

Justice Committee

Oral evidence: [Public opinion and understanding of sentencing](#), HC 305

Tuesday 29 November 2022

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Members present: Sir Robert Neill (Chair); James Daly; Maria Eagle; Paul Maynard.

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Witnesses

I: Bishop James Jones KBE, Chair, Independent Commission into the Experience of Victims and Long-term Prisoners; Claire Waxman OBE, Victims' Commissioner for London; Mark Day, Joint Secretary, Independent Commission into the Experience of Victims and Long-term Prisoners; Professor Julian Roberts, Executive Director, Sentencing Academy; and Professor Mike Hough, Emeritus Professor, School of Law, Birkbeck, University of London.

Examination of witnesses

Witnesses: Bishop James Jones, Claire Waxman, Mark Day, Professor Roberts and Professor Hough.

Chair: Welcome to this session of the Justice Committee and another hearing into our inquiry into the public opinion and understanding of sentencing. We are very grateful to our panel of witnesses for coming to give evidence to us.

As is the normal form, first of all we have to give our declarations of interest. I am a non-practising barrister and former consultant to a law firm.

Maria Eagle: I am a non-practising solicitor.

James Daly: I am a practising solicitor and a partner in a firm of solicitors.

Q1 **Chair:** I ask our panel to introduce themselves.

Claire Waxman: I am Claire Waxman. I am the Independent Victims' Commissioner for London.

Mark Day: I am Mark Day, assistant secretary to the Independent Commission into the experience of Victims and Long-term Prisoners.

Bishop James Jones: I am James Jones. I was the Bishop of Liverpool. I chaired the Independent Commission, "Making sense of sentencing: Doing justice to both victim and prisoner".

Professor Hough: I am Mike Hough. I am a retired academic. I started off my career as a Home Office researcher and was one of the people who was involved in the British crime survey. I have done a lot of work on counting crime and attitudes to crime. I moved to academia in the mid-1990s, and have carried on doing policy work, I hope, around attitudes to punishment as well as many other things.

Professor Roberts: I am Julian Roberts, academic and executive director of the Sentencing Academy. I work in the area of public opinion, and the first study I did was in 1981, so I go back a bit.

Q2 **Chair:** Thank you all very much for coming to help us today. Perhaps I could start with you, Bishop, if I might. You referred to your chairing of the independent commission. How did the commission go about its work of trying to understand some of the impacts in relation to the position of victims and prisoners in the sentencing process? Was that something that you looked at very much?

Bishop James Jones: Thank you. Can I say at the start how grateful the commission is for the attention of this Committee? It has given us great encouragement to be invited here today and to know that Members have considered the report.



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We are aware that sentencing has increased dramatically over the last 20 years. The question that really pressed upon us was: do longer sentences serve the purposes of sentencing to punish, to protect society, to reduce crime, to reform and to rehabilitate? We were determined that we should take evidence not just from offenders themselves but also from victims.

Very often, when people speak on the subject of prison reform, it can be felt by others that they overlook the moral outrage that victims are entitled to feel when they are the victims of serious crime. In answer to your question on how we go about it, we deliberately took evidence from victims themselves, and also from offenders, to see what the impact of long-term sentences was on them both.

Q3 Chair: What were the raw conclusions that you found, as far as that was concerned?

Bishop James Jones: Others will speak more authoritatively about the victims' experience, but, when we listened to victims, we found that they felt they were not participants in the criminal justice system but were onlookers. Some felt very marginalised, and in some cases victims spoke about being re-traumatised by the criminal justice system.

When we listened to offenders, we were aware that, whereas the public and often the victims themselves speak about the length of the sentence, it was the content of the sentence that became of greater interest to us. I know that the Committee is looking into public opinion and public understanding, and there are others who can speak more authoritatively about that than we can.

It seems to me that with public opinion there is a proper concentration on the length of a sentence, but with public understanding of sentencing there is attention given not only to the length of a sentence but to the content. If an offender goes to prison and that time in prison is not dedicated to their reform and rehabilitation, they will come out of prison as dangerous as when they went in. The interests of both victims and offenders are served if, when an offender comes out of prison, they have experienced reform and rehabilitation. Then society becomes a safer place.

Q4 Chair: Is one of the problems, perhaps, that it is comparatively easy for the public to be aware of the length of a sentence because of what is passed down in court, but understanding the content and what happens in that sentence is rather harder?

Bishop James Jones: We need to respect both the victim and the public when a terrible crime is committed. We need to respect that they want that person to be punished and that there is a moral authority to that. If it simply ends there, society is not best served. Unless we attend to how the offender can change while they are in prison, as I said, society does not become safer and the time in prison is wasted.

Q5 Chair: Thank you. Professor Roberts, can I come to you on the work of



the Sentencing Academy and how it was set up and operates?

Professor Roberts: Thank you, Chair, for the invitation to be here today. The academy has been going for about four or five years. We are a charitable organisation. One of our charitable objectives is to promote greater public understanding of sentencing. There has always been a great gap between the practice of the courts and public knowledge of that practice. We conduct public opinion surveys and engage in various activities designed to improve public understanding.

We are interested in effective sentencing. We try to bridge the gap between academic knowledge of sentencing—what works and so on—and the practice of the courts. We act as a bridge between practice and academe. One of the strands that we have been working on most recently is the concept of public understanding. We have measured public knowledge of sentencing practice and compared it to actual practice.

Q6 **Chair:** What have you broadly concluded from that?

Professor Roberts: Unfortunately, the broad conclusion is that little has changed in the gap between the practice of the courts. Mike Hough's research goes back 30 years or so. He found many years ago that the public underestimated the severity of sentencing and underestimated the length of sentences and the custody rate. Our questions posed to the public last year found exactly the same gap, asking about specific offences. We found that public estimates of the proportion of offenders sentenced to imprisonment for rape, for example, or the number of years that people serve as a minimum term for murder were quite discrepant from reality.

The academy tries to correct some of those imbalances. We do not advocate any particular opinion. People will have opinions about the relative severity of sentencing. All we are trying to do is make sure that those opinions are founded in an accurate impression of current practice.

Chair: Thank you very much.

Q7 **Maria Eagle:** I think Bishop James has answered this question, but I would be happy for him to come back if he does not feel that he has. Perhaps I can ask the other panellists how they would characterise the current level of public understanding of sentencing in England and Wales.

Claire Waxman: I have to revert to the Sentencing Academy's report, which I think absolutely captures the lack of public understanding around sentencing. Of course, my role is very much involved in hearing directly from victims and survivors in London and the organisations that support them.

We hear time and time again from victims that they have a very poor understanding of the sentencing that has been handed down in their particular case. A number of issues come up for them on that. Many of the victims, if they are not bereaved family members, do not go into



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court for the sentencing. They are deterred from attending. Often, police officers say that it is best they do not attend. They are waiting for someone to inform them of the outcome.

