has itself come under scrutiny for its disproportionate impact on black and minoritised young men. Those sentenced for murder committed as a child to Detention at His Majesty's Pleasure (DHMP) can apply for a review of their minimum term. This review mechanism was written into law by the Police, Crime, Sentencing and Courts Act 2022, although the Act also reduced the opportunities for review and removed eligibility for continuing reviews past the age of 18.

The '[Second Look](#)' movement in the US calls for reviews of long and life sentences, and twelve states to date have enacted judicial review policies. The recently introduced Second Look Act, if passed, would mean a person who has served at least 10 years in federal prison could ask a judge to review their sentence. Any reduction would be based on evidence of rehabilitation, risk to the public and readiness for release.

Young adults possess significant capacity for change given the right circumstances. Reinstating DHMP minimum term reviews after the age of 18 and extending to those sentenced up to the age of 25 would provide an incentive – some hope – to those already serving very long tariffs.

#### ***5. Review supervision periods and licence conditions to ensure support is front loaded and avoid unnecessary recalls***

Successful reintegration requires focus on protective factors, including secure accommodation, employment opportunities, and financial stability. These can take time to build, and early support from statutory and voluntary organisations is vital. However, a gradual transition to greater trust and independence is also a key part of desistance. As referenced above, Probation Reset changes mean that support is front loaded for most people on licence, and we recommend making this change permanent.

In addition, we recommend a review of the supervision period for life licences. Previously, after a period of 4 years on life licence without any concerns, an application could be made to end probation supervision. In 2019 this period was extended to 10 years. To our knowledge, this change was not based on evidence or consultation. Following agreement with the Lifer Panel and an approved application process (as previously in place), removal of supervision would reduce pressure on probation staff and bring the supervision time in line with that for IPP sentences.

We also recommend an evaluation of the recall process, with a view on long-term solutions, and active probation engagement to support re-release following recalls.

## 6. Address the ageing prison population

Older prisoners present unique challenges, including frailty and healthcare needs which are both more difficult and more expensive to meet in prison compared to the community. There is a balance to be struck to ensure sentences reflect the gravity of an offence regardless of the advanced age of the perpetrator at conviction, this balance should also take into account the risk profile of the person now in front of the court, and the healthcare burden of keeping them away from community health and social care provision, and in conditions that worsen physical health, escalating that burden still further.

To address these, we recommend exploring the following:

- Geriatric Parole: for people with significant health or social care needs but who do not meet the criteria for compassionate release
- Collaboration with local authorities and NHS to provide social care pathways that may include use of temporary release to stay in care
- Multi-disciplinary approaches for terminally ill people.

## 7. Review criminal record disclosure

The government recognise the significant impact housing and employment have on a person's resettlement and, ultimately, on reoffending. There have been piecemeal changes to the law on disclosure over the last decade – some as a result of legal challenges by affected people. Alongside reviewing the sentencing framework, the purpose and impact of criminal record disclosure is ripe for review.

The **Fair Checks** campaign, run by Unlock and Transform Justice, calls for changes to the disclosure regime.

There are legal obligations on individuals and employers around disclosure for job roles, activities and settings where safeguarding and public safety are paramount, and these should of course remain. However widespread disclosure for non-regulated employment, insurance and accommodation has no positive impact on public safety, and there is scope for changes that would improve access to employment, including self-employment, and ultimately support a reduction in reoffending.

# Addressing individual needs in sentencing

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

Throughout this response we have emphasised the need for sentencing that takes into account the needs of individuals and is focused on rehabilitation. In this section, we make recommendations for changes in relation to women, racial disparities and people convicted under joint enterprise.

## Recommendations

### *1. Develop a tailored approach for women that applies to all sentences*

A national, standardised gender specific, whole system approach for women should be embedded from prevention to prison release, and in partnership between the criminal justice system, health services, housing authorities, social services, and the voluntary sector. Clinks endorses the recommendations submitted by the National Women's Justice Coalition.

This approach should, in time, result in a vastly reduced number of women in prison. However, there will be women who are still sentenced to prison, and for those women rehabilitation must be the priority. If the women's estate becomes significantly smaller as a result of sentencing changes, there is a risk that more women will be held even further from home, and less able to access the services and support they need. There is also however the potential for a much smaller estate to become more specialised and supportive. As discussed above, women in prison should have access to culturally competent rehabilitative activity, employment and education from the start of their sentence. Prioritise rehabilitation: prison is the punishment. Make interventions accessible for women of all ethnicities, ages, and abilities. Release on Temporary Licence (ROTL) should be available at the earliest possible stage, determined by risk level.

### *2. Ensure that all recommendations reference the need for consideration of racial disparities*

Racial disparities in sentencing and in prison experience and outcomes are well documented. Any effort to reduce the prison population should consider how racial disparities can be addressed, but the review of sentencing alone cannot achieve this.

The Lammy Review recommendation 10 calls for the expansion of deferred prosecution for low-level offending across England and Wales. Deferred prosecutions mean a person agreeing to engage in a structured programme pre-charge, with no prosecution if the programme is completed. Deferred prosecutions require risk factors to be addressed, have a punitive aspect in that they require time and engagement from the alleged perpetrator, but ultimately have the potential to keep people out of the criminal justice system, with no criminal record. A review of two pilot schemes found positive outcomes for individuals, but concluded that this alone is not a solution to racial disparities in criminal justice. Devon and Cornwall run a deferred charge scheme for women.

We encourage the panel to endorse this recommendation as a diversionary approach that seeks to address racial disparity, but also to be explicit in its own recommendations that racial disparities in sentencing and administration of sentences exist and will persist until they are explicitly addressed.

