



Up-2-Us response to Scottish Government Consultation on Proposals to Strengthen the Presumption against Short Periods of Imprisonment

October 2015

CONSULTATION QUESTIONS

Question 1: Should the presumption against short periods of imprisonment of three months or less be extended?

☐ **Yes**

☐ **No**

You may wish to provide information to support your views, for example, what do you consider to be the key factors for or against the proposal?

Comments

Short sentences have become a heavily relied upon resource, and can often be an option used reactively, and not purposefully. Short sentences disrupt life courses and service provision, and challenge family relationships and child care. Yet they are not proven to be effective as a method of reducing offending for young women e.g. we know the majority of young women receive short sentence, and '88% of 16-20 year olds (not gender specific) released from custody are reconvicted within 2 years, with 45% receiving further custodial sentences' (SCCCJ, 2011).

Question 2: If you agree that the presumption against short periods of imprisonment should be extended, what do you think would be an appropriate length?

☐ **6 months**

☐ **9 months**

☐ **12 months**

Comments

In line with the role of HMP, custodial sentences should only be given to those who have committed violent crimes, who would receive longer sentences regardless.

Question 3: Do you have any specific concerns in relation to a proposed extension of the period covered by the presumption against short sentences?

Comments

Scottish Government and the Third Sector will need to continue effective partnership

to ensure that viable community alternatives targeting population specific needs exist nationally. There will be a need to educate sheriffs and judges about community alternatives, to build confidence in community alternatives and alleviate feelings of disempowerment in extending the time period covered by presumption against short sentences.

Question 4: Do you think there are any specific circumstances to which a sentencing judge should be required to have regard when considering the imposition of a custodial sentence?

Comments

Too often young women are assessed for risk, with great influence placed on historic charges, and credence given to old reports. Instead, Up-2-Us believes that emphasis should be placed on a young woman's effort towards eclipsing offending behaviours, and progressing in life, especially in the time period between charge and court, when this is lengthy. In line with recent reporting from Howard League, Up-2-Us believes that young people's voices should be heard. We need to know what would help each individual desist and make positive changes, and empower young people to help themselves.

Wider consideration should be given to social and family circumstances – the impact of poverty, violent and anti-social norms, curtailed ambition, and the culture of offending among specific population groups. There must also be a recognition of the factors which lead to offending behaviour, and a commitment to targeting them, to reduce generational continuation of offending.

The power of prison is lost when the deterrent is undermined. Many sent to prison come from families with long histories of offending, and so the idea of going to prison themselves is not the deterrent it should be. Young women should be made to take responsibility for offences, and assert control over their future via community alternatives, rather than removing all control and sense of reparation in a prison environment. Sentencing judges should consider community alternatives at each point in the decision making process for short sentences – unpaid hours are a viable resource, and with gender and age informed practice could be made to work better.

Question 5: Do you think there are specific offences to which the presumption should not apply (i.e. offences which could still attract a short custodial sentence)?

Comments

No, any offences which could attract short sentencing options – and thus would be assumed to be non-violent or serious in nature, should be diverted to community alternatives. Community alternatives must be seen to be fully adept at meeting the needs of young women (people), in restricting movements through curfews and

tags, and in restoring a sense of community obligation.

Question 6: Do you think that there are any circumstances in which a custodial sentence should never be considered?

Comments

Yes, prison should be used as it was intended – to secure those who are a risk to others. Unfortunately custodial sentences have been used more commonly than as a last resort measure, and for those committing non-violent crimes. The evidence from government statistical analysis does not support the continuation of this.

Question 7: Do you think that the Scottish Government should also consider legislative mechanisms to direct the use of remand? If so, do you have any views on what such a legislative mechanism might include?

Comments

There should be a refined policy directive for use of remand. Evidence from the Commission on Women Offenders demonstrates that 70% of those remanded do not go on to get a custodial sentence. Yet remands can last between one night and several months. The effects of remand are similar to the effects of sentencing, and thus should be used solely for the purposes of holding individuals who are a risk to others until their sentencing, which is highly likely to be custodial.

Alternatives should be in place for those charged with breaches or low level offences. They may need supervision to remove the potential for absconding from court or harm to self. In place should be, greater use of HDC, curfews, safe places, accommodation with intensive support, and intensive support in the community, and this should be specific to the population groups identified needs.

Question 8: Do you have any additional comments on the use of short-term imprisonment?

Comments

n/a.