**Howard League** for **Penal Reform**

# Early Career Academics Network Bulletin

## January 2020 – Issue 43

**Early Career Academics Network Bulletin**

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**ECAN Facebook Group**

The Howard League for Penal Reform is active on [Facebook](#) and [Twitter](#). There is a special page dedicated to the Early Careers Academic Network that you can reach either by searching for us on Facebook or by clicking on the button above. We hope to use the Facebook site to generate discussions about current issues in the criminal justice system. If there are any topics that you would like to discuss, please start a discussion.

# Introduction

*Using research to make a difference*

Many people conducting criminological research do so in large part because of the perceived shortcomings and limitations associated with the policies and practices in their area of interest. The vast majority of the colleagues alongside whom we work in the fields of crime, harm and criminal justice believe passionately that certain things ought to change, and that they have a legitimate role to play in securing such change. To what extent, however, should researchers be concerned with influencing policy and practice? And, if this is their aim, how best might they go about ensuring their own research has impact? How indeed should 'impact' be understood in the context of researching the various and variable meanings of 'crime', 'justice' and 'harm'? In short, what does it mean for one's research to have 'impact' or make a difference when there is also the expectation for us, as academics, to produce new knowledge?

As the contributions to this ECAN bulletin demonstrate, 'making a difference' or 'impact' can be interpreted in many different ways. Earlier generations of social scientists may have thought about the link between politics and knowledge production in relation to Weber's (1919) observation that social science ought to strive for *value freedom*. Or, they may have been more persuaded by Gouldner's argument that value freedom is not possible (Gouldner 1961).

Alternatively, they may have been convinced by Becker's (1967) injunction to 'humanise the deviant' when he rhetorically asked, 'whose side are we on'? Perhaps, however, they might have been swayed by Gouldner's later riposte to Becker — that unless we are laying bare the structures of power that determine who and under what circumstances the powerful are able to define acts and people as deviant, then humanising them is doing little more than zookeeping (Gouldner 1968).

The point here is that for this generation of criminologists, making a difference was as much about politicising the academy as it was about understanding the social world. For today's academics, the external audit of universities' research efficacy (the Research Excellence Framework (REF)) has created an alternative set of priorities – that is, the imperative to measure and demonstrate the tangible impact that one's own criminological research has had on the social world. It is perhaps unsurprising that academics working today have taken on board how the REF defines research impact given that it preoccupies the agendas of academic institutions through its promise of lucrative rewards. The spoils of league table

performance and money go to those institutions whose members of staff have supposedly secured the greatest impact through their research.

There are many problems with the REF-defined impact agenda. For instance, the complex methodological questions of whether it is possible to know the actual impact of a programme of research — perhaps research is widely read and acted on by government ministers in Bogotá, Columbia, yet the authors are completely unaware that it has had such an influence — or indeed the ethical issues of trimming and shaping one's research project with the view to creating impact (see Carlen and Phoenix 2018) which may distort how social and political change is conceptualised and pursued.

One of the authors in this bulletin, for example, has found themselves fighting the temptation to narrow their ambitions for large-scale policy change (which may or may not materialise) in favour of relatively minor technical tweaks to policy and practice, which would constitute quick and easy wins in support of a REF impact case study. To be clear, this is not the result of any individual exerting pressure on another individual, but of a system that incentivises and/or has the potential to penalise the pursuit of certain kinds of impact. The direction of pressure exerted by the REF is clear: forsake the relatively risky pursuit of difficult-to-achieve radical reform agendas in favour of more modest and incremental changes within the existing system – changes that are more likely to materialise and

certainly are easier to measure and evidence in an impact case study.

The hyper-competitive, resource-consuming, toxic climate fostered by the REF provides good grounds for collective resistance to the entire process. In relation to research impact in particular, we would like to see a move away from top-down, prescriptive definitions of 'research impact', with, minimally, its replacement by the pursuit of 'making a difference' in the specific context in which research is produced. Perhaps more ambitiously, we aim for its entire displacement by a new generation of academics returning to and working through the politics of what 'making a difference' has the potential to mean. To the extent that the 'difference' in 'making a difference' is defined on a case-by-case basis and by people's personal passions, concerns and priorities - we would argue that using research in this way constitutes a worthy and admirable use of academics' time and energies.

In the contributions that follow, readers will find six excellent examples of academics who have used, and continue to use, their research to make a difference in different ways: some in ways that are apt to be utilised by their institutions in the pursuit of bettering supposed institutional performance; others in ways that conceptualise 'making a difference' through more abstract lenses, such as shaping other people's (including academics') ways of thinking about established criminological problems.

**Steve Tombs** provides a moving account of a career in teaching and research that has spanned over three decades. He takes readers on a

chronological journey through his research and activism, describing various and overwhelmingly joint endeavours. These have involved making a difference by, for example, shaping government regulatory policy and influencing public opinion through a range of public-facing activities. Steve highlights that all research is inherently political, whether or not we choose to recognise this explicitly, and argues against the tendency for people to distinguish between activists and academics. In this respect, his contribution represents a politicised version of impact in which academics have a role to play in addressing issues around power, social inequalities and (in)justice.

**Stevie-Jade Hardy** describes a series of research projects, all of which were designed with the purpose of bringing to light and recognising otherwise unseen forms of victimisation that, in themselves, are political – or at the very least occur in relation to other people's prejudices. Of equal concern in these projects was the ideal of transforming official responses to hate crime. Stevie places the pursuit of a more 'traditional' definition of impact into a less traditional context. For her, co-design and co-production of research with policy makers (i.e. creating the 'incremental changes' referred to above) becomes increasingly important in today's society if only to counterbalance wider 'hate-generating' social forces. Stevie's short piece demonstrates that even the more REF-inclined, narrow version of 'impact' nevertheless contains within it the seeds of potent and meaningful social change.

**Victoria Canning** reflects on her experience conducting research on

the intersectional impacts of asylum systems on people seeking asylum. Victoria highlights the importance of not allowing external pressures to dictate the type of outputs we produce. To this end, she cites the examples of the book*, Strategies for Survival, Recipes for Resistance,* and the *Right to Remain Asylum Navigation Board* – a tool that helps to bring those seeking asylum together and challenge false information that can hamper asylum applications. Victoria discusses the potential for the REF to put pressure on academics to produce work that satisfies its own internal criteria to the neglect of other outputs that are most needed by those with whom we collaborate.