The whole process and mechanism around how victims are informed is pretty flawed. It is reliant, under the victims code of practice, on the victims care unit to notify a victim. It can be from a day up to five days. They get something in writing. Unfortunately, we hear from victims that sometimes they do not receive that information or, if they do, they receive it quite late. The information in those letters does not really explain the context or what the sentence means. There is real confusion for victims. Leading up to the sentencing, there is no one who really prepares the victim to understand what the sentencing might be. There is no one managing their expectation. That is an issue as well. For me, no one grips that entire process, so they do not have a good understanding.

When we look at public understanding, the public only hear about sentences either from friends or colleagues who have been through the system themselves, or through the media. Of course, as the Bishop has already said, what we see publicly is often around the length of the sentence but not actually what that means or what rehabilitation has taken place to ensure that the person is safe to come back into society. We often hear about the bad cases in the media and not the good cases or the good practice that has gone on. As I say, I deal directly with the victims. From the work I do with them, it is very clear that there is a poor understanding of sentencing.

Q8 Maria Eagle: Does anybody else want to come in on that?

Professor Hough: There is very little firm understanding in the general public about the type and the length of sentencing; about release arrangements and about licence. There are related misperceptions about crime, which I think colour how people see sentencing.

Crime has been going down since 1995. Bits of it are going up, but overall it is going down. People generally have not noticed, at least at national level. They think that crime is going up. It is not surprising, therefore, that they are cynical about sentencing because, in their eyes, it is not doing the job it is meant to do.

Q9 Maria Eagle: Bishop James and Claire, I want to ask this from the victims' perspective. I know that Bishop James has the offenders' perspective from his report as well. Do any of the gaps in understanding that you have set out become particularly apparent when members of the public come into contact with the criminal justice system? Is it worse in some contexts than others, or is there just a general misunderstanding that happens to hit a person worse if they are involved, or are a victim of a crime?

Claire Waxman: I think there is general misunderstanding. There is a big misunderstanding around our criminal justice system for a start. The



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public do not really understand how the criminal justice system works until they come into it as either a victim or a defendant. I still hear from people in the public who believe that, if a victim is coming forward, they will have their own legal representation, for example. They cannot believe that there is the Crown Prosecution Service and they do not understand why the victim does not have a right to their own legal representation through the criminal court. There is a general lack of understanding of the whole criminal justice system.

In answer to your question, yes, sentencing is absolutely part of that. They do not understand the different tariffs given or what it means to come out halfway through a sentence, about licence conditions or that the victim has a right around exclusion zones if they are under the victim contact scheme, for example. They do not understand that a life sentence does not necessarily mean life and what a parole board does. There is complete lack of understanding of the entire process.

Unfortunately, I do not see enough victims going into court. I deal with a lot of victims who withdraw before the court process. For those who do go in, and there is a sentencing outcome, we pick up a lot of issues around them not being prepared for what the sentencing might be and then, when it happens, its being explained to them properly in a timely way so that they understand what that sentence means, and what rights they may have, for example under the unduly lenient sentencing scheme, if they are advised that it is lenient and if that crime type is eligible for the scheme. It is not explained that they might be eligible for the victim contact scheme or that the Parole Board might be involved in their case. They just do not have clarity of information given to them in a timely way and in a way they understand. We often get contacted by victims who say that the perpetrator was sentenced. When we ask them what the sentence was, they do not know themselves. We have to pick that up for them.

Q10 Maria Eagle: Is that similar to the experience that you had, doing your report, Bishop James?

Bishop James Jones: In some of the evidence that we heard, the experience of the victim was one of shock that they knew nothing about the criminal justice system. Suddenly, they were plunged into this new world. What was absent was any one person supervising the victim's experience. They went from pillar to post and from agency to agency, and there was nobody co-ordinating that. They felt at sea.

Coupled with that, the criminal justice system is adversarial. That is how it appears to them; it is the state versus the offender and they, as the victim, are left feeling detached from it. That detachment leads to alienation and in some cases, as I said earlier, to feeling traumatised by the whole process.

Q11 Maria Eagle: Your report also looked at the experience of the offender. Did you notice a difference in their reaction to sentencing?



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Bishop James Jones: There are as many different reactions as there are offenders found guilty.

Q12 **Maria Eagle:** But on their understanding of the sentence that they were given, did you come across a lack of understanding among offenders?

Bishop James Jones: No. It would depend on how many times they had offended and appeared before the courts. It was very variable.

Q13 **Maria Eagle:** Mike and Julian, are levels of public understanding of sentencing in England and Wales comparable with other jurisdictions? Is this lack of understanding of sentencing and what it means an issue across other jurisdictions, or is it particularly for England and Wales?

Professor Hough: I suspect that it is a factor across developed countries. Any countries that have a vigorous, visible press are likely to be susceptible to the same dynamics. Looking at levels of trust in justice, Nordic countries do better than many other European countries. That may reflect their overall political climate and also the quality of the press, but I could not give firm evidence to back that up.

Professor Roberts: I can do more than suspect. I know that it is the same. I posed questions, similar to those that we posed last year, in Canada in 1982, believe it or not. The levels of knowledge were comparably low, and in the same direction, with people underestimating the custody rate and sentence lengths. The Australian data are pretty comparable. Over time, going back and across jurisdictions, we see the same pattern of public misinformation about current practices.

Q14 **Maria Eagle:** We have this problem across jurisdictions. I think I heard you say that it has changed little in the last 30 years.

Professor Roberts: Forty years.

Q15 **Maria Eagle:** It is a general problem. What are the elements that make up this lack of understanding, do you think?

Professor Hough: The obvious candidate is the red-top media. The history of political struggles on justice since 1990 has been significant. In the 1980s, when I first joined the Home Office, Ministers were trying to do good by stealth. Willie Whitelaw was a decarceral Home Secretary. When Tony Blair started to mount a real challenge to Conservative policy and the 1991 Act unravelled, I think that set politicians against each other in a political battle for almost the next 20 years. If politicians say that sentencing needs to toughen up, people understandably think, "Yes, sentencing does need to toughen up."

Q16 **Maria Eagle:** Do you think it was not the case before 1991 that there was party political controversy over the toughness of sentences, if I can put it like that? Now that there is—there is still an argument that it is going on in a party political sense—do you think that makes the public understanding of sentencing that much worse?



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Professor Hough: I am afraid so, yes. Quite clearly, before the 1991 Criminal Justice Act, the Government of the day were trying to reduce imprisonment, somewhat by stealth, which might have been a bad strategy in hindsight.

Professor Roberts: We are doing less to communicate with the public. Some of you here will remember that when the Home Office had jurisdiction over these matters it used to publish a digest of criminal justice statistics, with sentencing trends and crime trends. It was user-friendly and all that sort of stuff. Initiatives like that have died off. It is a pity because we have great sentencing statistics in England and Wales, better than in other jurisdictions. We have the Sentencing Council with its guidelines, its outreach and so on. The information is there but it is not getting out to the public. That gap needs to be filled and bridged somehow.

