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of Justice

# **Communicating Sentencing: exploring new ways to explain adult sentences**

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# 1. Summary

## Context

Previous research has consistently found that the public tend to know very little about sentencing. Limited understanding of sentencing, and confusion over terminology, undermines confidence and engagement with the criminal justice system (CJS) and limits its perceived effectiveness (Mattinson and Mirrlees-Black, 2000; Roberts and Hough, 2005; Jansson *et al*, 2007; Smith, 2007; Casey, 2008; Hough and Roberts, 2012; Hough *et al.*, 2013).

This new research was commissioned to understand how sentences might be better expressed to improve understanding and therefore have a more positive impact. The objectives of the research were to identify what people currently understand sentences to mean – including how they are served – and what terminology could be used to give people a clearer idea of adult custodial and community sentences,<sup>1</sup> and to help boost confidence in the CJS.

## Approach

A three-stage research method was used: development workshops with 24 participants to come up with new expressions of sentences; 49 depth interviews with different participants to assess the public's spontaneous responses to the new ideas; and, finally, 43 recall interviews 48 hours later to assess the impact of the new ideas on the public's ongoing intuitive understanding and perceptions of sentences and the CJS.

## Findings

Overall, the research suggested greater clarity could be achieved by using terminology that is less ambiguous to the general public than that currently used within the CJS. The research also demonstrated the potential value of communicating to the public the full nature of the terms of a sentence, rather than simply its overall length. The findings suggest that this could help tackle any incorrect assumptions about early release from prison for good behaviour, and give the public a better understanding of community sentences.

The initial workshops confirmed participants' limited understanding of how sentences are structured. There was a belief that most prisoners are released early from their sentence and that most sentences tend to be too lenient. There was broad awareness of **community**

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<sup>1</sup> Adult Community Sentences can refer to both Community Orders and Suspended Sentence Orders. For the purposes of this research, Community Sentences can be taken to mean Community Orders.

**sentences** (which participants most often referred to as **community service**), but little understanding of the extent of the requirements that could be served.

The research team developed a matrix (shown in the main report) that broke down each current sentence into its constituent parts. This created a clearer understanding of how sentences work. However, the current branding of the different sentence types and other terminology remained a barrier to engagement and comprehension.

Participants identified a number of elements of a sentence that would aid understanding:

- Emphasising the split nature of custodial sentences between time spent in custody and time in the community in order to clear up misunderstandings over what an overall sentence period represented.
- Knowing more about the conditions that have to be met for release from custody and/or any conditions that have to be met within the community.
- Communicating the length of a sentence, as confidence in the sentence is based on how well the punishment is seen to fit the crime.
- Overcoming people's frustration with a sentence that is publicly branded a life sentence, but does not mean the offender is sent to prison for the rest of their life.
- Changing other key words whose meaning is not immediately clear in the CJS context – especially 'on licence' and 'minimum'.

For custodial sentences, a preference emerged for a single consistent framework rather than a series of individually branded sentence types, each with its own unique construction.

Participants saw three common elements to current custodial sentences: time served inside prison, conditions of release, and time served outside prison. This level of detail was felt to be as much information as the general public needed or wanted to know, and was attractively simple.

In relation to community sentences, participants were generally positive when informed about the extent of the 13 requirements<sup>2</sup> which can be imposed under the sentence. Participants found the requirements could be grouped into three categories: payback, punishment and rehabilitation.

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<sup>2</sup> The Legal Aid, Sentencing and Punishment of Offenders Act 2012 introduced two additional requirements, Foreign Travel Prohibition and Alcohol Abstinence and Monitoring Requirement, bringing the total number of requirements to 14. However, at present only 13 are in operation, with the Alcohol Abstinence and Monitoring Requirement not yet in force.

In light of the responses summarised above, the idea emerged of branding all sentences with three components which could be known as the **1, 2, 3** of the sentence. Such a framework was felt to be something that people would easily become familiar with over time, prompt them to listen out for how the full term was divided up, and make it easier to assimilate the merits of a particular sentence (both custodial and community).

The output from the workshops was drawn on to develop an agreed series of recommended expressions which were then assessed for validation through a series of face-to-face and recall interviews with a new sample.

Feedback was consistently positive about the idea of sentences being explained more openly and ‘honestly’, using everyday language that left little or no room for doubt about what a convicted offender would actually serve as a sentence. For custodial sentences, this meant:

- 1 Fixed time served inside prison.**
- 2 Conditions to be kept to on release.**
- 3 Fixed time monitored outside prison.**

Typically, each part was interpreted as a positive element to a sentence. The use of the word ‘fixed’, in particular, helped to challenge the belief that most prisoners get early release (whether for good behaviour or by default). The word ‘minimum’ is often understood to mean ‘less than’ or ‘least possible’, not ‘at least.’ If time outside prison is ‘monitored’ this implies both benefit to public safety and a sense of punishment maintained. The term ‘on licence’ is barely understood and often felt to signify freedom rather than restriction. ‘Life’ in relation to life sentences (but not life imprisonment) was also found to be confusing.

The recommendation for a new community sentences expression was:

- 1 Payback to the community.**
- 2 Restrictions in the community.**
- 3 Support to help stop reoffending.**

With this three-part framework held in mind, participants agreed on a series of examples covering the range of current community and custodial sentences. Notable was how exposure to the new expressions of sentences led most participants spontaneously to question their own incorrect assumptions about early release.

Revisiting the ideas after a gap of 48 hours allows enough time for people to have absorbed the new experience as subconscious memory, which drives intuitive decision making (Seabrook and Dienes, 2003). Participants continued to express more positive opinions about sentences as a result of exposure to the new expressions they were shown in the early interviews, although some respondents persisted in their belief that prisoners could get early release. There was strong recall of the notion of the 1, 2, 3 of a sentence. This was endorsed both for making sentences easier to understand, and for appearing to offer a consistent framework for sharing outcomes between anyone with an interest in sentences. In particular, the idea of 1, 2, 3 appeared to provide a way for the media to report sentences in a consistent and clearer manner. Some participants expressed a new enthusiasm for engagement with the subject because they felt they had a clearer understanding and could comment from an informed perspective. Many reported having more confidence in the system after the research session and further reflection.

## Discussion

This research suggests that creating a simple consistent framework and language across adult sentencing could help address the core need of developing a greater understanding among the general public, and may help to establish greater confidence in the CJS. This is likely to be because making people feel better informed is itself a motivating reason to engage with sentences more fully.

The simple idea of the 1, 2, 3 of sentences gave participants an easy means of evaluating the full sentence, rather than leaving them to picture a sentence on the basis of assumptions about early release, crowded prisons, etc.

Key terminology to introduce would be: referring to 'fixed' terms because 'minimum' can mean 'least'; saying 'monitored' rather than out on 'licence', which implies 'freedom' in other contexts; and dropping the use of the word 'life' in relation to life sentences because the public see it as misbranding.

There was qualitative evidence generated in the validation stages of this research that suggested underlying attitudes could, to some degree, be shifted through a greater understanding of how sentences are constructed. However, the ingrained negative assumptions of some people will not be easily set aside. The authors suggest testing with a larger sample to further validate the vocabulary, as well as the overall framework.

## 2. Context

Previous research has consistently found that public opinion on sentencing is poorly informed, and that this is associated with a negative belief that sentences are too lenient (Roberts and Hough, 2005; Hough et al., 2013). The public's limited understanding of the sentencing process, and the full range of sentences, undermines confidence and engagement with the wider criminal justice system (CJS) and limits its perceived effectiveness (Mattinson and Mirlees-Black, 2000; Roberts and Hough, 2005; Jansson *et al*, 2007; Smith, 2007; Casey, 2008, Hough et al., 2013). Research has also revealed that providing more information about the sentencing process is associated with increased perceived acceptability of the sentences served (Casey, 2008; Smith, 2010; Flatley *et al*, 2010).

Previous research has also highlighted the extent to which the terminology connected with sentencing – both the legal terms used by the judiciary, and phrases developed by the media to refer to specific justice outcomes – can exacerbate people's confusion (Chadee and Ditton, 2005; Turner *et al*, 2009). The scope of past research has not enabled investigation into the terminology that would be most helpful, but it has highlighted examples of sentences the public need to understand in more detail and where the terms used are problematic.

This new research was commissioned to explore how adult sentences might be better expressed – using new names or terminology – to achieve a positive impact on people's understanding of sentences and increase their confidence in the CJS. The research aimed to identify what people associate with sentences now, what would be meaningful and relevant to them, and what messaging and terminology could be used to enable clear communication of the sentences being given.

### Research objectives

The overall research objective was to identify new terminology to use to make sure messaging is as clear as possible to the general public, and to improve understanding.

In particular, the aims were to understand:

- How best to explain sentences to the public.
- How people refer to sentences now, if at all.
- How people would currently explain sentences to others.
- Whether certain sentences need to be renamed and, if so, to what.
- Where renaming may not be possible, what would be the clearest explanation to give; what sort of terms work best.

- How people receive new expressions of sentences, and whether this has a positive effect on understanding and confidence.