**Kate Herrity** describes a very different way of pursuing prison research – one which draws on the auditory experience, the 'soundscape' of a prison. Starting from personal experience about what it felt like to walk into a prison (being an assault on the senses), Kate writes about the possibility of making a difference by shifting the object of analysis from text to sound. For Kate, noise (or the soundscape) becomes part and parcel of both the harms of imprisonment as well as a means by which we, as academics, can displace established meanings and understandings of the prison, proffering new ways of thinking that reach beyond the academy to 'the great unwashed' of the everyday and ordinary people. Along the way, Kate makes a set of observations about the purpose of research and offers an awkward reading of impact through which she represents an older tradition in which 'making a difference' is framed in relation to how people think about, see, or more

pertinently, hear, a prison and its effects.

**Jose Pina-Sanchez** has for many years acted in a critical yet collaborative capacity alongside the Sentencing Council for England and Wales. His research in the field of sentencing has been nothing short of trail-blazing, both responding to and informing the Council's priorities. Jose has collaborated with numerous academics along the way, producing innovative and insightful research across various areas of sentencing policy and practice. His article provides readers with an archetypal example of how researchers might seek to engage with professional bodies inside the criminal justice system, helping them achieve their goals by conducting rigorous research that simultaneously supports and holds such bodies to account.

**Anna Carline** gives readers an insight into how she, as an academic, connects her substantive interests (in sexual violence, gender and the law) with her theoretical interests and her ethical stance to create collaborative and imaginative ways of 'making a difference'. For Anna, her theoretical framework points her towards thinking about affect and transformation in the courts and across the criminal justice system. Her commitment to improving the experiences of women (as victims of sexual violence) then drives imaginative, collaborative explorations with others about what to 'transform' in those specific interactions, and how to do so. Whether it is 'targeted' or unexpected, for Anna impact and making a difference are not measured but rather are the reason for doing the work she does.

The articles in this issue provide readers with an insight into the various ways in which six academics think about what it means to make a difference, and how they have been using their research to do just that. Whether their focus is state-corporate harm, hate crime, unjust immigration systems, prisons, sentencing, or the links between criminal justice and the regulation of gender identity, the means by which these academics have sought to achieve change is striking. For some, change is hardwired into their research design. For others, it is part of the magic that happens when academics collaborate with a range of non-academic partners in thinking through what could be done to address any specific social problem. For others still, making a difference is about fundamentally shifting the way we (academics and non-academics) see and understand things.

For us as editors, one of the unexpected outcomes of asking these six academics to write about their research and pursuit of impact is the distance between how research efficacy is measured in the REF and what academics actually do. We were not surprised to read that for each of our contributors, a particular political or ethical stance underpinned their choice of research subject, as well as how they framed their impact.

We hope that readers whose usual interests diverge from these particular subject areas will nevertheless enjoy reading about topics that would ordinarily fall outside of their usual scope. In particular, we hope that the following articles provide a source of inspiration and support for those early career academics who are just

beginning to lay down some preliminary tracks for their own careers, which may well go on to generate a life-time of research that makes a difference – however they wish to define it.

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Dr Keir Irwin-Rogers is a lecturer in criminology with The Open University. His research focuses on the causes of violence between young people and the harms of prohibitionist drug policies. Keir is lead criminologist to the on-going, cross-party Youth Violence Commission. He is also a member of the Howard League's Research Advisory Group.

Professor Jo Phoenix is a Chair in criminology at The Open University. She is interested in a wide range of substantive topics: youth justice; prostitution and prostitution policy reform; child sexual exploitation; gender; sex and sexualities; research ethics. She is a member of the Howard League's Research Advisory Group as well as a Trustee for the Centre for Crime and Justice Studies.

**About the editors**

**Howard League** for **Penal Reform**

**Crime, Justice and Social Harms**
**Two-day International Conference**
**31 March – 1 April 2020, Keble College Oxford**

**Call for papers**

How social harms are understood, questioned and tackled can have a profound effect on how communities approach crime and justice.  This conference comes at a time when communities across the world are experiencing change and uncertainly affecting how they understand themselves and challenges to the status quo.  Coping with, responding to and supporting such uncertainty and change brings challenges for political institutions, criminal justice agencies and civic society in developing values, strategies and systems.  We will bring together academics, parliamentarians, practitioners and those directly affected by the criminal justice system to discuss, reflect on and suggest alternative strategies.

The Howard League's conference will consider the intersection of issues relating to crime, justice and social harms.  Building on the Howard League's Commission on Crime and Problem Gambling and the burgeoning international concern around it, we are keen to explore the impact of problem gambling on patterns of crime and the societal harms that link crime and problem gambling.

The Howard League is looking for papers from academics, policy makers, practitioners, PhD students and researchers from within the criminological and legal disciplines, however we are also keen to include contributions from fields of study including philosophy, geography, political science and economics. We will consider theoretical, policy, practice-based and more innovative contributions around a wide range of issues that encompass the broad theme of justice and the wider conference themes. We would particularly welcome papers on the following themes, however other topics will also be positively considered:

- political instability, austerity and social change
- addictions as a social harm including gambling, drugs and alcohol
- racism as a social harm
- cybercrime, technology and social media
- policing
- sentencing and legal change
- the role of probation, prisons and the criminal justice system in responding to social harms
- community and civil society's responses to social harms
- relationships and responsibility of social, health and (criminal) justice
- gender, men and masculinities

- equality and social justice
- women, gender and justice
- overuse of the penal system: mass imprisonment, mass supervision and mass surveillance
- poverty and criminal justice
- domestic violence as a social harm
- young people, young adults – social justice and criminal justice
- victims of crime in a social harm context

## Abstract guidelines

Abstracts should be a maximum of 200 words and include a title and 4–5 key words.  Your submission should be submitted in English.  Papers will normally be presented in panel sessions with 3 or 4 papers presented in either slots of 20 or 15 minutes, followed by 20/30 minutes discussion.  This conference is particularly interested in and will respond positively to papers that incorporate participatory and creative methods to discuss ideas and findings, lightning talks, panels, or roundtables.  We will ask you indicate your preferred method of delivering your paper. Include the proposer's name and contact details along with the job title or role. Please submit abstracts via email to: anita.dockley@howardleague.org

The deadline for submissions is Friday 31 January 2020.  Decisions will be made by Monday 10 February 2020.

