

# one small thing

One Small Thing's response to The House of Lords Justice and Home Affairs Committee Inquiry on Community Sentences.

## About One Small Thing

One Small Thing's vision is a justice system that can recognise, understand, and respond to trauma. Our mission is to redesign the justice system for women and their children.

We want a compassionate system that recognises the vicious cycle of trauma and disadvantage at the root of justice involvement and allows people to recover from trauma and thrive. Our core focus is on women and their children because of the additional discrimination and disadvantage they face.

### How:

Redesign the way the justice system responds to women and their children in a way that can be replicated and scaled nationally.

Educate people within the justice system on the impact of trauma, and draw on our knowledge and expertise to help build capacity within organisations.

Influence politicians and policy makers to encourage culture change across the justice system and the people who work within it.

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## Response Summary

At One Small Thing our mission is to redesign the justice system for women and their children. We believe a key element of how the system should work is that that whenever possible women should be supported in the community rather than unnecessarily imprisoned. We are therefore delighted to have the opportunity to respond to The House of Lords Justice and Home Affairs Committee Inquiry on community sentences.

Over the last 10 years, the use of community orders has significantly decreased, whilst the use of short custodial sentences has risen, with devastating consequences for women and their children. Our response outlines what may be driving this, the impact this has on women and children, and highlights the specific barriers women may face when completing a community order.

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## Historical trends

1. How have the numbers of community orders handed down to offenders evolved over time? Why, and with what consequences?

1. Over the last decade the use of community sentences has more than halved, whilst the use of short custodial sentences are consistently overused for non-violent crimes, with more than two in five people being sentenced to serve six

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months or less<sup>1</sup>. For women, this trend is even more pronounced with 52% of women receiving sentences of six months or less<sup>2</sup>, the majority of whom have committed non-violent offences and would be best supported in the community where they could retain jobs, family connections and accommodation.

2. The reasons behind why the number of community sentences have fallen is layered, however there is evidence to suggest that the decline in the use of pre-sentence reports (PSRs) is linked to the fall in the number of community sentences, with courts being over 10 times more likely to impose a community sentence if a pre-sentence assessment has been conducted<sup>3</sup>.
3. For women, PSRs are especially vital and can play a significant role in their future outcomes. Many women who come into contact with the justice system have experienced significant trauma, and are often victims of more serious crimes than the ones they are accused of. For many, custody is simply not an appropriate or effective intervention, and has even been associated with higher rates or reoffending than community sentences<sup>4</sup>.
4. Women are also significantly more likely to be the primary carer of their children. Considering that only 5% of children remain in their family home when their mother goes to prison<sup>5</sup>, it is vital that those sentencing women are able to have a detailed picture of their circumstances, and what impact different sentencing options will have on their lives and those that depend on them – this need is reflected in the Farmer Review recommendations.

*‘The sentencing Council need to set out a guideline that says, every time a court has an adult before them, who is a primary carer of dependent children, they must get a pre sentence report, they must consider the welfare of those children as a factor in their sentencing exercise, that’s what we need, it would take half a page, and it would transform the lives of these children.’ Shona Minson, Barrister and Criminologist, on our JUSTICE Podcast<sup>6</sup>*

5. Community sentences are being underused for women who pose minimal risk to the public, whilst short custodial sentence are becoming more common - with devastating consequences for women and their children. Even a short time in custody can result in women having their children removed, and losing their

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<sup>1</sup> Bromley Briefings Prison Factfile January 2023, p10

<sup>2</sup> Bromley Briefings Prison Factfile January 2023, p39

<sup>3</sup> Centre for Justice Innovation (2018) The changing use of pre-sentence reports, London: CJI

<sup>4</sup> Hedderman, C. and Jolliffe, D. (2015) The Impact of Prison for Women on the Edge: Paying the Price for Wrong Decisions, Victims & Offenders: An International Journal of Evidence-based

Research, Policy, and Practice. Quoted in Bromley Briefings Prison Factfile January 2023, p38

<sup>5</sup> What about me? The impact on children when mothers are involved in the criminal justice system, Prison Report Trust, 2018

<sup>6</sup> <https://play.acast.com/s/justice/in-conversation-withdr-shona-minson>

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homes and jobs, and it has been shown that women released from custody are more likely to reoffend sooner than those serving community sentences<sup>7</sup>.