The research was particularly keen to explore:

- Understanding of the term 'licence'.
- Confusion about community sentences and offenders in the community on licence after a custodial sentence.
- The term 'community sentence' seeming vague and not reflecting what constitutes the sentence in its entirety.
- Terms used for the requirements of a community sentence being too generic and unclear.
- Greater awareness of the broad types of sentences than the terms used to describe them.
- An awareness of the halfway release point from custody of determinate sentences.

## 3. Approach

### 3.1 Overview

A three-stage research methodology was used to address the objectives:

- Stage 1: Development workshops with the public to create new expressions of sentences.
- Stage 2: Validation depth interviews to assess the public's spontaneous response to the new expression of the terminology developed in Stage 1.
- Stage 3: Recall interviews to assess the impact of the new ideas on the public's intuitive understanding and perceptions of sentences and the criminal justice system.

This research was an exploratory analysis based on a total sample of 73 participants. The research was not designed to provide results representative of the general population.

### 3.2 Stage 1: Development workshops

In designing the research methodology, the first consideration was to build on existing research on the nature of people's misunderstandings. The starting point was a series of workshops with the general public to create clearer expressions of what particular sentences deliver. Four workshops were run, each lasting two and a half hours. On the advice of the Ministry of Justice (MoJ), the sample was recruited in line with previous sentences research conducted by MoJ. All participants were to be British passport holders aged between 18 and 50. Participants were drawn from across BC1C2<sup>3</sup> Social Economic Groups (SEG).

Recruitment screened out people whose knowledge, position or opinion would not be representative of the general public. In particular, the questionnaire used by field recruiters was written to exclude those who worked in the CJS and other relevant services or the media, those who had been a juror or court witness, victims of serious crime and offenders, and people who felt current sentencing is far too lenient or that the system is not as effective as it should be and needed a serious overhaul. The recruitment screener used is shown in Appendix A.

Two boroughs in South London and Berkshire were selected to give access to people living in a range of higher and lower crime areas. Six participants were recruited, fitting the profiles

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<sup>3</sup> These are: B: Intermediate managerial, administrative, professional – e.g. bank manager, teacher; C1: Supervisory, clerical, junior managerial – e.g. bank clerk, sales person; C2: Skilled manual workers – e.g. electrician, carpenter.

shown in Table 3.1, for each workshop. Recruitment was commissioned with local recruiters familiar to DUCKFoOT.

**Table 3.1: Profiles of participants for each workshop**

	<b>Age</b>	<b>Sex</b>	<b>SEG</b>	<b>Location</b>	<b>Date</b>
1	18–30	M/F	C1C2	South London	3 April 2012
2	18–30	M/F	BC1	Berkshire	4 April 2012
3	31–50	M/F	C1C2	Berkshire	4 April 2012
4	31–50	M/F	BC1	South London	3 April 2012

The final sample profile was as follows:

- Sex: 24 participants, evenly split between men and women.
- Age: 7 x 18–24, 5 x 25–30, 7 x 31–40, 5 x 41–50.
- SEG: 8 x B, 12 x C1, 4 x C2.
- Black and minority ethnic group (BME) representation: Four of the 12 respondents in South London; none of the 12 in Berkshire.

The research approach was based on participants bringing to the session their understanding and assumptions about sentences as the starting point. However, participants were deliberately alerted to the workshop objective prior to the session so that they were mentally primed to set aside their negative opinions about their confidence in the CJS or leniency of sentences.

These sessions were creative in style because, in this first stage of the research, participants were being asked to create, not critique, ideas. Participants were first briefed on the nature of the task and taken through the scope of sentences to be re-expressed. This information was presented in the workshops in the form of a sentencing matrix, using a breakdown that had been developed by DUCKFoOT based on briefing documents and discussion with MoJ. The sentence matrix was supported by other explanatory stimulus. These are set out in Appendix B.

After the briefing on sentences, participants spent the rest of the session expressing the above sentence types in their own language and imagery, facilitated by the moderator.

Analysis was based on the written and drawn imagery output of the sessions and audio recordings of the discussion. The findings from Stage 1 allowed DUCKFoOT to make recommendations for the stimulus for the next stage of validation research – namely, new

expressions for custodial and community sentences.<sup>4</sup> DUCKFoOT worked with the MoJ project team to refine this stimulus.

### 3.3 Stage 2: Validation depth interviews

Depth interviews were used to hear how individuals responded to the new ideas based on their own past awareness and opinions. It was decided that focus groups were not an appropriate forum because peer group opinion could have suppressed hearing how individuals coped with the language and ideas within the sentences stimulus. The depth interviews were deliberately kept to 30 minutes to avoid participants becoming overly primed to the subject and task; given too much time, people can start to contrive answers to satisfy the research context.

Forty-nine interviews were conducted using the same recruitment filters used in Stage 1, with an overall spread of age and SEG for each location. The interview spread was 14 in the West Midlands, 16 in Vale of Glamorgan, and 19 in a South London borough .

The final sample profile was as follows:

- Sex: 49 people: 27 men and 22 women.
- Age: 11 x 18–25, 13 x 26–33, 12 x 34–41, 13 x 42–50.
- SEG: 13 x B, 20 x C1, 16 x C2.
- BME: 6 x South London, 5 x West Midlands, 1 x Vale of Glamorgan.

Each interview started and ended with the interviewee responding to three statements using a scale of 1 (not agree at all) to 7 (agree strongly):

*'I feel I have a reasonable understanding of what sentences consist of.'*

*'I think sentences tend to be too lenient.'*

*'I think a lot of offenders get a reduction in their sentence at some later point.'*

In each interview, respondents commented on a series of simple statements describing how sentences were constructed, and were given an example for each of the eight types of sentence (as listed in Table B.1). Several different expressions of the overall structure of sentences were tested. Responses on the first day of fieldwork generated a slightly amended stimulus for some of the sentences. Stage 2 stimulus is shown in Appendix B. Analysis was based on audio recordings of the discussion.

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<sup>4</sup> Adult Community Sentences can refer to Community Orders and Suspended Sentence Orders. For the purposes of this research, Community Sentences can be taken to mean Community Orders.

### 3.4 Stage 3: Recall interviews

The third stage of research was designed to gain insight into how memories of the new expressions of sentences had settled in people's minds and influenced their intuitions about sentences.

The telephone call was based around asking people to rate, for a third time, the three statements relating to sentences they had rated twice in the depth interview. They were also asked what came to mind spontaneously about the stimulus seen in Stage 2, while listening for shifts in opinion. The responses were recorded and analysed on a spreadsheet.

Forty-three of the forty-nine people interviewed in Stage 2 were successfully recontacted this way. Of the six who did not respond:

- 2 x Vale of Glamorgan, 3 x West Midlands, 1 x South London.
- 5 x female, 1 x male.
- 1 x B, 1 x C1, 4 x C2.
- No BME participants were lost.

## 4. Findings

### 4.1 Stage 1: Development workshops

With reference to the research objectives, the workshops were primarily used to get representatives of the public to express how they would explain sentences to the general public. Validation of new ideas was the concern of the subsequent two stages of research

#### Current understanding

At the start of the sessions, participants were given the opportunity to briefly express what they already understood about sentences and how they refer to them. This exercise confirmed that people have a very limited understanding of how sentences are in fact structured into several parts.

Participants saw prison sentences in terms of time in prison only, not time on licence as well (which was a part of sentencing very rarely referenced by participants). A prison sentence is most spontaneously associated with a 'life sentence' and a 'reduced sentence'. Individuals might also hold in mind other specific terminology relating to prison, such as 'suspended' or 'remand', but they were uncertain of their meanings. Responses confirmed the findings of the Halliday Report (Home Office, 2001) in that the majority of people mistakenly believe almost all prisoners benefit from early release, most probably for good behaviour, when in fact they are referring to 'automatic release'. Participants made references to *'appeal'*, *'reduced sentence'*, *'minimum number of years'*, and *'don't always stick'*. Such an intuitive stance can lead to a lack of respect for, and confidence in, the justice system. Related to this was the familiar discontent that a sentence branded 'life' does not mean, in the vast majority of cases, imprisonment for the rest of the offender's life.

Many were familiar with the idea of community sentences, but they referred to them as *'community service'* and also as *'payback'*. Community sentences were associated with *'painting gangs'*, *'ASBOs'* and *'a tag'*.

Despite any disappointment participants might express about sentences and sentencing, these were not issues that attracted any great curiosity. No one had felt inclined in the past to proactively investigate the facts beyond what they heard said by the media or referenced in TV programmes.

Using the sentence matrix (Table B1) – developed prior to the sessions to break down each sentence into its constituent parts – rapidly created a clearer understanding of how sentences work. It addressed what is meant by 'life', with participants responding positively

to a clear distinction being made between 'life imprisonment' and 'life sentence' – though '*life should mean life*' remained an issue. Crucially, the matrix highlighted that the terms of a sentence are fixed at the time of sentencing and have to be adhered to. Also communicated was that the overall term of a custodial sentence included the amount of time spent inside prison, plus time spent in the community (the relationship between time served in custody and in the community was clarified). Learning that a defined set of sentences exists was, in itself, a helpful framing for reconsideration of current understanding of sentences. It was evident how such clarification began to challenge negative assumptions of inconsistency of sentencing, early release, leniency in sentencing, and the belief that the Government was trying to keep the cost of prison down.