Q17 **Maria Eagle:** What about the complexity of sentencing? It is not as simple as, "You get a sentence." It is made up of different parts. You do not serve all of the time or the years that you get. You do not serve them all in jail, even though you are sentenced to jail. It is quite a complex thing to understand a sentence, isn't it? To what extent is that complexity getting in the way of public understanding? I hear what you said about red-tops and politicians, but what about the complexity itself? Is that getting in the way of public understanding?

Professor Hough: The increasing complexity has to be an issue. Now, it is very difficult to grasp how soon after sentence you are going to be released because it is variable between offence types. I cannot keep it in my head, and I am sure that lots of other people don't.

Q18 **Maria Eagle:** Does anybody have anything to add on those points?

Claire Waxman: I know we are focusing on the public, but that complexity is actually what impacts on victims because they do not understand when the offender will be coming out. They are not told at the time of sentencing how long they have for respite and for safety. That is missing. I keep going back to the lack of a mechanism in place for someone to grip that process, tell the victim and explain it to the victim, and have a post-sentence meeting. Someone should be sitting down with the victim and explaining, "This is what has been handed down. This is what it means. This is what you are entitled to and this is what will happen in the future." That does not happen.

Q19 **Maria Eagle:** Thank you. Mr Day?

Mark Day: In the evidence we heard from both victims and offenders, what was common between both groups was the lack of understanding of some of the sentences that were being handed down, particularly the sentences for the most serious crimes. For example, the extended sentence, which came into much more common use after 2012 with the abolition of the IPP, has gone through a number of iterations since then. It has been altered by various Acts of Parliament, which have changed



the release point for certain people given an extended sentence. It has changed the entitlement to parole-authorised release for certain groups as well. That has added to the complexity of the sentencing framework, which means that when both victims and offenders are faced with the sentence often neither group knows what it actually means.

Two of the recommendations of the commission speak to that issue. One was for a Law Commission review of the sentencing framework as part of the national debate that we are calling for. It called for much more effort and resource to be put into explaining the sentence for victims. That would go for offenders too, because both groups need a lot more help to understand what the sentence actually means for them in practice.

Q20 Maria Eagle: I always find it difficult to understand—I wonder whether you have an insight—why the public think that sentences are getting shorter when in fact they have been getting longer for a number of years. Is it just media stories that public administration is soft on crime? Why do people think that sentences are getting shorter when they are getting longer?

Professor Roberts: I don't think they think that sentencing is getting more lenient. They have long held the view that it is too lenient. I don't think the problem is getting worse. It probably arises from what people hear and read, which is not representative of what actually transpires in the Crown court and magistrates courts.

Professor Hough: You have to be quite a tracker of statistics as a member of the public to know that sentences have got longer, or read the Bishop's report. Most people do not.

Q21 James Daly: I suspect that most of my constituents do not read the sentencing guidelines avidly and are not aware of the great academic tomes on criminology and various matters. Bishop Jones, as you are here, I have to put this point to you because I think it is a very interesting point.

If the public perceive sentencing through their own morality, or what they read about the act, whether it be in the paper or elsewhere, what do you feel is the balance between morality in sentencing and—I can't think of a better word—the practicality? I think you understand the difference I am talking about in that respect. I suspect that there are people who would read the Old Testament of the Bible and agree with an eye for an eye as a concept. Are they wrong? Where does morality stop in sentencing and where does academic practicality start?

Bishop James Jones: No, they are not wrong. I would not be over-critical about people's emphasis on the length of a sentence. When the public talk about the length of the sentence, they are giving expression to the view that something has gone wrong; somebody has done something wrong, and somebody ought to be punished. The public think, "How do we address this? We send them to prison, and we send them to prison for a long time."



Maria Eagle talked about the complexity. There is complexity in sentencing. There is also ignorance. One of the things that we have called for in our report is that there should be a new public debate about sentencing. What needs to happen is that when the public express a view of moral outrage, which they are right to do, and the victim is right to do, we need to stand back and say, "Okay, we send them to prison, but in prison what do we do?" That is why we need to balance the length of a sentence with the content of a sentence.

- Q22 **James Daly:** I completely agree with that. I think it is very interesting. I will go to Mr Day to develop that thesis a bit further. There is an issue whereby if you base sentencing on—I am not going to say a justified morality—a view that this is a very serious matter and therefore a very serious amount of time in prison is due for this type of act, and if evidence would suggest that that time in prison, which I think is what we are talking about, is not achieving the outcomes we want in rehabilitation, people coming out and all the other things we want from the criminal justice system, there is a very interesting debate as to how you temper morality in explaining to the public that we have the sorts of things we want to achieve to ensure that they are protected and all the rest of it. How do you think that should work?

Mark Day: In the report, in one of the chapters, we provide an analysis of whether long sentences, particularly the growth in the length of sentences, meet the purposes of sentencing. Of course, punishment is one of the purposes, along with public protection. In relation to serious offences, you would expect those purposes to carry very significant weight.

There are other purposes of sentencing—rehabilitation, making amends and deterrence. In the analysis that we provide in the report, we found that while long sentences, and certainly the increase in sentences that we have seen over the past few decades, may be meeting the purposes of punishment, they are perhaps undermining other purposes, particularly around rehabilitation. There is very little evidence on deterrence, particularly for certain types of offences and particular offenders.

What we found, when we talked to prisoners serving these long sentences, was that in a number of important respects their sense of the legitimacy of the sentence they were serving was undermined when, first of all, it was so long that they did not have any sense of hope at the end of the sentence; and, secondly, the obstacles to their progression in the sentence were so difficult that they did not feel that they were being treated fairly. If the work they might do in custody in order to reduce their risk was not being properly recognised, their sense of the legitimacy of the sentence was undermined. In some important respects, the purposes of the sentence were being undermined by the emphasis on punishment.



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What we are calling for in the report is a national debate, which we hope would lead to rebalancing, or at least a debate about how these purposes are served.

- Q23 **James Daly:** That is a very fair point. Claire, in some ways when we are talking about victims, the truth of the criminal justice system is not really discussed with the public. To take rape as an offence—I stand to be corrected if I am wrong—there is a charge-out rate in rape allegations of about 1.7%. If we only define as victims those who come into contact with the courts, I personally, and I stand to be corrected, believe that many victims of offending are completely and utterly ignored by the criminal justice system. We should not just define victims and how they are feeling by whether they have appeared in court or not.

I was involved in this for a long time. When I was in the magistrates courts, the type of trials that would most often not proceed were domestic violence trials. That does not mean that they were not victims; it probably increases the evidence that they are victims in some way. How can we bring that into the public debate and say that there are many victims of crime who do not appear before the courts at all?

Claire Waxman: In my role, we recognise victims at the point when the crime happens. The majority of the victims we hear from do not make it into court. Of course, the victims code of practice recognises victims from the point when the crime has been committed, whether they report to the police or not.

