

JUSTICE COMMITTEE

PRESUMPTION AGAINST SHORT SENTENCES

SUBMISSION FROM DR MARGUERITE SCHINKEL

This submission focuses on the findings from my research project Lives Sentenced, and what they tell us about the impact of (a presumption against) short sentences.

The research examined the perspectives of people who had served a succession of short sentences, often labelled 'persistent offenders'. Life history interviews with 37 men and women took place in 2014, 17 of whom were re-interviewed in 2016, with the third round of interviews ongoing.

Most of the participants had experience of community sentences. They often had negative experiences of them, seeing them as a 'tick-box exercise', with little real support on offer. Importantly, for this group, 'chances' and community sentences had come when they had first started offending, which was too early for them. At this point they didn't find imprisonment especially aversive, often finding a kind of community there with other YOs, and enjoyed offending with their peers. This is *not* an indication that prison is too easy, but a reflection of the difficulties they encountered outside, and of the way we imprison certain groups. People reported knowing other prisoners from their neighbourhood, with one participant saying 'it was like walking down the high street of my town'.

By the time they had matured and changed their outlook, often in their twenties but sometimes in their thirties, they were judged on their record of offending and breach, and were almost always sent to prison. This was even the case if their offences had been minor, when they had been desisting for a significant period of time and when they had been *victims* of much more serious crimes, including rape, abduction, the murder of a close family member and stabbings. This led one participant to reflect

when I got the sentence after [I'd been] raped, I felt 'you're punishing me for when I'm going through something bad like this' and it got to me 'cos I'm like 'he's sitting in the jail and I'm doing the same.

Over time, short sentences had a corrosive impact on participants' lives. They sought help, but short periods in the community interspersed with short periods in prison meant that they very rarely made it to the top of waiting lists, or had consistent support. Housing was a constant problem and homelessness at times a reason to seek imprisonment. If they had children, these relationships were fractured through imprisonment. Over time, imprisonment became more and more normal, easier to cope with than life outside, while at the same time the women who participated increasingly started to feel like the odd one out, with most prisoners much younger than them. With imprisonment clearly not working to help them to desist, in retrospect they saw their accumulated time in prison as a waste of life.

Importantly, participants rarely made a distinction between remand and sentences. Periods in prison on remand were experienced in much the same way, except with fewer privileges. Several described how they were on remand repeatedly and often; being known as a 'persistent offender' to the police in their communities meant that they were often charged with crimes they had not committed (Schinkel, Atkinson & Anderson, 2019).

These findings have several implications for the presumption against short sentences:

- The use of remand should be considered – given the aims to reduce prison churn and to take seriously the negative impact of short periods of imprisonment, this is as much if not more of an issue than short-term imprisonment.
- The presumption against short sentences should explicitly include those who have previously been repeatedly imprisoned. Giving periodic 'chances' of community sentences is the best way to capitalise on increased motivations to seek help and/or to desist from crime. These changes in motivation can come at any time, not just at the start of offending. Ideally, reforms would go further and stop the increased sentences for repeated minor offending (see also Positive Prison? Positive Futures submission).
- Community sentences should not be seen as the solution to short-term prison sentences. Often help in the community would be more appropriate than supervision that focuses on control as much as on support. There is a danger of ever-increasing demands made on community sentences, especially of 'persistent offenders', which is likely to lead to breaches and thereby a return to imprisonment. Suspended sentences giving the opportunity for *available* support to be sought would be preferable and build on intrinsic motivation to change.
- Reform needs to go beyond sentencing, with a change needed in how people with convictions, and especially those who have experience of imprisonment, are perceived by society. Only if we stop othering them as 'evil' or 'bad' and tackle the general public's idea that those in prison have committed serious offences can we aim to only use imprisonment for such offences. Ways to achieve this might be engagement with the media about how to report on offences and the people who have committed them, or public campaigns like the effective 'see me' campaign in relation to mental health. The research described above has led to a website and graphic novel (both on www.my-sentence.com) which are intended as small steps in this direction.