## Conference fees

All conference participants, whether presenting a paper or not, are expected to pay conference fees.  Further information can be found at: www.howardleague.org/our-events/

# Features

## Challenging state-corporate harm: making an inch of difference?

## Steve Tombs

**To begin at the beginning…**
In December 1984, a fire and explosion at a US-owned chemical plant in Bhopal, India, killed thousands instantly and has since led to tens of thousands of deaths, and hundreds of thousands of lives detrimentally affected. This toxic chemical plant abandoned within the midst of a city of almost 2 million people, is still awaiting clean up some 35 years later.

At the time, I was an MA student, studying Marxist Political Theory. But as someone who lived in Wolverhampton for most of the period 1981-1993, the 'Bhopal disaster', as it quickly came to be known, was of enormous import. Wolverhampton had a very large Indian population, whilst the Indian Workers Association was a very active leftist organisation in the town. So, the 'disaster' had a great resonance for me personally, politically and - though I didn't know it at the time - professionally. Within 18 months of the gas leak I was enrolled as a PhD student and research assistant at the then Wolverhampton Polytechnic, studying the global dynamics of the chemical industry ('Toxic Capitalism', see Pearce and Tombs 1988) through the lenses of both Bhopal and the struggles of workers in British chemicals plants for safer and healthier workplaces. These formed a prism which was to lead me very

quickly to address the relationships between the deaths of thousands of Indians, injury and illnesses amongst UK workers, law, regulation and crime. In turn this took me on an accidental journey from political economy through sociology to criminology.

This intensely political nexus of early experiences and commitments was ultimately and decisively to shape my career and life. The work I did and have done since was for a reason. For me, it was about a contribution to progressive social change, to a world which did not treat the lives of working men and women as disposable, mere commodities of state-guaranteed corporate activity. And, although I ended up working in and around 'criminology', I never trained in criminology nor defined my work in terms of that discipline - so I have always brought my political theory, political economy and ultimately sociology to my work, in turn, I think, reinforcing its politicised dimensions.

## 1999

Following my PhD, my work revolved around health and safety at work (or, rather, lack thereof), as well as regulation and enforcement in relation to that (ditto). During this period, I began to forge working relationships with the UK's Hazards Movement and the Institute for Employment Rights (IER) - organisations which exist for the sole purposes of making a difference, seeking to improve the quality of working life, not least in relation to workers' health and safety. These have been two of the most significant and I like to think mutually beneficial relationships of my working life, relationships which persist to this day. I'll come back to both in this quasi-chronological autobiography, but first I will turn to a momentous year for me.

In 1999, three quite disparate but equally crucial events came together.

In the late 1990s, I was one of a group of academics thinking about how a concept of social harm could be more progressively developed as an alternative to 'crime'. The motivations or routes via which individuals joined this conversation were various. I had been pursuing the conceptual struggles of Sellin, Sutherland and others to operationalise a concept of crime in the areas of corporate, white-collar crime and state crime (for example, Slapper and Tombs 1998) where a lack of definitional and legal clarity, and indeed *non*-criminalisation, were the norm. An outcome of these discussions was speculative consideration of a sustained focus on the study of social harm, or the development of an alternative

discipline, Zemiology. The latter word was adopted in 1998 from the Greek word for criminal harm, Zemia, during the Annual Conference of the European Group for the Study of Deviance and Social Control on the Greek island of Spetses.

Months later, in February 1999, a conference, *Zemiology: Beyond criminology?*, was held in Dartington, England. Subsequently, some of these papers, along with commissioned essays, were published as *Beyond Criminology: Taking Harm Seriously* (Hillyard et al 2004), a collection in which I was centrally involved. Whatever the merits or otherwise of *Beyond Criminology*, it proved to be influential within and around the discipline, with 'social harm' and 'zemiology' now being routine reference points in books, journals, conferences, and, more latterly, appearing in the Quality Assurance Agency's benchmark statement for the discipline of criminology (Hillyard and Tombs 2017). For me, the significance of the development was that it had encouraged some progressive social science to be done that otherwise might not have been done. And part of that social science has thrown a critical gaze upon the activities and omissions of the powerful – the corporations, senior executives and states with whom my original interest in the 'beyond criminology' venture had begun.

Still in 1999, in May of that year – although in truth the product of several years of intermittent, anorak-like research – *Sociological Review*

published my article 'Death and Work in Britain' (Tombs 1999). This was a version of a paper I'd given at a conference in 1998 to mark the tenth anniversary of the Piper Alpha disaster, part-organised by the truly inspirational convenors of the Offshore Oil Industry Liaison Committee (OILC) – a trade union which had the noteworthy distinction of being banned from the Trades Union Congress (TUC) *and* by oil companies from organising offshore!

The article began by taking the official figure for fatal occupational injuries in Britain, then providing a sustained critique of the means by which this 'headline figure' was reached. It addressed various anomalies and inconsistencies within the legally constituted categories of data collection, the effect of which was to exclude indeterminate numbers of occupational fatalities, not least to the self-employed, to other groups of workers including thousands on the roads, at sea or in the air and to members of the public. Further, it addressed some of the social processes of under-reporting whereby occupational fatalities ended up not being recorded in official data. It concluded that fatal injury data is grossly incomplete, requires work of reconstruction, and that the actual number of fatalities incurred through work in Britain at the end of the 1990s was a largely obscured social problem.

Through numerous addresses to trades union audiences in the years around and following this article being published, it made, I think, a contribution to the development of what Hazards, the TUC and virtually all constituent trades unions and the IER gradually became accustomed to presenting as the 'real figure' of occupational deaths in Britain. This

was alongside significant developments from others, not least the crucial subsequent work that added recorded and estimated levels of death from occupational *diseases* to these fatal injuries to produce a now widely-accepted estimate of 50,000 deaths related to work in Britain, year-in, year-out (Palmer 2008, O'Neill et al. 2007).