The point you have raised is a very good one. What we see, especially if we look at rape, is that with such a low charge rate, as well as a low conviction rate, there is a misconception that those rape victims have actually made false allegations because they have not got into court and have not got a conviction. I meet rape victims who have gone to court and there is an acquittal, so, even for those who get into court, the narrative is that somehow they have lied, yet they have not. They feel that they are victims. They say they are victims of rape. How do we change that? Again, there is a need for a public narrative and public discussion around what a victim is.

- Q24 **James Daly:** It is about being honest with the public about what is happening in the criminal justice system in its entirety.

Claire Waxman: Absolutely. The point that I always try to pick up publicly is when the media report that there is an acquittal, and we instantly see social media jump on: "There you go, another woman has lied about rape." That is the bit that needs challenging publicly because there is that misconception. The thresholds are so high that it is hard to get a rape case into court, let alone a conviction. We need to change the way that we talk about these victims.

- Q25 **James Daly:** Professor Hough, is there such a thing as a deterrent sentence? Does that exist in your academic research and your experience in this area? Has there been evidence shown to you that deterrent



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sentencing—increasing the amount of time you will potentially spend in custody—actually has an impact on reoffending when one is released from custody?

Professor Hough: I think the consensus among criminologists is that there is not a demonstrated deterrent effect where the length of sentence reduces crime. There has been a lot of research over many years that has failed to demonstrate that it has a deterrent effect.

In some simple, low-level offences such as motoring offences, where there is good certainty of punishment, you can have a deterrent effect, but for the more serious crimes that pass through the justice system I do not think the majority of offenders are knowledgeable and calculating rational beings who weigh things up.

- Q26 **James Daly:** That is very interesting. In my view, it gets back to some of the central things that we are talking about. It is the purpose of sentencing compared to the—I was using the word morality—completely justified sentence. We have to accept, therefore, that some of the sentences that are going to be imposed will perhaps not reflect the five statutory purposes of sentencing.

Julian, there are five statutory purposes of sentencing. Does public debate reflect each of those purposes?

Professor Roberts: I think so. Obviously, the public are interested in holding offenders accountable and punishing them, particularly for serious personal injury offences. They are very interested in prevention and are becoming increasingly interested in cost-effective sentencing. They want sentencing to do something about reoffending rates. They expect sentencing to do something about reoffending rates. I think they want, and expect, value for money in the sentencing process, which is why we need to be very careful in the use of different disposals. It is all very well to put somebody in prison for a six months' immediate prison sentence, but if that is not going to be an effective remedy for the offending, we need to think again, because we are wasting a fair bit of money.

- Q27 **James Daly:** When I first appeared in the criminal courts, I defended numerous people for shoplifting offences, and I mean a lot—over a week, maybe 10, 15 or 20 people. That type of offending has been removed, perhaps for very good reason, from the court system. For that type of offending, which was prolific—I was representing people who had 200, 300 or 400 offences on their criminal record—they were either getting sent to prison for one, two or three months, which was a complete and utter waste of time, or sentencing was imposed of a community type, which perhaps had a more significant purpose.

We have had a discussion about sentencing in the widest sense and for very serious matters. What about sentencing, and the public understanding of sentencing, for offences that they would see as at the bottom end of the scale? What do you feel about that? Does that change



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the debate? If it is a debate about murder and how somebody is sentenced for murder or for rape or something like that, we talk in very stark terms, but if it is shoplifting or minor assault—I hesitate to use the word “minor”—does that change the debate at all?

Professor Hough: I think it does, quite a lot. My interest in public attitudes to sentencing started with the first British crime survey in 1981—too long ago—where it was clear that victims of middling to less serious offences had a range of punishments in mind for their offender. Often, that was not at all tough. We were surprised by that. We were expecting the sort of stereotypical angry, tough victim across the board. We have been doing research into that middle range of offending for a long time. People have often quite gentle, constructive, reparative, rehabilitative ideas on sentencing.

Q28 **Chair:** That is very helpful. Sometimes you get campaigns around seeking to increase the statutory maximum for a particular offence, often around death by dangerous driving and other things like that. It is quite well documented. Does that colour the debate that we have been talking about? Does that colour the public understanding around how sentencing works?

Professor Hough: We did some research on causing death by driving offences for the Sentencing Council, or the Sentencing Guidelines Council at the time. That demonstrated very clearly how some of the guidelines were too lenient for most people’s appetites, so I am not suggesting that across the board there is a lenient public. It is possible to identify where sometimes the guidelines get it wrong and go too soft.

Q29 **Chair:** Do you think that the public are aware of the guidelines generally, or is it only when perhaps they have cause to be concerned because they have been a victim or have been involved in a campaign?

Professor Hough: Certainly 10 years ago, understanding of the Sentencing Council and the guidelines was pretty limited. I do not know if it has changed. What would you say, Julian?

Professor Roberts: We did a survey 10 years ago and we found that about 4% of the public were aware of the guidelines. I suspect that there is greater awareness now, but it is still a sleeper issue from the perspective of the public. It is a pity because one of the public’s perceptions is that the judiciary are out of touch and they make decisions on their own and are quite capricious. Of course, they do not. There are these guidelines.

We did one study where we asked people to sentence offenders. One group got the guidelines, so the sentence was imposed consistent with the guidelines. The others were told nothing about the guidelines. They were asked about the same sentence. The group that had received the information about the guidelines was more satisfied with the sentence, possibly because they realised that it came about through an institutional framework.



Q30 **Chair:** Bishop, do you have anything to add?

Bishop James Jones: Considering the reaction of the victims is very important, especially in serious crime. You often hear the victim eventually speak about campaigning so that these things never happen again. I think that is an important principle to embrace when we move from the length of a sentence to the content of a sentence. There is a convergence between the victim's experience and what society requires from sentencing, which is reform and rehabilitation. Ultimately, what is looked for is a safer society. A safer society will come about not just by lengthening the sentence but by ensuring that in that sentence there is proper reform and rehabilitation. Unless we get that, we are not going to have a safer society.

Q31 **Chair:** Is there perhaps a problem with the way that campaigns are sometimes reported, concentrating on a sense of outrage at the apparent leniency as opposed to those issues of content? Does that perhaps undermine confidence and understanding?

Bishop James Jones: Exactly. That is why we are calling for a national debate, so that in that debate we can balance the aspiration for a long sentence with proper understanding of the content. Dame Carol Black, in her report recently on drugs, suggested that 48% of all serious crime was drug related and that 50% of all homicides were drug related. If a person goes into prison without any attention being given to their drug habit, they are going to come out just as dangerous, and society will be as unsafe. We need to bring into this public debate the content of a sentence as well as its length.

Q32 **Paul Maynard:** This is perhaps aimed more at the academics on the panel. To what extent do you feel that public opinion is used by the Government when developing sentencing policy? Professor Hough, what is the connection with the British crime survey? What are the lessons from that and how the Government have deployed it to formulate sentencing policy?