Responses to the matrix and supporting stimulus revealed the formal terminology and language that was acting as a barrier to better understanding of how sentences and sentencing work. Key language barriers included terms such as 'requirements', 'suspended', 'custody', 'determinate', 'extended determinate', 'licence', 'minimum', 'term' and 'parole'.

'The names [of sentences] are confusing, but definitions are understandable.'

Male: South London

'The word "determinate" is used a lot... not always clear'. Female: South London

- 'Custody' for some just means 'held after arrest', not 'serving a sentence'.
- 'Determinate' is not understood to mean 'predetermined, fixed terms'.
- 'Extended determinate' causes confusion as the possibility to 'extend' undermines the notion of 'fixed'.
- 'Licence' is read as 'permission', not 'prohibition' or 'probation'.
- 'Parole' can be thought to mean only 'release', not 'review with potential release with certain conditions'.
- 'Term' is assumed to refer to 'time inside prison'.
- 'Suspended' seems too soft'.
- 'Minimum' is read as 'the least' not 'at least', triggering an emotional judgement of the sentence, and what the maximum might be.

'I want to know the maximum' Male: Berkshire

## **Developing a new language for custodial sentences**

In the workshops, participants were encouraged to re-express each sentence type in more accessible terms. There was consistent support for emphasising the split nature of custodial

sentences (in prison and in the community), in some cases visually, in order to clear up the misunderstanding over what the overall sentence period represented.

In addition to being explicit about the split of location, participants placed emphasis on the conditions for release from custody – whether this was a review in terms of being fit for release, or restrictions that would be applied once released on licence.

This research was not concerned with evaluating responses to the length of sentence imposed on any one criminal for a specific crime. However, awareness of the length of sentence given was central to participants' engagement with sentences. This is because their confidence in any sentence applied was partly based on how well the punishment is felt to fit the crime. Without this scale, the construction of a sentence remains academic.

Crucial to framing sentences in a positive way is countering frustration over the perceived misbranding of life sentences. Dropping any reference to 'life', other than 'life imprisonment', was seen as more open and honest – i.e. people would not feel they had been misled.

### **Developing a new language for 'community sentences'**

On exposure to the stimulus the scope of community sentences made sense, but was not familiar. '*Community service*' is the branding participants applied to this type of sentence, believing it to be the correct term, though it has not been used in legislation for many years. When made aware of the correct branding – 'community order', they regarded it as tonally more appropriate as it implies some degree of punishment, whereas 'service' can feel too charitable. The same was true for the term 'requirements', which the participants reported viewing as tonally too soft to satisfy a sense of retribution before rehabilitation. The 13 requirements themselves were clear, and the participants were generally positive on learning that they covered punishment of the offender, protection for the community, and actions to rehabilitate the offender. In developing a more everyday expression of what constitutes a community sentence, participants found there were three parts to describe – punishment, payback and rehabilitation.

### **Developing a new language for all adult sentences**

Out of this exercise emerged a preference for a single coherent descriptor for custodial sentences, rather than a series of individually branded sentence types (as shown in Table B.1), each with its own unique construction.

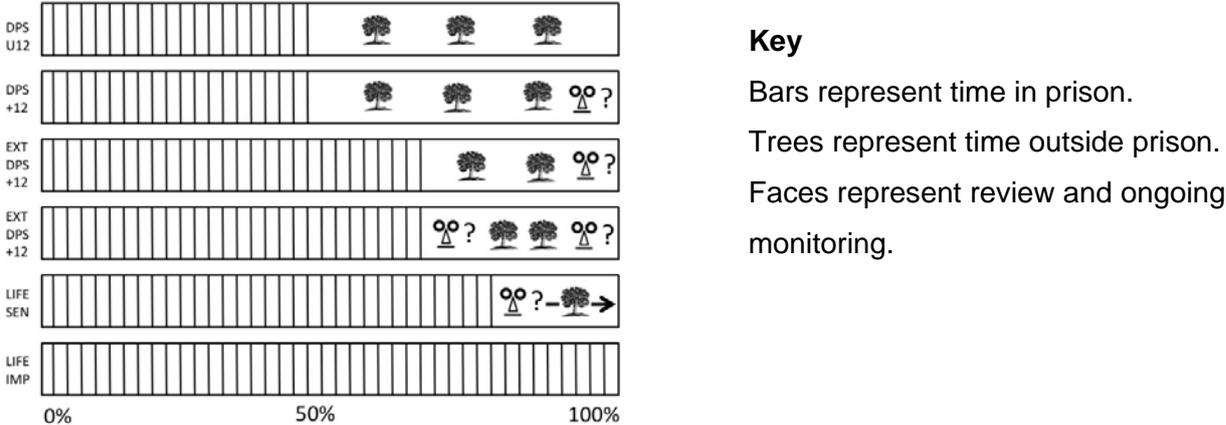
Participants saw three common elements to current custodial sentences: time served inside prison, conditions of/on release, and time served outside prison. This level of detail was felt

to be as much information as the participants needed or wanted to know, and was attractively simple. This three-part 'sum' became too complex when a sentence description included terms such as 'determinate' or 'extended'. The participants thought that the 1, 2, 3 description would come across clearly and unambiguously in the media. Any more information about the construction of a sentence was irrelevant to what participants wanted to know first and foremost – namely, whether a suitable punishment had been imposed to fit the crime and the criminal. Providing more information raises issues about the meaning and purpose of specific details and could lead to confusion.

From this, the idea of the '1, 2, 3 of sentences' – that included the three common elements – emerged as a branding framework to help people become familiar with what to listen out for, and an easy way to assess whether they felt a particular sentence was just.

There was also the suggestion that these three elements might be graphically represented, providing people with a simple visual aid to recall when evaluating a sentence. Figure 4.1 shows how participants could imagine timelines. (Graphical representation of sentences was not further explored in the workshops as it would be dependent on the adopted language.)

**Figure 4.1: Graphical representation of custodial sentence timelines**



The idea of the 1, 2, 3 of sentences allowed for a continuum of sentences, which would require no 'sub-branding' along the lines of the sentence names that currently exist. An alternative was also proposed by participants which broke sentences down into brackets of length served:

- Short – under 12 months in prison, plus under 12 months on community orders.
- Medium – one to five years in prison; same time monitored in the community.
- Long – six or more years in prison; same time monitored in the community.
- Extended – a minimum time in prison with release subject to review; time on community monitor can be up to rest of life.

The MoJ decided not to pursue this recommendation because of the difficulty in making it meaningful for all offences, as the terms would not necessarily reflect seriousness. For example, the maximum penalty for one offence could fall into the ‘short’ category. This would be classed as serious for that particular offence, but the ‘short’ branding may be interpreted as meaning that the offender could have received a more serious sentence.

### 4.2 Stage 2: Validation depth interviews

The individual depth interviews flowed as follows:

- Establish in broad terms the participant’s perceptions of sentences.
- Capture their spontaneous responses to the new expressions for sentences (illustrated in Appendix B).
- Explore those responses in terms of clarity and impact of the new ideas.
- Revisit participant’s perceptions of sentences.

Respondents were consistently positive about the idea of sentences being explained more openly and ‘honestly’ using everyday language that left little or no room for doubt over what a convicted offender would actually serve as a sentence in prison, and the terms of release. This was reflected in the ratings participants gave to three statements at the beginning and end of the session, shown in Table 4.1. Shifts on a scale of 1 (not agree at all) to 7 (agree strongly) were all in a positive direction.

**Table 4.1: Shifts in statements at the start and end of the depth interviews**

<b>Statement</b> <i>Scale of 1 (not agree at all) to 7 (agree strongly)</i>	<b>Start of interview</b> <i>(Average score)</i>	<b>End of interview</b> <i>(Average score)</i>
I feel I have a reasonable understanding of what sentences consist of.	4.0	6.2
I think sentences tend to be too lenient.	5.1	4.6
I think a lot of offenders get a reduction in their sentence at some later point.	6.2	3.3
<i>Number of respondents</i>	49	49

Upon exposure to the new expressions of sentences, many participants raised the issue of early release and recognised that they may not have fully understood how sentences work.

‘Parts, yeah that kind of makes sense, because you hear they got ten months and get out at six, I guess that’s what I sort of knew already... Yeah it’s a

challenge, because my understanding was there was no such thing as a fixed time in prison.’ Male: West Midlands

‘My knowledge of sentences was that there was no such thing as a fixed time served in prison, and under mediating circumstances you could bring that time down.’ Male: West Midlands

‘I was under the impression, I think a lot of people think prisoners go to some panel I suppose, you see on television a lot of prisons are overfilled. I do know people who’ve been in trouble and they use the term “early release”.’ Male: Vale of Glamorgan

### Custodial sentences

The idea of consistently describing custodial sentences in three parts was welcomed as an easy way to understand what a judge had actually passed as the sentence. Building on the various expressions shown in Appendix B, the most effective overall framework and language was:

1. Fixed time served inside prison.
2. Conditions to be kept to on release.
3. Fixed time monitored outside prison.

Typically, each part was interpreted as a positive element to a sentence. The use of the word ‘fixed’, in particular, helped to challenge the incorrect belief that most prisoners get early release for good behaviour.