### **3. Review the sentences of people convicted under secondary liability and 'joint enterprise'**

Joint enterprise is a criminal law doctrine that allows multiple defendants to be charged and convicted of the same crime – commonly but not exclusively murder. A principal is one (or more) who carries out the substantive offence. A secondary party is one who assists or encourages.

The Law Commission will review the law related to homicide and the impact of the 2016 Supreme Court ruling in *Jogee*, which found that the application of the law had taken 'a wrong turn'.

Joint enterprise has been disproportionately applied to young Black men. In 2023 Crown Prosecution Service analysis of 190 cases involving 680 defendants found that 70% of defendants were under 30, 30% were Black and 93% were male. Research by the University of Cambridge identified that people serving life sentences as a result of the application of joint enterprise were often subject to longer tariffs than others convicted of murder.

Sentencing for murder is out of scope for this review. However, we encourage the panel to recommend a review mechanism of past convictions, beginning with gathering data on how many people are convicted under joint enterprise, their tariff and demographic data, and any evidence of their actions – for example via sentencing remarks.

As with the recommendation to consider 'second look' legislation, we encourage the panel to consider, where over-sentencing is identified, individuals should have access to fair resentencing, particularly those with lower level involvement in the crime.

## **Justice Reinvestment**

The government and panel members have expressed interest in the methods used in Texas to reduce imprisonment. As well as that highlighted earlier in the response, we have included further examples of justice reinvestment.

The concept of justice reinvestment derives from the theory that the public spending on crime would be more effective if diverted into prevention and public safety. This approach aims to tackle disparities and systemic inequalities, investing in education, healthcare, housing, and employment programmes, and offering a more sustainable and equitable solution to crime and punishment in neighbourhoods from which a disproportionate number of people in the justice system – victims and perpetrators - are drawn.



It has been widely used across the US to reduce imprisonment and recidivism, to develop effective interventions and tackle racial disparities. In a slight variation on the original theory, the Justice Reinvestment Initiative, funded by government and charitable funders, brings together criminal justice, behavioural health, and other resettlement experts to work with states to develop strategies based on data, resources and existing structures. To date, 30 states have worked with JRI.

## Georgia

- Between 2016 and 2020, Georgia increased the number of cases on unsupervised status by 68% reduced the average caseload by one third. This allowed officers to devote more time and resources to those most likely to reoffend, thereby improving their chances of success on probation and ultimately reduce their chance of recidivism.
- Georgia gave certain individuals on probation an opportunity to earn discharge if they met specific conditions, which encouraged compliance with supervision terms by providing an incentive for good behaviour. As of 2020, around 15% of cases met these criteria.
- The JRI legislation required DCS to file a petition for early termination of probation sentences after 3 years on supervision if the following conditions were met:
  - o An individual is sentenced to certain nonviolent property or drug offenses.
  - o All probation conditions are met.
  - o The person has no new arrests.
  - o They have paid restitution in full.

Note that most cases did not meet the conditions for early termination, so this is far from a panacea.

## Iowa

In March 2020, the Iowa Department of Corrections implemented measures to reduce the prison population and expand community punishments - these included limiting revocations (equivalent to recalls), expanding administrative review processes, releasing low-risk individuals, and increasing the use of telehealth and technology for supervision and programming. As a result, the prison population decreased by 13% within 6 months, while the community supervision population increased by nearly 17%. The average monthly revocation rate decreased by almost 40 percent between March 2020 and March 2021, and a greater proportion had public safety implications – suggesting there was more focus on using revocation for safety concerns rather than supervision violations. An impact evaluation in 2021 found that this reduction in revocations did not have an impact on violent crime or public safety.

The Sentencing Project **reported in 2018 on five states** - Connecticut, Michigan, Mississippi, Rhode Island, and South Carolina - that achieved prison population reductions of between 14 and 25% with no adverse effect on public safety. Key to their success were

- cross-party buy in, evidence based activity and community engagement
- Decreased prison admissions through reductions in penalties, removal of mandatory minimums, creation or expansion of specialist courts and improved responses to young people at risk of offending
- Decreased prison admissions via reduced imprisonment for failure on community supervision, including engagement with community providers and employers before release, a stronger focus on medium-term outcomes and shorter terms of community supervision
- Increased prison releases via increasing the feasibility and/or efficiency of release increased prison releases via requiring less time served before eligibility for release – improved dynamic risk and needs assessment, resettlement planning and earlier conditional release.
- Increased prison releases via requiring less time served before eligibility for release, including sentence credits, reduced length of prison sentences.

The report also highlights six lessons from these states: adequate funding, cost savings often overstated and difficult to achieve, targeting specific goals is vital – including addressing racial disparities. Justice Reinvestment should be viewed in the wider context, broad reforms need focus beyond justice, and increasing penalties for violence reduces the impact of sentencing reforms.

## End notes

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## Our vision

Our vision is of a vibrant, independent and resilient voluntary sector that enables people to transform their lives.

## Our mission

To support, represent and advocate for the voluntary sector in criminal justice, enabling it to provide the best possible opportunities for individuals and their families.

## Join Clinks: be heard, informed, and supported

### Are you a voluntary organisation supporting people in the criminal justice system?

Join our network of over 500 members. Clinks membership offers you:

- A voice to influence change
- Practical assistance to be effective and resilient
- Support from a community of like-minded professionals.

Membership starts at just £80 per year and is free for organisations with little income.

[www.clinks.org/membership](http://www.clinks.org/membership)

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