Professor Hough: One sort of answer to that is that in the 1980s, ages ago, politicians took some comfort from our findings that people were not quite as punitive as expected. I think that encouraged them to carry on with the trajectory of trying to contain the prison population. Since the turning point of 1991, I think they have been aware of the sorts of findings we have generated but not really given them the weight that they might have, given the need to demonstrate their toughness relative to the competition. They had to be tougher than the Opposition.

One of our most significant reports in 1998, which we did together, showed the sorts of things that we have been saying very clearly. Jack Straw was Home Secretary at the time. He said he thought it was a very significant report, but I do not think he really wanted to shift from demonstrating that he had a grip on sentencing and tough policies. That may be being unfair to him.



Q33 **Paul Maynard:** Professor Roberts?

Professor Roberts: I cannot speak for the Government, but certainly the Sentencing Council is sensitive to the issue of public attitude. They conducted a couple of, or possibly three, sentencing public opinion surveys in constructing their guidelines. They do not import public opinion directly into their guidelines—that would be foolish—but they are aware of where the public stand. It is a sort of background influence and a factor that they take into account.

Q34 **Paul Maynard:** Does anyone have any evidence or opinion on the extent to which public opinion indirectly influences sentencing by the judiciary themselves or are they immune to the red-tops?

Professor Hough: I think that the rise in sentencing weight in the '90s was partly a function of sentencers—judges—responding to the climate of opinion. They certainly were, at that time, sensitive to a climate of opinion that was demanding to get tough.

Q35 **Paul Maynard:** Do others agree or disagree with that?

Bishop James Jones: I would be sympathetic with that view. If you look at the statistics, over the last 40 years the average time a lifer spends in prison has gone up from 9 years to 18 years. Who has imposed those sentences? Judges. And I am sure that over those years they have been influenced by public opinion.

Q36 **Paul Maynard:** Is that consciously or unconsciously, in your view? Is it like a miasma floating through the royal courts of justice that we must be tough?

Bishop James Jones: I would not feel able to pass an opinion on—

Q37 **Paul Maynard:** Tell me later. What evidence should the Government be using to help them formulate sentencing policy? What should inform that decision making?

Professor Hough: There is still a need for structured survey research, qualitative and quantitative, but it is essential that there should be research that allows people to deliberate, and not just give their top-of-the-head view on what sentencing should do, but actually discuss the issues together and think about it. There have been deliberative studies that show that there is quite an enduring effect when people spend a day or two talking with each other about crime and listening to experts; that deliberated viewpoint is arguably the crucial thing that sentencers and politicians need to listen to.

Q38 **Paul Maynard:** Bishop James, you also recommend a citizens' assembly, don't you, in one of your key findings?

Bishop James Jones: Indeed, and I am straying beyond the terms of reference of our commission here, but you asked about what could influence Government and politicians. I think there is a value-for-money element as well. This is my own personal opinion. The number of people



serving a sentence of 10 years or more has gone up, in the last 20 years, from 2,274 to 8,720. Question: is society getting value for money in these longer sentences? Do these longer sentences fulfil all five purposes of sentencing? Do these longer sentences bring about the reform and rehabilitation that will make society a safer place and reduce reoffending? I think some analysis needs to be done in this area, because sending people to prison is very expensive.

The question is whether these longer prison sentences are fulfilling all five purposes. They are certainly serving the purpose of punishment and of societal protection. I am not sure that they are reducing reoffending. Having served for seven years as Bishop to prisons, and spent considerable time in prisons, I do not think that what goes on in prison is sufficiently fulfilling the purpose of reform and rehabilitation.

Q39 Paul Maynard: I will come back to that in a minute. There seemed to be a contention in your report, and in Professor Hough's comments just now, that if you lock people in a room and show them a flipchart and a few slides, somehow they will rise to a greater level of consciousness and understanding that will make them more reasonable in how they approach the issue of sentencing. I love the idea of citizens' assemblies until I have to sit through one, and then I will think, "Oh, that was not a good idea after all." Is there any evidence around the world of a deliberative assembly or citizens' assembly resulting in a more balanced approach to sentencing? Has it been tried anywhere else?

Mark Day: As far as I am aware, a citizens' assembly has not been used in relation to sentencing policy, so, to a degree, it would be an experiment. There are some prior questions that would need to be answered. What would the exam question be for that assembly? That is quite important because, when we are talking about what the problem is, a lot of people have a different perspective on the starting point. There are certainly some challenges and you would have to think carefully about what the sort of exam question was for that assembly.

I was quite struck by the Sentencing Academy's evidence. The academy spoke about the need to interrogate what particularly undermines the public's confidence. Some work to isolate what those key issues are—whether it is the complexity of the existing framework, or lack of understanding of the parole system, for instance—would help to define the problem. The citizens' assembly model has been used to resolve other contentious issues. In Ireland, it was used to debate climate change policy, policy around abortion and various other constitutional issues; it has been used for contentious policy areas. If we are saying that there is a need for something other than a debate driven by media interest in specific high-profile cases, which are often a distortion of the wider reality of sentencing for a particular offence, there is surely merit in the citizens' assembly model, in that it is a forum that is meant to be more deliberative. I too am speaking slightly outside the remit of the



commission, as someone who has been involved in criminal justice policy for a while; I think it is worth a go.

Q40 **Paul Maynard:** On the part of Government, or on the part of an NGO, maybe.

Mark Day: There needs to be a way through, a way of taking this debate forward. The way the debate is currently led at the moment is that we have periods of calm in sentencing debate and discussion, and periods when the political rhetoric escalates and sentencing ratchets up. The journey is ever upward in sentence length, and there needs to be an opportunity to take a step back.

Q41 **Paul Maynard:** Is that a challenge you can accept?

Professor Roberts: I am personally not a fan of the notion of the citizens' assembly as a vehicle to drive sentencing policy. I do not know how it would work or how it would interact with the courts. The challenge for Government is to find out where the public stand, and I think we have a pretty good idea. They want effective sentencing, which listens to the victim in an appropriate way, and they want value for money. With parliamentarians there is a lot of attention focused on the NHS and whether we are getting value for money. Are you getting value for money out of the sentencing process at the present time? Nobody has really asked whether we could be deploying different disposals in different ways. More effective sentencing is, I think, what the public are after, and cost-effective, particularly at this time.

Q42 **Paul Maynard:** Don't ask the question, because we daren't answer it, I suspect; but that is a debate for another time. Isn't the nub of the issue, though, which we are all dancing around—it is the focus of the inquiry, almost—another question we dare not answer: should the public, in the first place, have any say over what sentencing looks like? Why should they? Isn't justice meant to be something that—

Chair: Justice is blind perhaps like the statue on the Old Bailey.

Professor Hough: I think there is a case for making sure that there is public tolerance for a particular sentencing strategy, without having detailed alignment from surveys that average what everybody wants, and that is the sentence.