‘I think “fixed” is better than “minimum”.’ Female: West Midlands

“Fixed” is good – reassuring certainty.’ Male: South London

The word ‘minimum’ fails in this regard as it is often understood to mean ‘less than’ or ‘least possible’, not ‘at least.’ If time outside of prison is ‘monitored’ then participants felt it to be of benefit to public safety, and a sense of punishment is maintained.

“Fixed” to me is you made a big mistake; “minimum” is you done wrong, but if you behave yourself you’ll get a shorter time in prison.’ Female: Vale of Glamorgan

'I don't think any offender should be getting away with serving the minimum time. "Fixed" is a nicer word for the public to read. They [the offender] can't wangle their way out of it.' Male: West Midlands

*'I know it doesn't mean that, but it gets me thinking they got away light.'* Female: South London

'Conditions' was never challenged as it was seen to be clear and certain in its application.

"Minimum" sounds too lenient; "conditions to be met" sounds serious. You don't want to know the least time they're going to get; you want to know the most time.'  
Male: Vale of Glamorgan

Respondents highlighted the negative impact of what constitutes a life sentence on overall perceptions on sentences. Participants appeared to engage positively with sentencing overall if they knew a possible sentence could be life imprisonment, described with the certainty of, 'rest of life in prison, no release, no review'.

Generally, participants found it more helpful if a life sentence was not branded as such and was just defined by its three parts. Again, referring to a 'minimum' time in prison was not universally understood to mean 'at least', whereas the word 'fixed' offered certainty – though it was evident that 'minimum' attached to a long sentence was less likely to be misconstrued as 'minimal.' A preference emerged for the life sentence to be described as:

1. Fixed 25 years in prison.
2. Then considered for possible release.
3. If released, then monitored for the rest of life.

The above example references 25 years. Other lengths of life sentence arose in the course of the sessions, such as those given in a recent case for murder of 16 and 18 years. The use of the term 'fixed' for such sentences was thought helpful.

The new parole conditional *extended determinate sentence* (which commenced at the end of 2012), was the most complex sentence type to explain. This is because the custodial period, rather than being fixed, could be between two-thirds and the full custodial term, as determined by the parole board. Also, the scale of time served overall (a 20-year sentence was the example used) can lead people to question the amount of time monitored in the community; the community time is either felt excessive in relation to the prison time, or raises

the question as to why more time was not being served in prison if the offence was severe enough to warrant so much time monitored.

'I'm not sure about all this outside part. Once someone had done ten years in prison, are they going to be doing it again?... you've learnt your lesson... you know the cost to the government...'

Female: West Midlands

The most popular descriptor that emerged from discussion was:

1. Fixed eight years in prison.
2. Then a 'fit for release' review, and, if not, up to another fixed four years in prison.
3. Then 8 to 12 years monitored outside prison.

The remaining custodial sentences over 12 months (see Table B.1) were then easily understood in three parts. The examples tested are detailed below.

For the extended determinate sentence, 'fixed' was effectively described as:

1. Fixed four years in prison.
2. Fixed five years outside, monitored.
3. With conditions, e.g. restricted movements and restricted work options.

This did not require any explanation of an extension to time served outside prison, which would only have raised a question as to why, and undermined the desired sense of certainty.

For the general public, there does not need to be a distinction drawn between the above type of *extended determinate* and a *determinate sentence*, which can be described as:

1. Fixed three years in prison.
2. Fixed three years monitored in the community.
3. Conditions, e.g. report to a probation officer on regular basis.

A *sentence under 12 months* could also be positively expressed in three parts, as this maintained a desirable transparency. It required a more considered explanation than was developed as stimulus. The suggestion that emerged from the research for sentences of 10 months, for example, was:

1. Fixed five months in prison.
2. If reoffends within five months then a further five months in prison.<sup>5</sup>
3. Plus sentence for new offence.

It was very important that a further sentence for a second offence was clearly stated as one of the three elements, thus clarifying that there was a second punishment and not just an extra five months in prison.

The *suspended prison sentence* was represented in two different ways. One version was:

1. Twelve-month prison, time suspended.
2. Must meet conditions in the community for two years.
3. If does not meet conditions, sent to prison.

The other was:

1. Not to associate with certain people for two years.
2. Keep to a curfew wearing a tag.
3. Breaking restrictions will mean a prison sentence for 12-months, fixed.

Participants were divided in their preference for headlining the potential of a prison sentence versus the certainty of community requirements. How participants responded largely depended on what a suspended sentence represented. While the term 'suspended' was familiar, many admitted to not confidently understanding what it meant, or defined it incorrectly – for example, thinking it meant 'delayed'. It was therefore preferable to some participants to first detail the element of the sentence that was certain and to avoid using the word 'suspended' altogether. Others felt that if a crime was deemed prison-worthy, then a sentence should be served, and so were more positive about the community element of the sentence being headlined.

'If you start with a punishment suspended there is no punishment.' Male: West Midlands

However, others thought that a prison sentence that has been conditionally suspended dependent on good behaviour, and which complies with community requirements, was seen as a real sanction.

The term *licence* was not well understood by the participants. The idea of being ‘watched’ in the community was rejected as suggesting an overly costly expense for the public to bear – i.e. the extravagance of employing an ever-present task force. Discussion of ‘watched’ confirmed ‘monitored’ as the most appropriate terminology for the period of licence.

### Community orders

Participants were generally aware of such sentences, but their understanding was largely confined to offenders working for free in the community. Again, presenting the extent of community sentences in three parts provided participants with a simple framework for understanding how sentences worked. Two expressions of this idea were tested; a third emerged from discussion and proved easier to understand as it framed each element in terms of the impact on the offender, rather than a benefit for the public, as one of the three parts. The suggestion that emerged was:

1. *Payback* to the community.
2. *Restrictions* in the community.
3. *Support* to help stop reoffending.

‘I know about “payback” because they’ve advertised that quite a lot, haven’t they. I don’t like “treatment” so much; it makes it sound like it wasn’t their fault.’ Female: Vale of Glamorgan

‘Payback’ was felt to express a sense of punishment, as does ‘restrictions’. Because of expectations of the kind of crime that attracted a community sentence, participants were largely positive about the three parts, including rehabilitation measures. It was understood that not all three parts would necessarily be included in every sentence, but no concern was expressed about this during interviews as participants assumed such sentencing was going to be tailored to the criminal as much as the crime.

The stimulus referred to ‘community sentence’, which was largely preferred over ‘service’ (participants’ familiar terminology) as it emphasised punishment. A number of different words were tested to describe the three parts. It was felt that the descriptor ‘commands’ was old-fashioned and lacked certainty, and ‘regulations’ described a legal requirement. However, ‘parts’ was felt to be adequate.

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<sup>5</sup> After the 2012 Legal Aid, Sentencing and Punishment of Offenders Act, the offender will not serve the second half of their original sentence if they reoffend within the timescales.

*Commands versus parts:* 'No – I think that puts too much regimented thinking on it, and people don't like to be told what to do. "Parts" makes sense in my eyes.'

Male: West Midlands

### **Sentencing 1, 2, 3**

After being exposed to the examples of custodial and community sentences respondents were now familiar with the idea of three parts to any sentence and had learnt a lot more about sentencing through this consistent framework. The respondents were next shown sentences as they might appear in the media, expressed through the framework of 1, 2, 3.

There was broad endorsement for the approach on the basis that it was more transparent.

'The 1, 2, 3 is much easier. Every sentence should have conditions shouldn't it; they're not just released back into the community to do what they want to do.'

Female: West Midlands

'Yeah – that's a lot more information than I ever read before. I think there's a lot more need for that.' Male: West Midlands

'Why say giving them six when it's only going to be three?' Female: Vale of Glamorgan

### **4.3 Stage 3: Recall interviews**

Revisiting the ideas after at least 48 hours allows enough time for people to have absorbed the new experience as subconscious memory, which drives intuitive decision making (Seabrook and Dienes, 2003).

Participants remained more positive about sentences. Many commented on having more confidence in the system after the research and further reflection.

'Better to be simpler because some criminals need it in simple terms. I've a much better understanding.' Female: West Midlands

'I didn't realise it's all worked out beforehand; so when they come out after five, it looks like a reduction, when it was planned.' Male: South London

‘I’ve been thinking about it – was never sure ‘til it was broken down and now that I know I feel that the system is working properly.’ Female: Vale of Glamorgan

Participants were asked to again rate three statements and movement was found to be positive in terms of understanding and the issue of leniency. There remained a persistent belief that prisoners could get early release, and this score moved slightly negatively reflecting comments about appeal against sentences and some remaining misunderstanding. Also, some participants who held stronger views about leniency persisted in wanting to hear that the whole period of the custodial sentence was served in prison, whereas other participants emphasised that they felt reassured prisoners were not released without follow-up.