Finally, 1999 was also the year in which I was part of a small group – myself, two human rights lawyers, two health and safety activists as well as the then co-director of the charity INQUEST – who formed the [Centre for Corporate Accountability](#) on the basis of a charitable grant of some £400,000. I became chair of its board of directors from its inception until it entered voluntary liquidation in September 2009, a decision taken with the support of four of its five employees – although the CCA had generated approximately £1.6million across its ten years in active existence, we had simply run out of money and did not have the income to continue operating. In its relatively short existence, however, it is fair to say that the CCA punched above its weight, and as the chair of what was a very small charity I was intimately involved in most of its activities – although the key driving force was undoubtedly our director, David Bergman, a former prominent campaigner for justice for the victims of Bhopal, with whom I worked closely for many years.

To further our charitable purpose of promoting worker and public safety, we produced a series of key research reports - on safety law enforcement, directors' duties, and levers for law compliance - mostly funded by trades unions and sympathetic law firms. These quickly established our

reputation as a key source of research and expertise on matters of occupational safety regulation. The CCA was routinely engaged in formal and informal interventions into law and policy, which included an ongoing engagement with senior civil servants and ministers. The CCA successfully campaigned for numerous changes in HSE policy and practice, for example related to investigation of occupational deaths and the maintenance and publication of a register of such deaths. Perhaps most notably, if ironically, the CCA was central in interventions leading to the passage of the Corporate Manslaughter and Corporate Homicide Act, which came into force in April 2008. In retrospect, we had become so closely associated with the struggle for that law that its passage was the beginning of the end for the flow of funds to the organisation. A sense out there of 'job done' I thought. Then, with further and awful irony, changes in the law in its very final consultation period led to it being passed in an altered form so that it was likely to prove to be a "damp squib" as described by the BBC in 2008 – a verdict which I was subsequently led to endorse in a review of its first ten years in operation (Tombs 2018a).

Most centrally, however, the core of the CCA's function was our Work-Related Death Advisory Service (WRDAS) which provided support and free legal advice to families bereaved from work-related death, notably around investigation and prosecution issues arising from the death. We provided a unique service to a marginalised, forgotten and bewildered group of victimised families, as they worked their way through dealings with the HSE, police, the coronial system, the CPS and the courts. The CCA's annual case load of 40-60 cases

indicates significant social impact which earned the charity the Law Society Quality Mark. Some of these families' experiences were documented in the one research paper I wrote on their double victimisation, by the employer who killed their loved one and then the criminal justice system which was unable or unwilling to treat that killing as a 'real' crime (Snell and Tombs 2011).

### Into the 21st century
Through much of the twenty years that followed, I have continued to plough similar furrows. One key development worth mentioning, perhaps, was one of the (few, in my opinion) progressive reforms of the Blair governments – the passage of the Freedom of Information Act, in 2000. This allowed for access to data held by public bodies – and immediately opened up a mass of material on the activities of regulatory agencies, including details such as funding, numbers of inspectors and inspections, formal enforcement action including prosecutions, outcomes of these, as well as a plethora of internal papers, reports, minutes, and so on. This Act and the material to which it gave access allowed me to develop, with various colleagues, and notably David Whyte, several broad strands of work through the past couple of decades, including the following.

First, we produced detailed empirical analyses that demonstrated how Labour government policy had profoundly damaged workplace health and safety regulation. This detailed the impact of under-funding, under-enforcement, and the "better regulation" regime between 1997 and 2010. The underpinning research was based on an extensive and unique data set generated by a research project which established a significant "regulatory surrender" on the part of

UK health and safety regulators between 1997 and 2010 (James et al. 2013, Tombs and Whyte 2010).

Second, we continued with detailed policy analysis of the impact of the 2010 coalition government regulatory regime. This analysis established that government assessments of high and low risk work upon which targeted intervention is based is flawed and likely to significantly exacerbate risks in workplaces. In so doing, we developed a reconceptualisation of risk categories to support arguments for a re-shaping of government regulatory policy. On the basis of this and the longer term research on health and safety protection, we co-authored the IER's 'Health and Safety at Work' sections of their Manifesto for Labour Law, which itself fed into the Labour Party's 2017 General Election Manifesto and the Hazards Campaign Manifesto for a Health and Safety System Fit for Workers.

Third, I extended my research around worker safety to considerations of public safety with a focus on food safety and environmental protection. This again used a mass of mostly Freedom of Information generated quantitative data but was also supplemented with considerable qualitative interview data. Further, alongside analysis of trends in enforcement, the research used discourse analysis to explore how the very idea of regulation and enforcement have been systematically undermined over a period of at least

35 years. This had led to an environment – not least in the past 15 years, through the 'Better Regulation' initiative – in which social protection is dismantled. At best, this leaves a system of regulation without enforcement and so facilitates 'social murder', a phrase which achieved significant salience following the atrocity at Grenfell Tower.

The Freedom of Information Act has been significant for some critical researchers. Crucially, for me, having the time and skills to collate this data, to put it together, to analyse it, and to provide commentary to it has really supported working with pro-regulatory organisations and victims' groups. Each of the three strands of work highlighted above really added value to the campaigning, public arguments and written statements of pro-regulatory, counter-hegemonic organisations with whom, I, along with colleagues – notably David Whyte - worked. Each has also allowed us to directly challenge the work of regulators, their relationships with the companies against whom they were supposed to be enforcing law, and thus the increasingly insidious state-corporate relationships (Tombs 2012) that have characterised the post-Thatcherite neo-liberalism in the UK from the Blair governments to the present day. Much of this work – and my broader work on social harm which I continued during this period - also proved to be of particular interest to a criminal justice think-tank, the Centre for Crime and Justice studies, which sought to highlight hidden areas of

harm and biases in law enforcement, and which was particularly adept at targeting policy makers and key influencers within political circles (Dorling et al. 2008, Tombs 2016, Tombs and Whyte 2008).