Q43 **Paul Maynard:** If you do not change the external impression the public have, you are not going to have that continual ratchet demanding higher sentences, or so-and-so's law.

Professor Hough: That is why deliberative methods of getting at public opinion are to my mind so important.

Q44 **Paul Maynard:** Claire, a slightly different question: should victims have more of a say in what sentencing looks like?



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Claire Waxman: I would always say they should be part of the process, in the sense that they need to be listened to. I do not think you can give it to them completely. You need to explain what the sentencing may be, or what the framework is, what the sentencing guidelines are; but they should certainly be part of that process, to be listened to. A lot of the victims I see are repeat victims. They have been through the justice system again and again, and they lose confidence. Sentences are given, and we see reoffending on the back of them. It is important to engage with repeat victims, to try to understand what has happened in those cases, why there is a repeated offence, and what could be done differently; and to listen to what they need as well.

Many victims are not as extreme as some people think. I speak to victims and they are quite fair. Many say, "I wish it could be dealt with in a different way. I don't want to see long sentences. I want"—to go back to an earlier point—"to be reassured that they won't do it again." They want to know what rehabilitation is being put in place, and what is being done to make sure that people come out reformed.

Q45 **Paul Maynard:** As the Committee was discussing the process of this inquiry and how we try to understand what people understand about sentencing, which seemed to be a requirement for the inquiry itself, we were looking at opinion polling and how we would use that to determine the level of people's understanding. What is your view on opinion polling as opposed to, say, the British crime survey, as a way of elucidating what people think? What are the pros and cons of opinion polling, of a snapshot approach, if anyone has thought about it?

Professor Hough: It is quite useful to see what the trend is in a simple question such as: "Are judges tough enough?" One wants to see where that is going, but it is only a very indirect indicator for policy. It tells you where the public are when they are not thinking hard.

Q46 **Paul Maynard:** But are politicians chasing the public perception?

Professor Hough: I think you would be better placed to answer that than me.

Q47 **Paul Maynard:** I know what my answer is. Any further views before I hand over?

Professor Roberts: I am not going to speculate about how politicians handle public opinion, but the public opinion surveys are out there. People read them. Politicians read them, and they play a useful role in deciding the tenor of public attitudes to sentencing. They are useful, too, as we spoke about before, for measuring levels of knowledge, so we see where the gaps are and we can address those gaps.

Q48 **Chair:** Okay, thank you very much. I suppose the point is that the politicians set the legal framework within which judges sentence. The judges themselves have to, one might argue, sentence dispassionately within that framework, on the facts presented to them, both aggravating



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and mitigating. To that extent, can they realistically do that, setting all issues of public opinion aside? It has been suggested to us by some former members of the judiciary that of course they do not do it in a vacuum. There has to be an awareness of public opinion even if it is not something that binds. Is that a fair way to put it? Is that part of the concept of consent, of justice by consent, or not? Perhaps, Professor Hough, that is what you were hinting at when you referred to tolerance.

Professor Hough: Yes. The judges we have talked to have never hidden the fact that they have to have an ear for public opinion and judge-tolerance.

Q49 **Chair:** Yes, I get that sense. Does anybody dissent from that as a broad approach?

Bishop James Jones: Public opinion should inform the democracy. People elect the politicians and they then decide the laws. Otherwise, you could have people coming forward saying, "What we really need to fully express public opinion is for the judges to be elected." I think we would draw back from that, because what this debate and our research have shown is, without being patronising, that the public need educating about sentencing. They are understandably fixated on punishment and protection, but the public need to understand that there is more to creating a civilised society when punishing offenders, and that reform and rehabilitation should have equal weight with the other three purposes of sentencing.

I mention this in the preface to our report: they are His Majesty's prisons, and soon we will see a coronation service where the sovereign will be told to execute justice and forget not mercy. The Crown institutions of the state all flow from those vows made at the coronation service, hence His Majesty's courts and His Majesty's prisons. What we are about, surely, is creating a civilised society in which the public are educated about the purposes of sentencing so that, in the end, in that civilised society we live in a safer world, and if we do not fulfil those five purposes we are going to be less safe.

Q50 **Chair:** It is the absence perhaps of that educational aspect at the moment that undermines confidence among the public.

Bishop James Jones: I think so.

Q51 **Chair:** And among offenders too perhaps and their families.

Bishop James Jones: Indeed.

Q52 **Chair:** Claire, you have raised the issue of victims and their families' confidence. Would you agree with that?

Claire Waxman: Yes, absolutely. As I said earlier, it is the lack of understanding and explanation that is given to victims and bereaved families through the process, so their expectations are not managed and the whole process and what the sentence actually means is not explained



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to them. That then ends up becoming re-victimising for them and does more damage than good. There is work to be done to improve that entire process for victims and bereaved families.

Q53 Chair: You highlighted early and accurate reporting of the sentencing remarks to victims and members of the public.

Claire Waxman: Yes. We have had some victims, shockingly, who found out the sentencing outcome from the media. That is not the way to find out. Someone needs to own that process. Echoing what the Bishop said and—I do not know if you recall it—something I pushed for when we talked about the victims Bill, that single point of contact for the victim the whole way through is missing. That is vital because you would have someone managing their expectations up to the time of court and sentencing and then explaining it to them afterwards and what follows. Then you would really improve trust and confidence in the whole criminal justice system.

Q54 Chair: That is helpful. I have a final thing to raise. Back to our two professors, you referred to some countries, with Scandinavia as an example, where confidence is better. It was either the quality of the press or the comparative stability and more consensual nature of the political systems there. Is there anything else you are able to pick out from those countries about how it is in communication? Is there any difference in the way that the public are informed about sentencing, or is it just those broader societal issues that you referred to?

Professor Hough: I do not think I can offer a view. I do not know if the Swedes or the Norwegians do it differently in communicating to victims.

Chair: Okay, fair enough. It was just a thought. Mr Daly, over to you.

Q55 James Daly: This is really interesting. The problem is, coming back to Mr Day in respect of this, what sentencing actually means. Sentencing in the way we talk about it is when you stand in front of a judge and you get whatever sentence it is, and, as the Bishop rightly said, it is what happens after that. This Committee has spent a lot of time considering IPP sentences and the nature of harm; what somebody has to prove to be released from prison.

I am going to throw up a hypothetical situation. We have IPP and we have a number of ways of dealing with IPP. Let us just say that one of the ways of dealing with IPP was something contained in a report of this Committee, which said, "Let's look at a resentencing exercise." That to me is perfectly sensible, but one of my colleagues, I should say—

Chair: He would want us to say that he dissented.

James Daly: He did not agree with the recommendation of the rest of the Committee. It is this. It is the human nature of sentencing. If we resentence all the IPP prisoners and one of those IPP prisoners leaves custody and does something that they should not do, if you understand



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what I mean in that respect, that does not mean that it was not the correct decision from both an intellectual and a moral standpoint or anything else like that from the perspective of somebody such as myself.