**Table 4.2: Shifts in statements at the start, end and post-depth interviews**

<b>Statement</b> <i>Scale of 1 (not agree at all) to 7 (agree strongly)</i>	<b>Start of interview</b>	<b>End of interview</b>	<b>Follow-up call</b>
I feel I have a reasonable understanding of what sentences consist of.	4.0	6.2	6.3
I think sentences tend to be too lenient.	5.1	4.6	4.2
I think a lot of offenders get a reduction in their sentence at some later point.	6.2	3.3	3.8
<i>Number of respondents</i>	49	49	43

There was strong recall of the idea of reporting any sentences in three parts, and expressing this as the 1, 2, 3 of a sentence. Again, this was endorsed for making it easier to understand what a sentence actually consisted of and for appearing to be a more open and honest approach that could protect the general public from being misled. Some participants were attracted to the idea on the basis that it appeared to provide a consistent basis for a dialogue between all interested parties – i.e. a simple, accessible and seemingly more certain equation of sentence that the expert could use to include the layman. In particular, the idea of 1, 2, 3 appeared to provide a way to help the media report sentences in a more transparent way. Some participants expressed a new enthusiasm for engaging with the subject simply because they felt they had a clearer understanding and could comment from an informed perspective. Many reported having more confidence in the system after the research session and further reflection.

‘Should say it how it is when passing a sentence. Opened my eyes. 1, 2, 3 is much easier to understand. Should be crystal clear from beginning.’ Female: West Midlands

'I understand it now. 1, 2, 3 was very good. Should use simple plain words and no jargon. "Life" does not mean life, so it can be seen as lenient.' Male: West Midlands

'...made me understand sentences and that they need to be clearer for us and for victims. The press should break it down and tell us as it is. 1, 2, 3 is clearer.' Female: West Midlands

'1, 2, 3 is good, but needs to be carefully put.' Male: South London

Participants were keen on the idea that the judiciary, victims, offenders, the public, and the media could all be speaking the same language, as this would enable them to join in.

Overall, the new approach was felt to be a helpful step towards clearing up misunderstandings such as 'early release'.

"Early out of prison" does not mean come out early – did not realise do time in the community – not like that on the news.' Female: West Midlands

'The public want to know – they don't want to hear that they "got out" early.' Female: West Midlands

Responses at this last stage of the research also revealed that people could become keener to engage with the subject because they had a clearer understanding and could comment from an informed perspective. A number of participants had talked to other people about their research experience and clearly enjoyed being able to debate the issue with more understanding.

'...important issue which I've never spent time thinking about... should be taught in schools. If criminals and society had an equal understanding then it'd be much better for the country. We're so quick to judge based on nothing.' Female: South London

'I have spoken to others since and realise they don't understand that a sentence has different parts.' Male: South London

Opinions about the language used in the stimulus remained largely the same. A minority were beginning to better appreciate what the term 'minimum' was really meant to convey; but

the word was consistently rejected by a significant number of participants who interpreted it as 'minimal', and saw it as letting down the victims of crime. 'Fixed' was generally considered to be the most useful term as it helped to address misunderstanding of early release for good behaviour.

'Didn't like "minimum". Seems too lenient and too hopeful. "Fixed" is better.'

Male: West Midlands

'Liked the word "fixed"... it's a certainty like a fixed bank loan.'

"Minimum/maximum" feel that they can be changed.' Male: South London

## 5. Discussion

The findings suggest that creating a new simple consistent framework and language across adult sentencing could help address the core need of developing a greater understanding among the general public. Such an approach could help people feel more confident about how well informed they are, which in itself helps motivate people to engage with sentences more fully. This could help towards establishing greater confidence in the justice system.

The simple idea of ‘the 1, 2, 3 of sentences’ gave participants an easy way of evaluating the full sentence through the timeline of its parts, rather than basing it on their current incorrect assumptions – e.g. the term of a sentence refers to time intended in prison only, early release, letting people out to ease crowded prisons. It was also demonstrated that this framework had the potential to stick in people’s minds to be recalled whenever considering a sentence reported by the media or heard about through other means. In this way the idea was seen to be working as an effective branding device that could be promoted to the general public to create a common understanding of the sentence system.

To achieve such changes in people’s attitudes could involve changing some of the current terminology. One suggestion is not to use the word ‘life’ in relation to ‘life sentences’ (not ‘life imprisonment’) because life to the public means imprisonment for the rest of the offender’s life. However, as noted, participants continue to use the expression ‘community service’, despite this term not having been used in legislation for many years. This raises the issue that changing the terminology may take a long time to embed, so there needs to be thought as to how to communicate any changes in terminology.

Because ‘minimum’ means ‘least’ to many people, participants felt it should be dropped in favour of the certainty of ‘fixed’, even when the offender could be detained in prison for longer as the stated conditions for release can allow for such a sentence construction.<sup>6</sup>

Participants want to know that a released prisoner is being ‘monitored’ rather than out with a ‘licence’ as the term implies they have the ‘freedom’ of any other citizen. These findings were consistent across the sample researched.

The qualitative evidence generated in the validation stages of this research suggests underlying attitudes could be shifted through a greater understanding of how sentences are constructed. We conclude that a new framework and language for sentencing, in its own

right, could enable some people to hear what is being said about a sentence in a new light and nudge them to reconsider their position. However, the findings of this research also suggest that many people's ingrained negative assumptions will not be set aside easily, and they may not easily hear what is being said with an open and curious mind. In addition, the response will be compounded by there being little or no pre-existing demand for greater clarification of sentences (as evidenced by the participants in this research). The introduction of such a framework would therefore benefit from supporting communications designed to challenge misunderstandings, raise awareness, and stimulate engagement with the framework device of the 1, 2, 3 of sentences.

'I remember 1, 2, 3, which was quite significant – a demonstration to society that you can't get away with it and it could bring crime rates down. Gave more confidence in the system.' Female: Vale of Glamorgan

As this was an exploratory analysis, we would also recommend testing the new approach with a larger sample to help optimise the vocabulary and validate the overall framework. Statistical tests were not conducted in this research, but this could be explored in future work. Future samples could include groups that were excluded from the current study, for example, victims of crime and people over 50. Participants could also be drawn from a wider geographical area and social economic groups. This would enhance the general application of the findings.

This research has tested the proposed new branding framework using example sentence constructions without reference to any specific offence. We suggest that any further research could usefully take as its starting point the proposed new framework applied to actual past case histories. This would help to assess both the practical application and success of the new approach at helping people feel more confident that the 'punishment fits the crime'.

In addition, consideration could be given to exploring these ideas with select journalists to help establish how enthusiastic they would be to adopt the new framework in their communications.

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<sup>6</sup> For example, 'minimum' would still be a statutory element of life sentences for murder, but this research suggests 'minimum' should not be used in communication with the public.

Finally, the first stage of workshops suggested that people could find a graphic representation of a new framework (as in Figure 4.1) helpful to assimilate a sense of the overall structure to adult sentences and the three parts to each sentence. If and when the framework and vocabulary developed in this research is adopted we would recommend further exploration of the potential of a visual or graphic representation contributing to the overall promotion of the new ideas.

## References

**Casey, L.** (2008) *Engaging communities in fighting crime: A review (Casey Report)*. London: Cabinet Office.

**Chadee, D. and Ditton, J.** (2005) Fear of crime and the media: Assessing the lack of relationship. *Crime, Media and Culture*, 1(3), 322–32.

**Flatley, J., Kershaw, C., Smith, K., Chaplin, C. and Moon, D.** (2010) *Crime in England and Wales 2009/10: Findings from the British Crime Survey and police recorded crime*, Home Office Statistical Bulletin. London: Home Office.

**Home Office** (2001) *Making punishments work: Report of a review of the sentencing framework for England and Wales (Halliday Report)*. London: Home Office.

**Hough, M. and Roberts, J.V.** (2012). Public Opinion, Crime, and Criminal Justice. In: R. Morgan, M. Maguire and R. Reiner (eds.) *Oxford Handbook of Criminology*. Fifth Edition. Oxford: Oxford University Press.

**Hough, M., Bradford, B., Jackson, J., Roberts, J. (2013).** Attitudes to Sentencing and Trust in Justice: Exploring Trends from the Crime Survey for England and Wales. ICPR.

**Jansson, K., Budd, S., Lovbakke, J., Moley, S. and Thorpe, K.** (2007) *Attitudes, perceptions and risks of crime: Supplementary volume 1 to crime in England and Wales 2006/07*, Home Office Statistical Bulletin. London: Home Office.

**Mattinson, J. and Mirrlees-Black, C.** (2000) *Attitudes to crime and criminal justice: Findings from the 1998 British Crime Survey*, Home Office Research Study No. 200. London: Home Office.

**Roberts, J. and Hough, M.** (2005) *Understanding public attitudes to criminal justice*. Maidenhead: Open University Press.

**Seabrook, R. and Dienes, Z.** (2003) *Incubation in problem solving as a context effect*.

Available at:

[http://www.lifesci.sussex.ac.uk/home/Zoltan\\_Dienes/Seabrook%20&%20Dienes%2003.pdf](http://www.lifesci.sussex.ac.uk/home/Zoltan_Dienes/Seabrook%20&%20Dienes%2003.pdf).

**Smith, D.** (2007). *Confidence in the criminal justice system: What lies beneath*, Ministry of Justice Series 7/07. London: HMSO.

