SENTENCING ACADEMY

Sentencing Academy News

June / July 2024

Coercive Control as Mitigation at Sentencing

We have published a new paper exploring the role of coercive control as mitigation at sentencing. The Sentencing Council's *General Guideline: Overarching Principles* states that 'coercion, intimidation or exploitation' can be regarded as a mitigating factor, and this is reflected in many offence-specific guidelines. This paper, authored by Professor Vanessa Bettinson of Northumbria University, argues that there remains a risk of inconsistency in application and that, because the guidelines do not explicitly adopt the term 'coercive control', sentencers could limit coercion to physical forms of coercion. The report calls for further research on the ability of sentencers and probation officers to identify coercive control.

Coercive Control as Mitigation at Sentencing is available here.

Deferred sentencing roundtable

The Sentencing Academy and City, University of London hosted a stakeholder roundtable seminar on deferred sentencing on 25 July. The purpose of the event was three-fold. First, to discuss issues relating to this rarely-utilised option available to courts at sentencing since 1973. Second, to learn more about the use of deferral in Scotland, and third to identify ways of increasing public and practitioner awareness of the power to defer sentence. The seminar also contributed to an upcoming Sentencing Academy / City, University of London report examining deferred sentencing, building on two previous Sentencing Academy publications on this topic. This report is part of an ongoing research collaboration between the Sentencing Academy and City, University of London.

The previous reports are available here and here.

Other News

Proposal to reduce the proportion to be served in custody of many Standard Determinate Sentences

The Criminal Justice Act 2003 (Requisite and Minimum Custodial Periods) Order 2024 was debated in the House of Commons on 25 July. This Statutory Instrument would mean that many offenders serving a Standard Determinate Sentence (SDS) will serve 40% - rather than the current 50% - of their sentence in custody. The reforms will apply to most offenders serving an SDS where automatic release is currently at the halfway stage. Therefore, this excludes those serving a life sentence, Extended Determinate Sentence or a Sentence for Offenders of Particular Concern and also those serving an SDS for certain violent or sexual offences where release is currently at the two-thirds stage (offences with a maximum penalty of life imprisonment, where the sentence is at least four years). Also excluded on policy grounds are those serving an SDS for sexual offences irrespective of sentence length, serious violent offences with a sentence of at least four years, specified offences linked to domestic abuse, including stalking, irrespective of sentence length, and offences concerning national security. The changes will be introduced in a staggered manner, with an initial commencement date of 10 September 2024 for those serving a sentence of less than five years and a commencement date of 22 October 2024 for those serving a sentence of five years or more. The change will be reviewed in 18 months' time.

We have published a blog examining the context, law and implications. We conclude that, although the measure was essential to alleviate systemic crisis, running out of prison capacity necessitates a comprehensive review of the sentencing framework. Our blog is available here.

The blog was cited in the House of Commons Library Research Briefing, available here.

The draft Statutory Instrument is available here.

Sentencing Council Business Plan for 2024/25

The Sentencing Council has published its business plan for 2024/25 and they intend to launch a range of consultations during this period, perhaps most significantly on a new overarching guideline to provide courts with guidance on the use of ancillary orders. Additionally, they plan to consult on new guidelines for housing offences, public order offences and hare coursing offences. There will also be a 'major revision' to the guideline on the imposition of community and custodial sentences following recent consultation.

The Business Plan is available here.

The Sentencing Council is also advertising for an intern to work with the social researchers on their Analysis and Research team. The internship is open to UK Research and Innovation doctoral students and further details are available here.

Other Publications

Al Weswasi, E. (2024) 'Estimating the incapacitation effect among first-time incarcerated offenders', *European Journal of Criminology*

There is a common assumption that offences are averted if offenders are imprisoned. A study by Enes Al Weswasi estimates how many offences are averted through the incapacitation of first-time offenders with sentences of two years or less. Data comprise all offenders convicted in Sweden in 2018, matched on a vector of time-stable and time-varying covariates drawn from an extensive set of Swedish registers. Each incarcerated offender was matched to a non-incarcerated offender whose offending frequency is used to infer the incapacitation effect. Full sample estimates are provided as well as subgroup estimates for males, females and various risk groups. The study concludes that the incapacitation effect of imprisonment is on average modest and that '[the] somewhat limited crime-preventive effect produced by incapacitating low-risk, first-time incarcerated offenders at least raises the important question of whether noncustodial sanctions might be an alternative for some inmates without giving rise to a risk for substantial costs in terms of recidivism'.

The full article is available here.

Sentencing Academy
Unit 4.02
60 Grays Inn Road
London
WC1X 8LU

Email: info@sentencingacademy.org.uk
Registered charity no: 1183958