It remains to add that the past two years of my research, writing and speaking has been almost entirely consumed with the atrocity which killed 72 residents at Grenfell Tower in June 2017, an event which has generated unimaginable and unquantifiable harmful effects. There is a gruesome irony in the fact that on the morning of the Grenfell Tower fire, 14 June 2017, I was speaking on 'The State, Social Murder and Social Protection' at a conference in Liverpool ('Emotions and State Power'). My topic was how regulation had become an object of hatred, facilitating the dismantling of social protection. Suddenly that was a view which few wished to admit to holding – albeit for a very short period.

My research around Grenfell has three aspects. First, I have sought to detail how the processes and practices that produced Grenfell can only be understood within the wider tendencies of the dismantling of social protection and therefore creating the conditions for greater levels of social murder. Second, I've located the fire in relation to law and criminal justice, not least through the realities of class-based law and the failings of the Corporate Manslaughter and Corporate Homicide Act. Third, and

most significantly, I have used publicly available material – of which there is a mass - to document the experiences of the bereaved, survivors, and wider affected communities through the lens of social harm. In this way, I have sought to reveal the combination of physical, emotional, cultural, relational, financial, and economic harms that have unfolded spatially and geographically following the fire. This work has generated academic articles and numerous blogs (see, for example, Tombs 2019, 2018b, 2017). But more importantly, since the fire, I have given some 30 public lectures on the subject to trade unionists, campaign groups, the general public, HE, FE and secondary school students. Audiences have ranged from 40 to 450, right across England, Scotland and Wales, as well as Barcelona, Ljubljana, Paris and Turku, Finland. I have taken part in several documentaries around Grenfell, including the OU's film *The Grenfell Tower fire and Social Murder* which won the Life Changing Award at the British Documentary Film Festival in 2018, and was the academic consultant for the BBC/OU production *The Fires that Foretold Grenfell* – which went on to win the Learning on Screen Broadcast Award in 2019.

**On activism**
In conclusion, then, I consider my academic work (and here I have talked only about research and not teaching) to have been and to be a form of political activism, a claim and a phrase upon which I'd like to make several observations.

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First, being active for me has involved a wide variety of activities. These include writing – by which I mean books, journal articles, book chapters, pamphlets, leaflets and flyers, blogs, letters to newspapers, writing and contributing to position papers, organisational and political party manifestos, written evidence to parliamentary select committees and to formal consultation processes. Note that many or most of these are not 'REF-able', and it is certainly the case that when I began my 'career' the pressures on newer academics were far less intense than they have become in the era of the neo-liberal university. Beyond writing, I've been fortunate enough to be involved in making podcasts, radio programmes, TV documentaries, as well as appearing on live TV and radio, in every country of the UK of course but in many others beyond. I've spoken at annual conferences of the Labour Party and the TUC, as well as at national and regional conferences – taking in seaside towns across the UK – of the STUC and virtually every major British trade unions, as well as at demonstrations and assemblies, large and (usually!) small in high streets, at docks and outside factory gates, and in parliaments. Most of all, being active has involved developing long term relationships of trust and reciprocity – one aspect of which is to organise events including workshops, debates, conferences, seminars, film screenings and even tours such as that by victims of the Bhopal gas disaster in 2012, when I was lucky enough to fund and arrange a three day visit to Liverpool as part of a UK tour.

The second thing to say, then, is that, not least in the context of the various activities I and others spend time and

engage in, I really regret the distinction which seems to remain (and in some respects, I think is being exacerbated) between activists and academics. And with this distinction, or dichotomy, is an association, implicit or otherwise, between academics and the 'ivory tower', activists and the real world. These distinctions are, ironically, highly ideological and support claims on the part of the academy to be producing disinterested, value-free knowledge – usually entirely supportive of the status quo (Tombs and Whyte 2003a, 2003b).

Third, and following from the previous point, I have emphasised throughout this reflective piece that from the onset of my career I made an explicit choice to engage in politicised research. And I have encountered criticisms for that choice and that activity at times. But my response has always been that all of us have a choice to make, whether we make that explicit or even whether we recognise it. All academics can choose what they claim or believe to be disengaged, disinterested 'value-free' research – but this in itself is as political a choice as that which I and many others have made to engage in explicitly politicised work.

Lastly, it has been my pleasure to do so, and to my benefit. I have met lots of fantastic people, made lifelong friends, been to places and spaces I otherwise would not have visited, and had access to data and insights I would otherwise never have encountered. So, my work with counter-hegemonic organisations has not been borne out of altruism. Far from it. At the same time, I do recognise, as I think we all must, that however we are employed as academics, even under the most precarious conditions, that academic work is relatively privileged. It is

relatively well-paid, it is relatively comfortable, and it carries status. This status, comfort, pay, etc – this privilege – is highly differentially distributed. As a white, late-middle-aged professor, I am at the apex of such privilege. And I am much more privileged now than in the 'early career' years when I supplemented my work as a university lecturer by working my holidays on building sites and in butchers' shops. So, the obligation that we all have to 'give back' is, too, differentially distributed. But to be clear: for me, we all can, and all should be trying to, make at least an inch of difference.[1]

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[1] My friend Joe Sim first made me aware of the phrase "an inch of difference", and tells me its origins are with Richard Neville, co-founder and editor of the 1960s counterculture magazine *Oz*.

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# Transforming responses to hate crime

## Stevie-Jade Hardy

*I've been spat on, kicked, punched, thrown up against a wall.*

Keith was targeted on the basis of his learning difficulties.

*In terms of verbal abuse, loads and loads. Like F'ing old dyke … you got very used to it.*

Nicola was targeted on the basis of her sexual orientation.

*It makes you feel demoralised. It makes you feel hated. It makes you feel isolated, unwanted.*

Ahmed was targeted on the basis of his religion.

*I don't feel myself or my children are safe because I know that the group are going to attack me again. In my house they attacked me twice, and then they attacked my wife and car and the children and everything has been damaged. I don't feel my children are safe if I leave home and when I'm outside all I think about is hoping that my home has not been attacked again.*

Beyani was targeted on the basis of his race.