**Smith, D.** (2010) *Public confidence in the criminal justice system: Findings from the British Crime Survey 2002/03 to 2007/08*, Ministry of Justice Research Series 16/10. London: Home Office.

**Turner, L., Campbell, E., Dale, A. and Graham, R.** (2009) *Creating a knowledge base of public confidence in the criminal justice system: Final report on empirical findings*. Newcastle: Newcastle University.

# Appendix A

## Screeners

### Stage 1: Screener



D U C K F o O T

MoJ - Sentences – Screener – 28 03 2012

#### Overview of sample structure:

	Age	Sex	SEG	Location	Provisional Date
1	18 - 30	M/F	C1C2	South London	Tues April 3
2	18 - 30	M/F	BC1	Berkshire	Wed April 4
3	30 - 50	M/F	C1C2	Berkshire	Wed April 4
4	30 - 50	M/F	BC1	South London	Tues April 3

**Q.1** Have you ever taken part in a market research group discussion or depth interview on any subject?

Yes		<b>GO TO Q2</b>
No		<b>GO TO Q6</b>

**Q.2** When did you last take part in a market research group discussion/depth interview?

In the last 6 months		<b>DO NOT RECRUIT</b>
More than 6 months ago		<b>GO TO Q3</b>

**Q.3** How many times have you taken part in a market research group discussion/depth interview?

1-3		<b>GO TO Q5</b>
4-6		<b>GO TO Q5</b>
More than 6		<b>GO TO Q4</b>

**Q.4** When was the last time you took part in a market research group discussion/depth interview?

In the last year		<b>DO NOT RECRUIT</b>
1-3 years ago		<b>DO NOT RECRUIT</b>
Over 3 years ago		<b>GO TO Q5</b>

**IF RESPONDENTS HAVE TAKEN PART IN MORE THAN 6 GROUP DISCUSSIONS/DEPTH INTERVIEWS, THEY MUST HAVE LAST ATTENDED A GROUP/DEPTH OVER 3 YEARS AGO.**

**Q.5** What subjects have you been interviewed on before?

	<b>Continue</b>	<b>STOP</b>
Health issues		
Food shopping		
Transport		
Computers		
Emergency services		<b>STOP</b>
Police services		<b>STOP</b>
Home Security		<b>STOP</b>
Politics		<b>STOP</b>
Public security		<b>STOP</b>
Justice, e.g. court cases, sentencing		<b>STOP</b>

**Q6.** Please tell me if :-a) you or b) any of your friends/relatives; work or have ever worked in any of the following trades/professions or organisations mentioned here?

	a)	b)		a)	b)
Market Research			Emergency Fire service		
Marketing			Ambulance services		
Journalism			Police (uniformed or support staff)		
Advertising			Government Ministries, e.g. The Home Office		
Public Relations			Government agencies, e.g. HMIC, Ofcom		
Security industry			The Justice System, courts, probation etc		

**IF ANY OF THE ABOVE TRADES/PROFESSIONS MENTIONED – DO NOT RECRUIT.**

**Q.7.** Please tell me if any of the following apply to you **currently or in the past**

		YES	NO
	I was a juror in a court case	<b>STOP</b>	
	I was a Witness in court	<b>STOP</b>	
	I work/have worked in the Justice system, e.g. courts, prisons or parole service etc	<b>STOP</b>	

**Q.8. Do you hold a British Passport?**

Yes	Continue
<b>No</b>	<b>Stop</b>

**Q.9. Which of the following statements apply to you and your close family**

	Applies to me	Does not apply to me
Never <u>arrested and charged</u> for any kind of offence	Continue	<b>Stop</b>
Not been <u>questioned</u> about a crime in the last 5 years	Continue	<b>Stop</b>
Never been the <u>victim</u> of a <u>serious</u> crime	Continue	<b>Stop</b>
Not been the <u>victim</u> of any <u>minor</u> crime in the last 5 years	Continue	<b>Stop</b>

**Q.10. Which of the following statements best reflects your general attitude towards current justice sentences for criminal offenders**

1. The system we have may not be perfect but overall I think it's fair and effective		Continue
2. I don't think the system we have is as effective as it should be and needs a serious overhaul		<b>STOP</b>
3. There's always opportunities to improve how our society operates and that might apply to our justice system too		Continue
4. I think that the system is far too lenient and that things should get a lot tougher		<b>STOP</b>

**MUST NOT feel strongly that the current justice system has serious shortcomings and that the system is consistently too lenient.**

**Q.11. Sex: Male**

**Female**

**recruit 3 men and 3 women for each workshop**

**Q.12.** Please tell me your age:

<b>Under 18</b>	<b>STOP</b>
<b>18 - 24</b>	<b>Consider – workshops 1 &amp; 2</b>
<b>25 - 30</b>	<b>Consider – workshops 1 &amp; 2</b>
<b>31 - 40</b>	<b>Consider – workshops 3 &amp; 4</b>
<b>41 - 50</b>	<b>Consider – workshops 3 &amp; 4</b>
<b>50+</b>	<b>STOP</b>

**Please ensure each group has a spread of ages**  
**Groups 1&2 to include people in both 18-24 and 25-40**  
**Groups 3&4 to include people in both 31-40 and 41-50**

**Q.13** Could you please tell me your occupation or that of the head of household?

Write in occupation:		
A		<b>STOP</b>
B		<b>Invite for workshops 2 or 4</b>
C1		<b>Invite for workshops 1,2,3 or 4</b>
C2		<b>Invite for workshops 1 or 3</b>
D		<b>STOP</b>
E		<b>STOP</b>

**Q. 14.** Workshops 1 & 4 to include ethnic representation, 2 of 6 in each workshop

White	
Mixed ethnic group	
Indian	
Pakistani	
Bangladeshi	

Chinese	
Black African	
Black Caribbean	
Arab	
Other	

**Read out:**

"I'd like to invite you to participate in a workshop session that is being conducted on behalf of the Ministry of Justice as part of a national research study. This will last 2 ½ hours.

***"The purpose of the session is to help the Ministry of Justice work out how to better inform the public about the way justice is delivered in our country. We'll work as a group on how Sentences for adult crimes could be renamed & described differently in language that makes more sense to the general public.***

***The workshop is NOT about trying to decide if Judges are too lenient or asking you to invent new sentences; it is about helping people better understand what current sentences mean."***

*(Leave with participant a copy of this explanation.)*

Day/Date of session : \_\_\_\_\_ Time : \_\_\_\_\_

*RESPONDENT TO SIGN*

I agree that these answers and information are truthful and correct. I give permission for the workshop to be recorded (video and audio) and I give permission for the tapes to be used only by the research company.

Participant's Signature

\_\_\_\_\_

*INTERVIEWER TO SIGN*

I certify that I have carried out this interview according to your instructions, and have conducted it within the MRS Code of Conduct.

Signed : \_\_\_\_\_

**ALL QUESTIONNAIRES MUST BE HANDED TO EXECUTIVES CONDUCTING INTERVIEW BEFORE THE RESEARCH STARTS.**

## Stage 2: Screener



D U C K F O O T

### MoJ - Sentences – Screener – issued: 19 04 12

Overview of sample structure: 30 minute interviews

<i>Depth</i>	<i>SEX</i>	<i>AGE</i>	<i>CLASS</i>
1	M	18-25	BC1
2	F	18-25	BC1
3	M	18-25	C1C2
4	F	18-25	C1C2
5	M	26-33	BC1
6	F	26-33	BC1
7	M	26-33	C1C2
8	F	26-33	C1C2
9	M	34-41	BC1
10	F	34-41	BC1
11	M	34-41	C1C2
12	F	34-41	C1C2
13	M	42-50	BC1
14	F	42-50	BC1
15	M	42-50	C1C2
16	F	42-50	C1C2

<i>Depth</i>	<i>Time</i>
	12.30
	1.00
	1.30
	2.30
	3.30
	4.00
	4.30
	5.00
	5.30
	6.30
	7.00
	7.30
	8.00
	8.30
	9.00
	9.30

**Q.1** Have you ever taken part in a market research group discussion or depth interview on any subject?

Yes		<b>GO TO Q2</b>
No		<b>GO TO Q6</b>

**Q.2** When did you last take part in a market research group discussion/depth interview?

In the last 6 months		<b>DO NOT RECRUIT</b>
More than 6 months ago		<b>GO TO Q3</b>

**Q.3** How many times have you taken part in a market research group discussion/depth interview?

1-3		<b>GO TO Q5</b>
4-6		<b>GO TO Q5</b>
More than 6		<b>GO TO Q4</b>

**Q.4** When was the last time you took part in a market research group discussion/depth interview?

In the last year		<b>DO NOT RECRUIT</b>
1-3 years ago		<b>DO NOT RECRUIT</b>
Over 3 years ago		<b>GO TO Q5</b>

**IF RESPONDENTS HAVE TAKEN PART IN MORE THAN 6 GROUP DISCUSSIONS/DEPTH INTERVIEWS, THEY MUST HAVE LAST ATTENDED A GROUP/DEPTH OVER 3 YEARS AGO.**