6. Sending a woman to prison unnecessarily when she could be safely managed in the community deprives her of access to a wide range of support and the opportunity to maintain ties with her children and family, key elements that have been recognised to reduce reoffending. As Lilly Lewis, Women's Involvement Advisor at One Small Thing highlights:

*'Community sentences would have, and do have a positive impact on women's relationships with their children. Being supported in the community would mean they would not have to go through the trauma of separation. This would also be beneficial for children as well as other family members who have offered to care for children whilst mum in prison. I think the effect of separating mums from the children is greatly underestimated, and the long term effects of separation trauma can last a lifetime. I now have full contact with my children but I didn't have any contact with my two youngest children for the first 22 months I was in prison. The older of the two did visit on a handful of times but she found it so distressing that I stopped her from coming. I would have liked to be included in all care meetings about my children, even if over zoom/skype, and to be consulted around visits from them. I was told that they didn't want to see me, but having spoken to them I know this was not their choice.'*

### 3. What are the attitudes of sentencers towards community sentences? How have these attitudes evolved over time and what shapes them?

7. One Small Thing has just finished building Hope Street, a pioneering residential community for justice involved women, and their children. Hope Street aims to be a community-based alternative to women receiving short custodial sentences, being unnecessarily imprisoned on remand or released to homelessness, and a safe place for women to carry out their community sentence. During the build of Hope Street we ran engagement sessions with local magistrates to inform them of what Hope Street can offer women, including how those given community sentences will be supported to fulfil the requirements of their order.
8. Through our engagement with Magistrates we've heard how a lack of (or lack of awareness of) support or alternatives in the community can lead them to believe there are few other options than giving woman a custodial sentence, or that custody may be a safer place for the woman if, for example, she is experiencing domestic abuse, poor mental health or is homeless.
9. Whilst none of these are appropriate reasons alone to send someone to prison, we see time again women receiving short custodial sentences for non-

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<sup>7</sup> Hedderman, C. and Jolliffe, D. (2015) The Impact of Prison for Women on the Edge: Paying the Price for Wrong Decisions, Victims & Offenders: An International Journal of Evidence-based Research, Policy, and Practice. Quoted in Bromley Briefings Prison Factfile January 2023, p38

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violent crimes, and being drawn unnecessarily further into the justice system when a community sentence would have been more appropriate. In a recent poll we ran, only 8% of respondents thought those sentencing women to custody, instead of a community order, did so for the protection of the public.

10. As Lilly Lewis, Women's Involvement Advisor at One Small Thing also highlights, there seems to be a lack of knowledge on options for dealing with people repeatedly committing offences, and what an effective solution could be in these circumstances beyond giving someone a custodial sentence.

*'The reason I think that community sentences have dropped could be due to most female offenders on small sentences for low level offences have usually been seen at the magistrates court numerous times before. It is then deemed that the person will not change or stop offending so prison seems the only option. In my experience whilst in custody, it was the same women returning time after time which is where the term 'revolving door' comes from.'*

11. According to data collected by the Prison Reform Trust, Community sentences are particularly effective for people who have committed a large number of previous offences and those experiencing mental health problems<sup>8</sup>. Despite this, there is a hesitance to give community sentences to women, ignoring evidence which highlights women released from prison are more likely to reoffend, and reoffend sooner, than those serving community sentences<sup>9</sup>.
12. Whilst what shapes these attitudes is complex and layered, there is an apparent lack of trust from sentencers in community orders. A survey published in 2017 showed that over a third of magistrates are not confident that community sentences are an effective alternative to custody, and two thirds are not confident that community sentences reduce crime<sup>10</sup>.