These are just four of the voices that we heard from as part of the ESRC-funded Leicester Hate Crime Project which took place between 2012-2014 and which became Britain's biggest study of hate crime victimisation (Chakraborti *et al.* 2014). During this study I spoke to people who had been: tipped out of their wheelchairs; had

faeces and fireworks shoved through letterboxes; spat at; tormented countless times in person and via social media; and, violently and sexually assaulted on the basis of their identity or perceived difference. I saw first-hand the considerable damage that hate crime can cause: from the sense of despair; isolation and anger experienced by victims to the fear; concern; and, anxiety which can permeate wider communities. Conducting such a challenging study stays with you and so do the harrowing accounts which I can still recall with stark clarity nearly seven years on. Of particular note were the following findings:

- Many victims, witnesses, members of the public and professionals were unaware of what constitutes a hate crime.
- There are multiple inter-connected barriers which result in victims being reluctant or unwilling to report.
- When victims do report they are often dissatisfied with the response from frontline professionals, feeling that their experiences are not taken seriously or that they are not treated empathetically.
- Many victims do not achieve a successful criminal justice or alternative outcome.

(Hardy and Chakraborti 2019)

When confronted with this reality, we felt compelled (and to some extent we had a responsibility) to find ways of addressing these issues. Subsequently, in 2014, Professor Neil Chakraborti and I established the Centre for Hate Studies which was the first academic Centre of its kind anywhere in the world. The aim was to bridge the gap between research evidence on hate crime and policy and practice. Since the beginning, we have worked with organisations across the globe to improve responses to hate crime through evidence-based training, research, evaluation and knowledge exchange events.

**Improving policy and practice**
Over the course of the past five years, we have been commissioned to undertake a series of policy-focused studies, including a four-month study in 2015 for the Equality and Human Rights Commission to explore the barriers faced by lesbian, gay, bisexual and/or trans people in terms of reporting to the police or to an alternative organisation (Chakraborti and Hardy, 2015); a four-month study in 2016 commissioned by the Office for the Police and Crime Commissioner (OPCC) in Hertfordshire; a six-month study in 2016-2017 on behalf of the OPCC in the West Midlands to identify hate crime victims' support needs (Hardy and Chakraborti, 2016, 2017a); and a six-month study in 2016-17 for Amnesty International UK to identify shortcomings in existing policy and legislative frameworks (Hardy and Chakraborti, 2017b). As part of these projects, we produced a set of practitioner-orientated reports which contained evidence-based recommendations that were not only tangible and achievable but also, if implemented, had the potential to make a difference with respect to helping organisations and individuals respond

to hate crime in a more cohesive, victim-centred way.

> *It is the accessibility of the reports that we particularly applaud. It is a standout piece of victim-focused research containing a wealth of real-world insights into hate crime. It has given a voice to those who are scarcely heard … The research has significantly influenced the development of our county hate crime strategy.*

(Rebecca Joy, Victim Services Delivery Manager, Victim Support)

The key to translating these recommendations to concrete outcomes was to continue collaborating with the funders (and with many other criminal justice agencies, local authorities, health and social care organisations and educational institutions) during the design and implementation phases of new policies and practices. This has resulted in the development of new and improved hate crime strategies; changes to reporting mechanisms to ensure that they are accessible and victim-friendly; the creation of new awareness-raising campaigns which now resonate with the target audience; and the commissioning of specialist support services to provide an enhanced support package for hate crime victims.

We have also sought to improve frontline and organisational practices through the development of evidence-based training which is delivered face to face and through digital training. Over the course of the last five years we have trained more than 2500 professionals on how best to engage with diversity, support victims and tackle hate. In order to assess the impact of the training we administer evaluative surveys at three- and six-

monthly intervals after the training. Evidence from these surveys indicates that the training has contributed to a number of significant outcomes, including improvements in:

- awareness of the nature, scale and impact of hate crime victimisation;
- knowledge of hate crime policy and laws;
- identification of hate crimes and incidents;
- flagging or recording practices;
- investigative processes;
- outcomes for victims (e.g. more cases going to court, dispute resolved); and
- organisational practice (e.g. new assessment tools, engagement approaches, infrastructure).

Over the course of the last five years we have found that one of the most effective ways of influencing operational responses has been through participating on scrutiny panels, expert reference groups and roundtables. Most recently, I have had the opportunity to shape national policy through membership on advisory panels for the Crown Prosecution Service, the Government Equalities Office, Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services, the Office for Students and Universities UK. These platforms have provided me with much-needed exposure to the realities and challenges associated with policy-making which in turn has generated new research ideas and influenced the

> The training delivered to our senior leaders and frontline officers was really effective and has certainly made an impact in terms of people's knowledge and understanding of such crimes.
>
> **Suzette Davenport**
>
> *Former Chief Constable Gloucestershire Constabulary*

ways in which I communicate research findings with policy-makers.

**Improving public awareness**

Aside from policy-focused work, as a Centre we have invested considerable effort into enhancing public recognition of hate crime. Research evidence suggests that this activity is especially important because not only are many of those who are at risk of hate crime unfamiliar with the behaviours associated with it, but also because most hate incidents take place in public settings and yet few witnesses intervene (Hardy and Chakraborti 2019). To address these issues, we have produced a series of award-winning short films and animations which document the diverse range of people affected by hate crimes and the associated harms and highlight the ways in which we can safely challenge expressions of hate and support victims. Collectively, these films have been accessed 32,100 times online since 2014, and have been shown in schools, colleges and universities, and used in training by criminal justice practitioners, educators and health care professionals around the world. Additionally, we have maximised the reach of our research by presenting at hundreds of regional, national and international practitioner focused conferences, public events, and contributed to media articles, including television, radio and blog pieces.

**Renewed importance of impact-related work**

The significance and need for impact-related work becomes all the more evident at a time when levels of hate and extremism are rising and when

scepticism towards the concept of hate crime and ignorance of the harms associated with it, are becoming ever more palpable. The Home Office recently published new hate crime figures which indicate that 103,379 hate crimes were recorded by the police in England and Wales in 2017/18, which was not only an increase of 10% compared to the previous year but it was also a continuation of an upward trend since 2012/13, with recorded hate crime having more than doubled in that timeframe (Home Office 2019). While this rise is likely to be the result of a culmination of factors – including increased reporting and improved recording – 'trigger' events of local, national and international significance have also influenced the prevalence and severity of hate-fuelled violence and micro-aggressions.