**Q.5** What subjects have you been interviewed on before?

	<b>Continue</b>	<b>STOP</b>
Health issues		
Food shopping		
Transport		
Computers		
Emergency services		<b>STOP</b>
Police services		<b>STOP</b>
Home Security		<b>STOP</b>
Politics		<b>STOP</b>
Public security		<b>STOP</b>
Justice, e.g. court cases, sentencing		<b>STOP</b>

**Q6.** Please tell me if :-a) you or b) any of your friends/relatives; work or have ever worked in any of the following trades/professions or organisations mentioned here?

	a)	b)		a)	b)
Market Research				Emergency Fire service	
Marketing				Ambulance services	
Journalism				Police (uniformed or support staff)	
Advertising				Government Ministries, e.g. The Home Office	
Public Relations				Government agencies, e.g. HMIC, Ofcom	
Security industry				The Justice System, courts, probation etc	

**IF ANY OF THE ABOVE TRADES/PROFESSIONS MENTIONED – DO NOT RECRUIT.**

**Q.7.** Please tell me if any of the following apply to you currently or in the past

	YES	NO
I was a juror in a court case	<b>STOP</b>	
I was a Witness in court	<b>STOP</b>	
I work/have worked in the Justice system, e.g. courts, prisons or parole service etc	<b>STOP</b>	

**Q.8. Do you hold a British Passport?**

Yes	Continue
<b>No</b>	<b>Stop</b>

**Q.9. Which of the following statements apply to you and your close family**

	Applies to me	Does not apply to me
Never <u>arrested and charged</u> for any kind of offence	Continue	<b>Stop</b>
Not been <u>questioned</u> about a crime in the last 5 years	Continue	<b>Stop</b>
Never been the <u>victim</u> of a <u>serious</u> crime	Continue	<b>Stop</b>
Not been the <u>victim</u> of any <u>minor</u> crime in the last 5 years	Continue	<b>Stop</b>

**Q.10. Which of the following statements best reflects your general attitude towards current justice sentences for criminal offenders**

1. The system we have may not be perfect but overall I think it's fair and effective		Continue
2. I don't think the system we have is as effective as it should be and needs a serious overhaul		<b>STOP</b>
3. There's always opportunities to improve how our society operates and that might apply to our justice system too		Continue
4. I think that the system is far too lenient and that things should get a lot tougher		<b>STOP</b>

**MUST NOT feel strongly that the current justice system has serious shortcomings and that the system is consistently too lenient.**

**Q.11. Sex: Male**

**Female**

**see sample for gender to recruit, 8 men, 8 women**

**Q.12. Please tell me your age:**

<b>Under 18</b>	<b>STOP</b>
18 - 25	Consider – depths 1,2,3,4
26-33	Consider – depths 5,6,7,8
34-41	Consider – depths 9,10,11,12
42 - 50	Consider – depths 13,14,15,16
<b>50+</b>	<b>STOP</b>

**Please ensure each group has a spread of ages**

**Q.13 Could you please tell me your occupation or that of the head of household?**

Write in occupation:		
A		<b>STOP</b>
B		<b>See sample</b>
C1		<b>See sample</b>
C2		<b>See sample</b>
D		<b>See sample</b>
E		<b>See sample</b>

**Q. 14.** Workshops 1 & 4 to include ethnic representation, 2 of 6 in each workshop

White	
Mixed ethnic group	
Indian	
Pakistani	
Bangladeshi	

Chinese	
Black African	
Black Caribbean	
Arab	
Other	

**Read out:**

"I'd like to invite you to participate in a short depth interview session that is being conducted on behalf of the Ministry of Justice as part of a national research study. This will last 30 minutes.

Day/Date of session : \_\_\_\_\_ Time : \_\_\_\_\_

*RESPONDENT TO SIGN*

I agree that these answers and information are truthful and correct. I give permission for the workshop to be recorded (video and audio) and I give permission for the tapes to be used only by the research company.

Participant's Signature :

\_\_\_\_\_

*INTERVIEWER TO SIGN*

I certify that I have carried out this interview according to your instructions, and have conducted it within the MRS Code of Conduct.

Signed :

\_\_\_\_\_

**ALL QUESTIONNAIRES MUST BE HANDED TO EXECUTIVES CONDUCTING INTERVIEW BEFORE THE RESEARCH STARTS.**

## Appendix B

### Stimulus

#### Stage 1: Stimulus

Our task together is . . .  
Making Sentences  
*'mean something to me'*



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Together we're helping the Ministry of Justice work out how to better inform the public about the way justice is delivered in our country.

Our task is to imagine how Sentences for adult crimes could be renamed & described differently in language that makes more sense to the general public.

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***The workshop is NOT about trying to decide if Judges are applying the right sentence in a specific case.***

***We're not trying to fit sentences to crimes.***

*We're helping people better understand what actually happens to the offender when they receive a particular sentence.*

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*The sentences we're going to describe differently . . .*

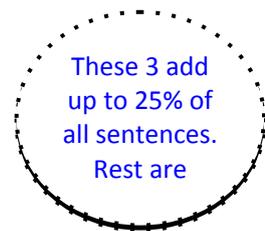
Served in the community meeting certain conditions

Or

A combination of custodial and community

Or

Entirely custodial



-----

*The sentences we're going to describe differently . . .*

1. Community Order
2. Suspended Prison Sentence
3. Determinate Prison Sentence
4. Extended Determinate Prison Sentence
5. Life Sentence

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*Key Sentence Ingredients*

'13 Requirements' served in the community

Time served in Prison

Time served released on licence

-----

*Each sentence type can be applied to a range of crimes*

The sentence chosen will reflect the unique circumstances, the degree of severity of the crime and the offender's history. **For example**

- **Domestic burglary** could result in
  - a **Community Order** for taking advantage of an open door and a low value item taken by someone with no record
  - or a **Determinate Prison Sentence** of around 5 years or higher if premeditated, victim threatened, higher value goods stolen, damage to property
  
- Assault causing Grievous Bodily Harm with intent (**GBH**) could result in
  - a 6 year **Determinate Prison Sentence** for harming a vulnerable victim or repeated assault on the same person
  - or a **Life Sentence** for serious long-lasting harm in a premeditated attack using a weapon, and the offender has previous violent convictions

-----

*Licence is . . .*

The conditions under which an offender is released from prison, and is the second part of their custodial sentence

May include,

- Requirements to report to the Probation Service
- Restrictions on where they may live or what work they may do
- Restrictions on where they can go

If an offender breaches their licence conditions, they are liable to be recalled to prison to serve some or all of the rest of their sentence in custody

-----

People often say Judges are too lenient . . .

. . . but when the general public are asked their opinion . . .

. . . they often choose lighter sentences than judges.

-----

### *Community Order, 13 Requirements*

- The more serious the offence + the more extensive the offender's problems, the more requirements ordered
- Most Community orders comprise one or two requirements
- The court is guided by the probation service through a pre-sentence report

-----

### *13 'requirements' of Community Order that can be ordered by the judge or magistrate*

1. **Unpaid Work** or "Community Payback": 40 and 300 hours unpaid work
2. **Activity** – attend basic skills classes, e.g. finance/debt management
3. **Accredited Programme** – e.g. anger management, domestic violence
4. **Prohibited Activity** – , e.g. not enter certain pubs, not to associate with certain individuals
5. **Attendance centre** – three hours of activity, usually on Saturday, 4 to 12 sessions
6. **Mental health treatment**
7. **Drug rehabilitation**
8. **Alcohol treatment**
9. **Curfew** – electronically monitored, for up to 12 hours a day, for up to 6 months;
10. **Exclusion** – stay out of certain areas/places, e.g. shops, an estate
11. **Residence** – has to be approved by probation officer
12. **Supervision** – meetings with probation officer to address needs/offending behaviour, motivate compliance with the sentence
13. **Foreign Travel Prohibition** – prohibits the offender from travelling abroad
14. **Alcohol Abstinence and Monitoring Requirement** – prohibits the offender from drinking alcohol<sup>7</sup>

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<sup>7</sup> The Foreign Travel Prohibition and Alcohol Abstinence and Monitoring Requirement were introduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2012. However, the Alcohol Abstinence and Monitoring Requirement is not yet in force, so at present there are a total of 13 requirements in operation.

**Table B.1: Matrix of adult sentences**

<i>Sentence type</i>	<i>Time in custody</i>	<i>Release from custody</i>	<i>Time in community</i>	<i>Type of supervision in the community</i>	<i>Recall into custody</i>
<b>Community order</b>	n/a	n/a	Full term set on conviction – up to three years	One or more of 13 <sup>8</sup> 'requirements'	n/a
<b>Suspended sentence order</b>	Full term suspended for six months to two years	n/a	Full term set on conviction - up to two years	One or more of 13 'requirements'	If the offender breaches the order or reoffends, the custodial part of the sentence can be activated
<b>Determinate prison sentence – under 12 months</b>	Half of full term	Automatic at half of term	Second half of full term	n/a	No, but if second offence committed outstanding time can be added to sentence for second offence
<b>Determinate prison sentence – 12 months and over</b>	Half of full term	Automatic at half of term	Second half of full term	On licence	Yes, if licence conditions breached
<b>Extended determinate sentence – fixed split custody/community</b>	By law, first two-thirds of term	Automatic at two-thirds of term	Last third of full term. Can be extended by up to eight years	On licence	Yes, if licence conditions breached
<b>Extended determinate sentence – release parole conditional</b>	Between two-thirds and full term	Parole review possible after two-thirds of term to end of custodial term	Last third of full term possible, and can be extended by up to eight years	On licence	Yes, if licence conditions breached
<b>Life sentence</b>	Minimum term	Parole review possible release once minimum term completed	Rest of life, if and when released by parole board	On licence	Yes, if licence conditions breached
<b>Life imprisonment</b>	Rest of life	n/a	n/a	n/a	n/a

<sup>8</sup> The Legal Aid, Sentencing and Punishment of Offenders Act 2012 introduced two additional requirements, Foreign Travel Prohibition and Alcohol Abstinence and Monitoring Requirement, bringing the total number of requirements to 14. However, at present only 13 are in operation, with the Alcohol Abstinence and Monitoring Requirement not yet in force.

