

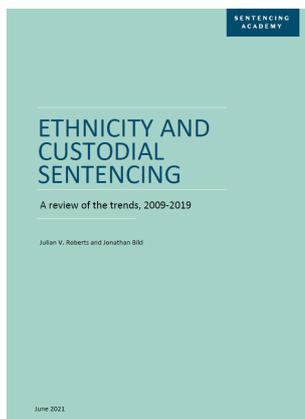
Sentencing Academy News

June 2021

Ethnicity and Custodial Sentencing: A review of the trends, 2009-2019

The Sentencing Academy has published a new report, by Julian V. Roberts and Jonathan Bild, examining disparities in custodial sentencing for indictable offences between 2009 and 2019. Combining the two commonly-used measures of imprisonment, custody rate and average custodial sentence length, into a new single 'Expected Custodial Sentence' measure, this paper finds that throughout this period White offenders had a lower Expected Custodial Sentence than all other ethnic groups.

The full report is available [here](#).



Other News

Pre-sentence report pilot

The use of pre-sentence reports (PSRs) has declined dramatically in recent years, falling from 212,000 in 2010 to fewer than 114,000 in 2018. In response to this

decline, a pilot project is being conducted across 15 magistrates' courts to test a new 'Alternative Delivery Model' (ADM) for PSRs. The ADM has three main parts that are designed to improve the volume of timely and quality PSRs: (i) identifying defendants who intend to plead guilty earlier on and creating a PSR before the first hearing date; (ii) ensuring that offenders within three priority cohorts receive a written short format report (the priority cohorts, which have been identified as more commonly having complex needs, are female offenders, young adults aged 18-24 and offenders who are at risk of custody); (iii) targeted training and development to improve the quality and efficiency of 'on the day' PSRs.

Further details about the pilot can be found [here](#).

Sentencing Council consultation to revise sentencing guidelines for burglary offences

The Sentencing Council has published a consultation to revise one of its earliest guidelines, the guideline for burglary offences which came into force in 2012. The existing guideline has twice been evaluated by the Sentencing Council, in 2016 and in 2017, and the evaluations detected an increase in sentencing severity for burglary offences since the guideline came into force, including an unanticipated steep increase in sentencing for non-domestic burglary offences. The Sentencing Council has now published a statistical bulletin and data tables on burglary offences which are available [here](#).

The proposed revised guidelines will introduce a third – medium – category for both culpability and harm and so will offer greater guidance to sentencers. It will also update the format of the guidelines to bring it into line with the stepped approach adopted in more recent Council guidelines. The consultation is open until 1 September 2021 and further details can be found [here](#).

New sentencing guideline for unlawful importation of firearms proposed

On 1 January 2021, the Sentencing Council guideline for firearms offences came into force, which covers eight offences under the Firearms Act 1968. As part of the consultation process for this guideline, the Council sought views on whether any of six other lower volume firearms offences should be included in the guideline. The Council was encouraged by the National Crime Agency and Crown Prosecution Service, amongst others, to develop a guideline for firearms importation offences and a new draft guideline has been produced.

The consultation is open until 8 September 2021 and further details can be found [here](#). Underpinning this consultation is the release of a statistical bulletin and data tables, available [here](#).

Recent Publications

Sentencing multiple- versus single-offence cases: Does more crime mean less punishment? - Mandeep K Dhami

The *British Journal of Criminology* has recently published a new empirical analysis of the effect of multiple offences on sentencing. Mandeep Dhami analysed data collected by the Sentencing Council for England and Wales. The data derive from the Crown Court Sentencing Survey which has since been discontinued and the purpose of the research was to compare sentencing patterns for multiple and single-offence cases. Multiple-offence cases represented approximately half of the cases in the sample and included a range of offences. When sentencing multiple offence cases, courts apply the Sentencing Council's guideline 'Offences Taken into Consideration and Totality'. This guideline, and the totality principle, attempt to ensure that when the offender is sentenced for multiple crimes, the total amount of punishment is not excessive. However, it is reasonable to expect that when the case involves multiple crimes, the offender will be more likely to be imprisoned, or imprisoned for a longer period. In contrast to this expectation, multivariate analyses suggested that multiple/single-offence case status did not significantly predict whether the offender received a custodial sentence, or a longer sentence. The article considers a number of potential explanations for this absence of any aggravating effect on sentencing outcomes and makes recommendations for revising the guideline on application of the totality principle.

Dhami, M. (2021) Sentencing Multiple- Versus Single-Offence Cases: Does More Crime Mean Less Punishment? Available [here](#).

'Give them air quickly but don't let them out': Sentencing for manslaughter involving multiple offenders and victims - Julian V. Roberts

Sentencing for multiple offences poses many challenges and becomes even more complex when the crimes resulted in fatalities. This article uses the sentences imposed following convictions in the Essex lorry case to pose some general questions about the sentencing of multiple victim manslaughters. The four principal offenders were convicted of 39 counts of unlawful act manslaughter and conspiracy to facilitate unlawful immigration into the UK. The analysis identifies several ways in which the sentences ultimately imposed may have failed to adequately distinguish between offenders of very different levels of culpability. First, all four principal offenders were assigned to the same level of culpability in the manslaughter guideline. Second, although the court could have distinguished the offenders to reflect their different culpability levels, the same Starting Point sentence was imposed on all offenders. Third, the sentencing uplifts to reflect the multiple counts were similar across offenders of very different culpabilities. Fourth, the differential

additional punishments for the conspiracy conviction — which would have separated the offenders' time in custody further — were washed out by being made concurrent. The article concludes with some lessons for sentencing in these cases, specifically with respect to the Sentencing Council's guidelines.

Roberts, J.V. (2021) 'Give them air quickly but don't let them out': Sentencing for Manslaughter involving Multiple Offenders and Victims. *The Journal of Criminal Law*, in press; prepublication version available at SSRN [here](#).



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