And yet, amidst a backdrop of more virulent and visible hateful sentiment and behaviours there are those who continue to de-value, disparage and deny the pervasiveness of hate crime. The examples cited below not only reinforce the sense of isolation and marginalisation felt by many hate crime victims but also seek to silence their voices and to invalidate their experiences.

*Do you feel ten per cent more hateful than you did this time last year? Do you think the British public as a whole are ten per cent more unpleasant in 2019 as compared to 2018? If you believe the latest 'hate crimes' stats, then you may come to such a ludicrous conclusion… If you are sane and reasonable you will realise that all of this is nonsense – nonsense, in fact, of the purest, most disgraceful kind: professional nonsense, cooked up to serve a political purpose.*

(Douglas Murray's 'The Great Hate Crime Hoax' in The Daily Mail on 26 October 2019)

*Britain is in the grip of an epidemic, apparently. An epidemic of hate. Barely a day passes without some policeman or journalist telling us about the wave of criminal bigotry that is sweeping through the country … what the BBC calls an 'epidemic' is a product of the authorities redefining racism and prejudice to such an extent that almost any unpleasant encounter between people of different backgrounds can now be recorded as 'hatred' … According to one leftie online magazine, Britain now evokes 'nightmares of 1930s Germany'. But this doesn't square with the reality of our country today, and you shouldn't believe it. The hate-crime epidemic is a self-sustaining myth — a libel against the nation.*

(Brendan O'Neill's 'Britain's Real Hate Crime Scandal' in The Spectator on 6 August 2016)

After having spent nearly a decade investigating this phenomenon and hearing from thousands of hate crime victims(many of whom are scared to do their weekly shop, to drop their children at school or to catch a bus) I feel a sense of obligation to engage in as much impact-related work as possible and to show that hate crime is a very-real, repetitive and damaging problem. We live in societies which are becoming increasingly disconnected and disillusioned, and within this context the need for meaningful action-based research and knowledge exchange activity is all the more pressing. But crucially, this work needs to be co-designed and co-produced with policy-makers, practitioners, NGOs

and other service providers who, collectively, have opportunities and responsibilities to challenge hate crime. Only by maximising the reach and accessibility of our research to those who encounter hate crime within a professional context – or indeed as victims or witnesses – will we truly transform responses to hate crime.

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Dr Stevie-Jade Hardy is an Associate Professor in the School of Criminology at the University of Leicester and Deputy Director of the Centre for Hate Studies. Over the past six years Stevie has been commissioned to undertake a number of major research, evaluation and consultancy projects relating to equality, diversity, hate and extremism. As part of these projects she has engaged with more than 2,000 hate crime victims and perpetrators. Stevie has an established track record as a trainer and has extensive knowledge of Government policy and practice from participating in a wide-range of national advisory boards.

## Supporting strategies for survival in immigration systems

## Victoria Canning

For more than ten years, my research has focussed primarily on the intersectional impacts of asylum systems on (mainly) women seeking asylum. In an academic capacity, this seems relatively clear cut: research projects require specific demographics to be identified and included: age range, gender, and migration status. In reality – in activist life – there is no filter for who one speaks to when the overall objective is understanding and resisting the intersections of racism, sexism, Islamophobia, ableism and homophobia. Moreover, in undertaking research that constantly and continuously exposes institutional violence, leaving people struggling against endemic structural violence is – for me – akin to facilitating denial.

Whilst there are clear and obvious limitations to what can be done for individuals, the role criminology can and arguably should play is one of positive structural influence. So, what do we do about what we see when we work with groups who are increasingly disenfranchised in the societies we live in and institutions we research with?

**Making a difference?**
Firstly, when asked to contribute to a short collection on 'making a difference', I was sceptical of how to portray positive change. Activist academia comes with the reality that my primary job is in, well, academia. Lectures, students, personal tuition, research and funding are all priorities in the everyday and, as the demands of neoliberal higher education increase, so too do the challenges of ethically 'making a difference'. When for example I do not have time in the day to check how a certain person may be doing after an

asylum refusal, or to see how a woman who I know struggling is doing, I feel like the opposite of helpful.

Moreover, even with the best intentions, asking those seeking asylum if they are prepared to be involved in criminological research can entail significant energy drain for already tired and vulnerable individuals. Alongside the positive drive for impactful social change there can also be exploitative conditions under which exchanges or contracts with those who are most powerless in society exist. As I have learned, for people seeking asylum, time is precious and externally controlled; for practitioners, lawyers and NGOs working in this area, it is increasingly stretched and underfunded. Academic or indeed criminological agendas and priorities do not necessarily match people's priorities at ground level, and as such research requires both flexibility and understanding.

**Challenging structural violence from the bottom up**
There are few ways to convey how painfully complex asylum systems are for those who are trapped in their ever expansive, increasingly complicated webs. As an activist academic who has never had to seek asylum, I can never pretend to know fully the perils of losing time this way, or not having autonomy over much of the immediate or long-term future. Through spending time with women, through oral histories, participatory action and activist ethnography, we can begin to see how

grinding it is. We can't pretend to share these experiences, but we can witness them and support collective response. The role of supporting resistance and challenging state-corporate harms should therefore be central to the work we do. Surviving and existing in any asylum system is itself a form of resistance, and by all accounts doing so is often an incredible act of survival. However, though discussions on resistance are interesting and useful, it may be time for (predominately white) academics to move forward with practical action which challenges those inflicting or embedding harmful practice. Women do not need to be patted on the head and told they are resisting – they already are. What is more useful is both documenting harm and working with those who are harmed to use the structural knowledge gleaned from research in a way that is agreed by both groups affected, in this case people seeking asylum and the practitioners and NGOs working to support them.

**Developing tools that are useful, not just 'impactful' – The Right to Remain Asylum Navigation Board**



Having co-ordinated a two year project documenting harms in asylum in Britain, Denmark and Sweden, it became ever clearer that – in the face of endemic cuts to legal aid and education – barriers remain on gaining information about each system. This has a serious impact on asylum

claims: if people do not know what to expect in a system which is designed to make it difficult to get through, then the outcome is isolation, feelings of failure, and ultimately a failed case for refugee status.

The human impacts of this were epitomised when a woman whose claim had been refused told me she was 'just no good'. She had got her 'case all wrong', given the 'wrong documents', not known to show torture scars. It takes a lot to shock me, but the idea that this woman felt – on top of all else – that the refusal was her fault, held an added element of degradation. A system set up to fail people also makes people internalise failure.