How do you take into account the potential public outrage if that were to happen? Does that make sense? I think it is a very interesting concept: how politicians deal with the risk of public reaction to something that has not even happened yet. I do not know whether anybody wants to comment. Professor, you are nodding.

Professor Roberts: It is the same argument for parole. If somebody is released on licence, and occasionally something goes wrong and that individual commits a serious crime, you could say, "That's it. We're not going to release them. We're going to follow the American example of no parole." That would be crazy because the Parole Board is there to assist in rehabilitation, manage risk and so on.

On the IPP, if those individuals are resentenced, obviously it is like any prisoner coming out of prison; there is the possibility of risk of reoffending, and that has to be managed. It is something you have to be prepared for, and those individuals should not be released if they are still a risk. That would be part of the resentencing exercise.

Q56 **James Daly:** I suppose the point I am trying to get at is looking at every part of the sentence. One of the parts is about how people leave their sentence in a way that is where we want to go, which you have all touched on. I am interested in the concept of how we interact with the public, as you have just said, Professor, and how the public understand risk of harm to the public and the concept of that. There are a lot of people in prisons at this moment in time who are still there because of that very concept. I do not think we ever talk about that. I do not think that is ever part of the public debate. Do you have any views on that, Bishop?

Bishop James Jones: No, but I have a sense that the 3,000 people who are still in prison on IPP is symptomatic of a society that does not understand sentencing, because if people did there would be greater public pressure. Although it was rescinded in 2012, the fact is that 3,000 people are still there, and I fear it is because there is a lack of general understanding about sentencing.

Q57 **James Daly:** Claire, what is your view on the concepts that we just talked about from a victim's perspective? We have 3,000 people who have been in prison for a long time for a sentence that was abolished in 2012. There were victims of serious offending and non-serious offending. How do you think, from a victim's perspective, we should approach a subject like that?

Claire Waxman: Like anything, as long as you always involve the victims, so they do not feel like bystanders, and you explain the process to them, as I said earlier, they are pretty fair. Explaining things to them



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and managing their expectations so that they feel heard and listened to in the process is absolutely critical.

There are families I have worked with over the years where the offender is still in prison and has been for many years. They come up each year in front of the Parole Board and it is incredibly draining for families every year to go through that process. It really impacts them in being able to move on with their lives. If you talk to them about what that they want, they are more involved in it and they understand. They are a lot fairer as well if people listen to them.

- Q58 **James Daly:** This is about the rounder picture of sentencing, and it is my opinion. A lot of people remain in the custodial environment because of their mental health condition. People are differentiating harm to the public and a mental health condition, which should be treated in the community, or which could be treated in the community. I suppose I am making a generalised point that sentencing is a very big, broad issue where victims may well need to be involved, or may not need to be involved, six or seven years after the original decision has been imposed.

When somebody comes before the Parole Board and we are talking about harm and risk to the public, we expect the Parole Board to approach that decision in an even-handed and fair way, but should victims be able to say, "We think Fred is a harm to the public," and should the Parole Board be taking that into account?

Claire Waxman: They do not take that into account.

- Q59 **James Daly:** I am not asking whether they do now; I am asking whether they should.

Claire Waxman: It is important that victims are heard, and we cannot stop what they want to say if they feel that the person may still be a risk or a harm. It goes back to education; maybe they do not know what work has been done with that offender to change their view. Things are not communicated well to victims and families during that process. That would help inform their views.

- Q60 **James Daly:** It comes down to what we are talking about in terms of the Government and how the Government can improve public understanding of sentencing, which is a very complicated and nuanced exercise. We have to be open and have that national debate, so I completely agree with the report.

Claire Waxman: We absolutely need to have that national debate, but what I want to pivot to is that there are things that Government can support and do now in helping victims and bereaved families understand the sentencing process much better. There is work we can do in that space.

- Q61 **James Daly:** How is information about sentencing best communicated? Is it by us broadcasting something like this? Is it by putting it on the front



page of a newspaper? Is it by going on TV? What is the best way of doing it?

Bishop James Jones: A lot of informing the public happens accidentally, I think. There is one aspect of lockdown that I think has helped the public to understand something about sentencing. To be isolated and not allowed any human contact is punitive. The public have experienced that, so when they think of people being sent to prison there is now actually greater public understanding of what it means to be incarcerated, isolated and locked up in a cell 23 hours out of 24.

We ought to build on those accidental things that happen, in this public debate of educating the public. "You know how we all felt? Seventy per cent. of offenders who go to prison have mental health issues. We know the mental health impact of lockdown on ourselves. Imagine what it is like to be a prisoner." We can build on those experiences and help people to understand the nature of sentencing.

Q62 **Chair:** That is very helpful, I must say. It seemed to me that we should be looking at practicalities. Claire, you have referred already to how things might be better communicated to victims. Is there any point at which you are concerned that greater transparency about sentencing, which is probably generally good for public debate, can sometimes have adverse impacts on victims? Is that anything you picked up?

Claire Waxman: Sorry, Chair, do you mean what is being communicated about—

Q63 **Chair:** If we move, as is thought by many to be a good thing, to broadcasting sentencing remarks more often, inevitably sometimes those remarks might have to touch on details of offences or other matters that can be quite traumatic for victims. Provided they are warned of that, is it something that should not stand in the way, or is that difficult?

Claire Waxman: We have started that already, but again it is making sure a victim or a bereaved family is very much aware of what the process is, what will happen and how they feel about it coming out publicly. Many are not aware that there will be information, especially in victim personal statements, that could be released publicly and out into the media, and that can be quite a shock for them.

Q64 **Chair:** I understand that. Mark?

Mark Day: I have a similar point in relation to parole and the risks of building victims' expectations around the parole decision, and being very careful about setting expectations about what the victim's role is and is not in that process. Absolutely, the victim should be heard in that hearing. They also are able to inform certain aspects of the decision, particularly around the licence conditions that might be set, but they cannot change the statute around the test that is applied at that point. Ministers as well have a responsibility in the way they communicate



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about this to ensure that they are not setting up victims' expectations in a way that cannot be met.

Certainly, from the victims we spoke to as part of the work of the commission, the prospect of the parole hearing was potentially immensely re-traumatising. One of the things that will add to the trauma of victims is if their expectations are set in a way that cannot be met at the point of the hearing. There is a responsibility on people who are making policy in this area to be very careful in setting the expectations of victims.

Q65 Chair: I think the report almost flags up that there is a risk of misleading victims into believing they have a greater role in the course of the sentence than is in fact the case or possible. Another corollary of that is this. Claire, you have referred to information to victims about the unduly lenient sentence scheme. Should it be placed on some sort of statutory basis for victims to be made aware of the scheme? Is that something you advocate?