*What Sentences seek to achieve are things that you might want to express in your descriptions*

1. Punishment of offender
2. Reparation for victims
3. Rehabilitate offenders
4. Reduce reoffending
5. Protect the public
6. Deter others from offending

-----

*For Your Information*

- Offenders receiving community sentences do not 'walk free' from court, they are subject to requirements
- There is no reduction in time served in prison for good behaviour, but bad behaviour can lead to the offender serving additional days in prison
- A **Life Sentence** is always for life = a minimum period in prison + then on licence for the rest of life.
- **Life Imprisonment**, i.e. a life sentence with a whole life tariff, means in prison for the rest of life

**Stage 2: Stimulus**

**Overall framework**

Five different expressions for the overall framework were written for testing:

A: Every prison sentence given by a Judge has **3** parts

1. Time served inside prison
2. Time served outside prison
3. Conditions to be met

B: Every prison sentence has **3** parts

1. Minimum time served inside prison
2. Conditions to be kept to on release
3. Fixed time monitored outside prison

C: Every prison sentence has **3** parts

1. Fixed time served inside prison
2. Conditions to be kept to on release
3. Fixed time monitored outside prison

Bad behaviour can mean more time served inside than outside.

D: Every prison sentence has 2 parts

4. Time served inside prison
5. Time served outside prison meeting fixed conditions

E: Every prison sentence has 2 parts

1. Minimum time served inside prison
2. Fixed time served outside prison meeting fixed restrictions

## **Stimulus of examples of different sentence types**

### **Life Imprisonment & Life Sentence**

A: Rest of life in prison,  
no release,  
no review

B: Minimum 25 years in prison,  
considered for possible release,  
then checked on for the rest of their life.

### **Extended Determinate sentences, parole and fixed**

A: Fixed 8 years inside,  
considered for release or another 4 years inside,  
8 to 12 years monitored outside.

B: 4 years in prison,  
5 years outside monitored,  
restricted movements & work options

### **Determinate sentence 12 months and over**

A: 3 years in prison,  
3 years watched in the community,  
report to a probation officer on regular basis.

### **Determinate sentence under 12 months**

A: 5 months in prison,  
Up to 5 months more if reoffends within 5 months,  
plus sentence for new offence.

### **Suspended sentence**

A: 12 month prison time suspended,  
must meet conditions in the community for 2 years,  
or sent to prison

B: Not associate with certain people for 2 years,  
keep to a curfew wearing a tag,  
breaking restrictions will mean a prison sentence for 12 months fixed.

### Community Sentences

A: Every Community Sentence can have 3 parts

1. PAYBACK to the community
2. PROTECTION for the community
3. REHAB to help stop reoffending

B: Every Community Sentence can have 3 commands

1. PUNISHMENT in the community
2. PROTECTION for the community
3. TREATMENT to help stop reoffending

C: Every Community Sentence can have 3 ...

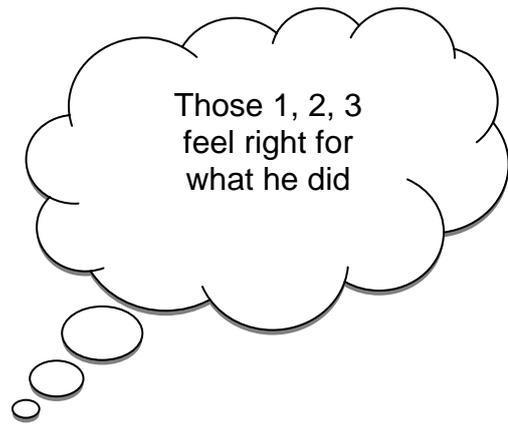
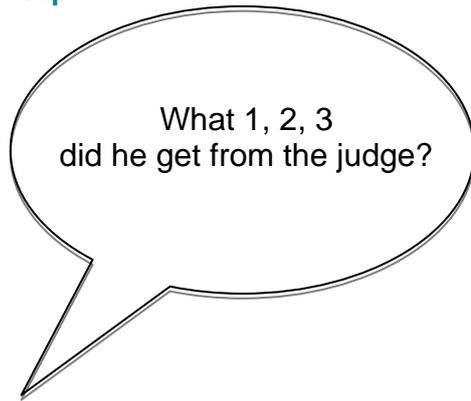
requirements,  
purposes  
edicts,  
directives,  
demands,  
commands,  
instructions,  
regulations

### Examples of Community Sentences

A: Payback with 100 hours unpaid work in the community,  
has to keep to a curfew,  
which is monitored by a tag for 6 months to protect the neighbourhood.

B: Attend domestic violence course for 6 months,  
stay out of public houses,  
agree to attend alcohol abuse sessions.

## 1, 2, 3 Concept



Reporting the 1, 2, 3 of criminal sentences

A: *'He was given a 3-part sentence of 6 years in prison, 6 years being monitored, with fixed conditions that will prevent him from living in his old neighbourhood.'*

B: *'She'll serve 200 hours of payback time doing unpaid work in the community, there will be no restrictions on her movements other than making no contact with her ex-husband and his second family for 12 months.'*

## Appendix C

### Definitions of sentences

#### Community sentences and the 13 requirements

A 'community order' is a sentence served in the community (as opposed to a prison sentence). There is only one form of the sentence – the 'community order' – but within that order a sentencer can choose more than one 'requirement' from a range of 13 different requirements – for example, 'unpaid work', 'curfew', 'drug treatment requirement', 'supervision', etc.

#### Suspended sentence orders

A suspended sentence is a custodial sentence – i.e. the offence merits a custodial term. However, in some circumstances the court may decide to suspend the custodial term where it is for 12 months or less. In that case the offender does not go to prison (as they would for immediate custody) but undertakes requirements in the community – similar to the community order above, and subject to the same range of requirements that can be imposed. If an offender breaches a requirement in the community, or commits another offence, the presumption is that the custodial sentence will be given effect – in other words, they end up in prison serving the custodial sentence.

#### Determinate prison sentences

These are custodial sentences of a fixed period – e.g. a four-year prison sentence (in comparison to 'extended determinate' or 'life sentences' below). For these sentences the offender spends half the time in custody and half in the community. So a four-year determinate sentence will mean two years in prison (at which point, by law, the offender is automatically released) and two years in the community under licence – meaning they will be subject to supervision by the probation service and recalled to prison if their behaviour gives cause for concern. Offenders serving less than 12 months are released at the halfway point in their sentence, but are not currently subject to supervision in the community.

#### Extended determinate sentence

These are new sentences which were introduced in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which commenced at the end of 2012. They are for dangerous offenders who commit specified sexual or violent offences and who the court considers present a significant risk of causing serious harm through reoffending.

The offender will receive a determinate custodial sentence plus a further extended period on licence, which will be set by the court. Offenders receiving this sentence will serve at least two-thirds of the custodial term in prison. The most serious offenders have to apply to the parole board for consideration of release at the two-thirds point, but they may serve the whole custodial term in prison. Once released, offenders serving an extended determinate sentence will then be on licence for extended periods where they will be closely monitored and subject to recall to prison if necessary. The courts have the power to give an extended period on licence of up to five years for violent offenders and eight years for sexual offenders, beyond their custodial sentence.

## Licence

Offenders are released from prison on licence. The licence sets out conditions for the release and behaviour in the community. It may, for example, require offenders not to enter certain areas or associate with certain people. Breach of the licence may mean the offender is recalled to prison. Determinate sentences over 12 months, extended determinate sentences and life sentences all have licence conditions on release.

## Life sentences versus life imprisonment

A life sentence lasts for an offender's life, but this does not necessarily mean that they spend their whole life in prison. Most life sentences carry a minimum period to be served in custody before being considered for release. This minimum period or tariff (which is served in full – i.e. it is not halved) must be served before the parole board decides whether or not the offender is safe to be released on licence. Some offenders who are eligible for parole will not be released because the parole board considers they present an unacceptable risk to the community. If released, however, the offender will receive a life licence – in other words, they will be subject to the licence for the rest of their life and may be recalled to prison at any point after release if they breach licence conditions or their behaviour gives cause for concern. So while a life sentence may not mean life in prison, it does last for the rest of the offender's life.

## Tariffs

(See above.) This is the minimum period that must be served under an indeterminate sentence before release is considered by the parole board. The period is served in full.

## Life licence

See above on life sentence/imprisonment.