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## **Delivery of community sentences**

**4. What are the main obstacles to the effective delivery of community sentences? What are the best practices for the delivery of community sentences?**

13. The lack of services in the community can play a role in a woman's ability to safely complete a community order. Women who become involved in the justice system often have complex needs, and would benefit from a range of support around domestic abuse, mental health, substance use and safe housing. However, the chronic underfunding of community services such as Women's

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<sup>8</sup> Bromley Briefings Prison Factfile January 2023, p52

<sup>9</sup> Hedderman, C. and Jolliffe, D. (2015) The Impact of Prison for Women on the Edge: Paying the Price for Wrong Decisions, Victims & Offenders: An International Journal of Evidence-based Research, Policy, and Practice. Quoted in Bromley Briefings Prison Factfile January 2023, p38

<sup>10</sup> Where did it all go wrong? A study into the use of community sentences in England and Wales, Crest Advisory, 2017

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Centres can leave women unsupported. According to the Women's Budget Group, *'Many Women's Centres have exhausted the funding options that have kept them afloat in recent years.. and can no longer maintain the 'hand to mouth' existence of managing multiple small grants'* – ultimately leaving them unable to plan for the future<sup>11</sup>.

14. In a recent snapshot poll we ran, 47% of respondents said the lack of support services in the community could be a contributing factor in women receiving short prison sentences instead of community orders. Lilly Lewis, Women's Involvement Advisor elaborates:

*'The lack of support services (such as mental health and domestic abuse) will be detrimental to women on community sentences as many women who commit offences are driven to offend because of outside factors such as those who are pressured to commit offences by abusive partners. If there was enough support around underlying issues for women with unmet needs, we may see a reduction in crime and ultimately better outcomes for women.'*

15. In our poll, 34% also highlighted how the lack of safe accommodation for a women to complete a community order may lead to her being given a short custodial sentence. One Small Thing has just finished building Hope Street, a pioneering residential community for justice involved women, and their children. Hope Street aims to be a community-based residential alternative to women receiving short custodial sentences, being unnecessarily imprisoned on remand or released to homelessness, and a safe place for women to carry out their community sentence and keep their children with them.

*'Hope street will make a huge difference for women and children who are affected by the criminal justice system. Working with women in the community, instead of against them, in a trauma informed way using therapeutic approaches will see much better outcomes for women and their children, and ultimately a reduction in crime and public spending on unnecessary custody.'*

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## **Impact on the community**

9. Community sentences entail a punitive and a rehabilitative component. How do offenders experience these two components? Do different cohorts of offenders, such as female offenders, experience them differently?

16. Considering both components of community sentences are an enforced requirement, it is perhaps not helpful to think of some elements as being punitive and the rest 'non-punitive'. None of the components are a choice and to an extent all of them require some deprivation of liberty. For women, this

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<sup>11</sup> The Case for Sustainable Funding for Women's Centres, UK Women's Budget Group, 2020).

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binary distinction of what is punitive and what is 'non-punitive' may not be an effective methodology for sentencing, considering their life experiences.

17. Many women involved in the justice system are victims of crimes more serious than the ones they are accused of, and often have deep experience of trauma and multiple unmet needs. Over 60% of women in prison report having experienced domestic abuse, and in the seminal Corston Report coercion by men was recognised as a route into criminal activity for women. As such, even what might be deemed a rehabilitative component may be experienced as punishment, especially if the crime itself was committed out of coercion or under duress.
18. Women are also more likely to be the primary or sole carer of their children, and will need a community sentence to take their caring responsibilities into account such as ensuring they have access to childcare arrangements, and a safe place to stay that can accommodate their children.

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Response author: Sarah Smith, Policy and Communications Officer. With contributions from Lilly Lewis, Women's Involvement Advisor.