Claire Waxman: Yes, I do. It is in the victims code that someone should be informing the victim if they are eligible. There is quite a high number of requests in the stats. The Attorney General received 787 requests to review sentences, with only 144 from victims and families. Of those, 84 were eligible for review. People are accessing the ULS when they are not eligible. There needs to be some clear explanation and information about the scheme and who is eligible. There needs to be, I believe, a little bit of flexibility around the ULS as well, because victims are often not notified, as I said, about the sentencing outcomes for some time, and that they have 28 days.

Chair: The 28-day rule.

Claire Waxman: In those exceptional circumstances, we need to allow victims and families still to be able to access the ULS. We do it for offenders. They are allowed to access it after 28 days in exceptional circumstances. We need to balance the system so that victims have that right too.

Q66 Chair: It is important though on the other hand to make sure that that is communicated in a way that does not suggest that there is an automatic right—

Claire Waxman: Absolutely.

Chair: —to challenge the sentence, because there has to be a legal basis to justify making it.

Claire Waxman: That comes round, as we keep talking about, to the explanation, transparency and information that is given to victims and families so that they are clear.

Q67 Chair: Okay. Are there any thoughts from our academic colleagues?



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Professor Roberts: It is important to understand that this provision exists. For certain, victims should understand exactly what it means, and the powers of the AG and so on.

Q68 **Chair:** The other thing I want to touch on is the role of the Sentencing Council in this, which you referred to as well, because it has a statutory duty to promote public confidence in the criminal justice system when it develops the guidelines. Is it achieving that at the moment?

Professor Hough: I don't think so. It is a problem of resourcing. To actually reach public opinion, it is going to cost. The Sentencing Council is an obvious body to take on that work, but at the moment it has produced its guidelines, and that is almost as much as it can do with its available resources. It needs more money to do that sort of work.

Professor Roberts: I am not sure it is a statutory duty. In the Coroners and Justice Act, its counsel is encouraged, or some other wording. Its primary duty, of course, is to issue guidelines. It does not necessarily have the time or the resources to do a great deal in community outreach.

Q69 **Chair:** I was quoting from its written submission to us where it says: "The Sentencing Council has a statutory duty to have regard to the need to promote public confidence." I understand you think it is just a question of resource and time and so on.

Is there anything the judiciary can do? The judiciary seem to have embraced the idea of publication of sentencing remarks. I think both the Lord Chief Justice and other senior members of the judiciary have recognised the need for greater openness and using media more frequently to make that apparent. Is there anything more? Is it broadly the right approach, and they should perhaps do it on a more consistent basis and more systematically?

Claire Waxman: Absolutely do it on a more consistent basis. It is a cost to victims and bereaved families at the moment to get the sentencing remarks—between £30 or a few hundred pounds. It should be free and accessible for victims and families to access that. If they have not been there for the sentencing and nobody has given them the information, they should have a right to see the sentencing transcripts.

Chair: That is very helpful. Maria, do you have any questions?

Q70 **Maria Eagle:** I am thinking about your report, Bishop James, and your main recommendation that there should be a national debate on sentencing in respect of serious crime. You have talked already a little bit about the citizens' assembly as a way of having rational and informed debate. Do you think that will be enough? If it were to happen as you envisage it, what impact do you think it would have, or do you hope that it would have, on the public understanding of sentencing? How should the Government then seek to build consensus in the wake of any such implementation of your report's main recommendation?



Bishop James Jones: We have not specified the mode of citizens' assembly or the national debate. It was clear to us in the course of the commission's work that we would need to engage the media in that, and, indeed, we made some informal approaches to national media organisations to see whether they would be sympathetic. They were sympathetic, but nobody was prepared to commit, although I have to say we were encouraged when the "Today" programme gave a substantial amount of time to launch the report, and to interview victims and me as the chair.

What we have said about the citizens' assembly is that we hope that the Government would take note of the findings of such an assembly, and we hope that it would be bipartisan because it is in everybody's interest that the public understand the nature of sentencing. I am afraid it is a blank sheet of paper that we offer the Committee, but we are confident that the national debate is what is needed in order to educate the public.

If I could add to the comments on the victim's perspective, one thing we encountered was that several of the victims were very unhappy at being called victims—I don't know whether Claire wants to add to this—because it further disempowers them in the whole process and marginalises them. I hope that in such a debate about sentencing the public would begin to understand the victim perspective, because if that is understood it would lead to changes in the criminal justice system that would then benefit the victim.

Mark Day: In terms of the national debate, there were three prongs to that recommendation in the report. The citizens' assembly was the vehicle we thought of as having a more deliberative approach to engaging the public around sentencing policy, and was the way we thought that could be most appropriately done.

In addition, there is a Law Commission review of the sentencing framework for serious offences. The Law Commission has already done the very difficult job of codification of the sentencing framework, but that was only to bring the existing framework together into one piece of statute. What has not been done is the work of actually looking at the effectiveness of that framework, so a job is still to be done there. The two would almost go hand in hand. You would have the expert Law Commission review looking at the effectiveness of the framework, and then there is obviously the need to engage the public in a deliberative way. We saw the citizens' assembly as a way in which that could be done.

The third aspect of the recommendation was indeed to strengthen the remit of the council in promoting public understanding. I totally agree with Professor Hough that it is a question of resource for the council. A lot of attention, quite rightly, has gone into the development of the guidelines, and they had a very bespoke, good consultation process on the guidelines, but the resource just is not there for them then to go on



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to promote public understanding, so one of the recommendations of the report is to strengthen that aspect of the council's remit.

- Q71 **Maria Eagle:** Thank you. Does anybody have anything more to say on that or any other point that has been raised, things you want to say that you have not had a chance to say?

Professor Hough: There is one point I would like to make. I said at the start of this session that crime has been going down since the mid-'90s, but online crime has obviously had an uptick. The work we have done on attitudes to punishment and attitudes to sentencing is very pre-internet because the rise in online crime has only been in the last five years. We have no idea, in terms of research, what people's attitudes are towards, say, victims of romance fraud, offenders who commit online fraud, online hate crime and so on. It is something we should not lose sight of.

Chair: It is an interesting point, thank you. Are there any other observations from anyone?

- Q72 **James Daly:** You said crime has been going down since 1995. On what measure?

Professor Hough: According to the crime survey, the fall in crime started in 1995 and has been carrying on, more or less, ever since, with plateauing—

- Q73 **James Daly:** I understand that, but when you say crime are you talking about reported incidents to the police? What is the definition of crime?

Professor Hough: I am talking about survey-measured crime, using a sample survey. It is crimes that people report to interviewers that have happened to them. It is regarded as the best way of measuring crime, but it does some crimes better than others.

Chair: Understood. We are all very grateful to you for your time and your evidence today. It has been a very comprehensive session. We have covered a lot of ground on a challenging topic. All of the Committee and I are grateful to you for your time and for your evidence. If there are further thoughts that occur to you, don't hesitate to drop us a note, and we will incorporate that into our report as well. We are very grateful.