From this came an idea: to create a hard copy board to facilitate access to accurate knowledge, whilst supporting people to discuss what happens in their own claims. Having collaborated previously with Lisa Matthews at Right to Remain, we set to work on developing their already established toolkit into something that brings people together and mitigates false information. The board acts as two things: firstly, it is a pedagogic tool for facilitators working with people seeking asylum (including people who have themselves been through the process) to outline each step of the system. Information cards align with colours, and the *Right to Remain* toolkit acts as a further guide for each stage. From there, each colour on the board aligns with cards highlighting potential problems and potential solutions.

Secondly, by bringing people together who have similar experiences, the board is a vehicle for discussion, mutual aid and collective recognition of the endemic issues embedded in the system itself. So often we have seen the power of collectivity in the groups and friendships we have been involved with – when together, and with an opportunity to talk through the problems faced and solutions sought, there is more scope to de-

individualise the issues so deeply embedded in the legal and formal process of seeking asylum in the UK.

Working with the team at Calvert's Cooperative – a radical publisher in London – we produced 120 boards. We circulated them for free to unfunded organisations working with people who are newly arrived in the UK and charged £50 to funded organisations and universities. With the income generated, Right to Remain were able to develop online cartoons covering four key stages of the asylum system so that people can more easily access information.

**Making knowledge free or accessible:**
*Strategies for survival*
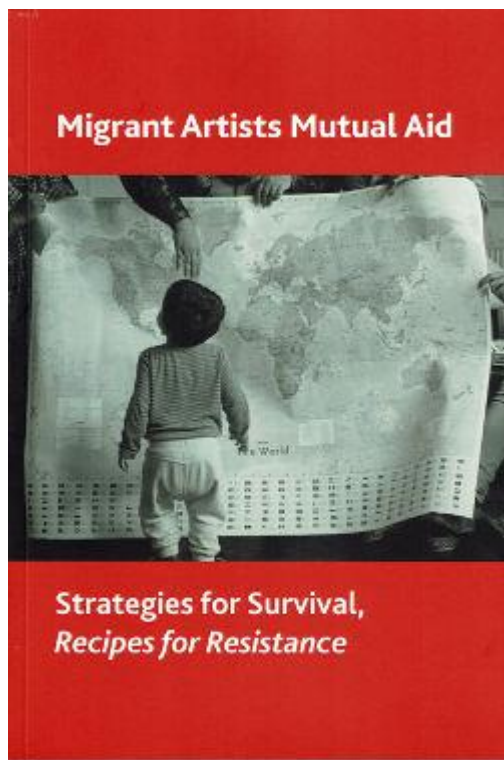


This last point – generating income to create sustainable academic knowledge – could be increasingly embraced in our approaches to research and practice-based outcomes. It is something I found particularly pertinent when in 2017, an organisation I had collaborated with for five years became increasingly unable to

support women's legal aid. Given that the Home Office loses around 75% of its appeals when they are brought forward after refusal for refugee status, accessing legal support is an issue of social justice. It is, however, incredibly expensive and the cost of appeals or fresh claims can (in my experience) range from £600 to more than £2000.

It was thus through combining the opportunity for documenting resistance with accessible findings to create a funding structure that we at Migrant Artists Mutual Aid (MaMa) collectively developed a book which could do all of these things. Having already accumulated massive amounts of documentation, undertaken various campaigns and with phenomenally talented women already projecting voice from the group, we created *Strategies for Survival, Recipes for Resistance*. We documented Home Office refusal letters, photos of our campaigns and work (with abstract images to avoid identification for women preferring anonymity), poems and recipes to highlight structural violence and women's grassroot resistance. We charge around £10 per text, and with the help of radical bookseller *News From Nowhere* in Liverpool (who agreed they would take no cut on sales) - 100% of the money made from book sales go to MaMa's legal fund. We consider the book a thing of beautiful resistance – easy to read and understand through imagery that otherwise is inaccessible, such as a fax calling for support from inside immigration detention. Moreover, it is testimony to the everyday struggles of the British asylum system, and an example of how these struggles are fought through mutual aid and support.

**Conclusion**
Criminology is a powerful entity. From its role in knowledge construction, policy development and indeed entanglements with law and criminal justice, the capacity for criminology to 'make a difference' is substantial. In the face of an intensively

neoliberalised landscape in higher education, we are squeezed to be 'impactful'. I was recently told that – whilst all these sorts of things are 'very good' – I might want to focus on my '3 and 4-star publications for the Research Excellence Framework'. I pointed out I had these, but that nobody seems to be reading them beyond the publishers. The board and collective book, on the other hand, have become embedded in resistance and support platforms with groups run by or working with survivors of conflict, persecution and borders. Perhaps then, instead of pandering to what is deemed desirable by a detached and distant accountability framework, it is time we rebuild what we agree as 'impact' and move toward outputs and outcomes that are most wanted and needed by those with whom we collaborate.

**About the author**

Victoria Canning is senior lecture in Criminology at the University of Bristol. She has spent over a decade working on the rights of women seeking asylum, specifically on support for survivors of sexual violence and torture with NGOs and migrant rights organisations. She recently completed an ESRC Research Leaders Fellowship focussing on harmful practice in asylum systems in Britain, Denmark and Sweden, and the gendered implications thereof. Victoria is co-ordinator of the European Group for the Study of Deviance and Social Control, trustee at Statewatch and associate director at Oxford Border Criminologies. She is co-creator of the Right to Remain Asylum Navigation Board (with Lisa Matthews).

## 'Some people can't hear, so they have to feel…': Exploring sensory experience and collapsing distance in prisons research[2]

## Kate Herrity

*I think the other sort of sound that I suppose comes as a shock, surprise, is you know when you're on the wings? Particularly when the men are locked up, banged up as the phrase is, and if there's a delay in unlocking or something like that you know you get a lot of people kicking and banging at their doors. And y'know, I think when you initially come it comes as a shock, it's that sense of that proper old Victorian asylum type conditions almost, of people behind iron doors you know? Kicking and screaming and shouting and banging*

(Diane, resettlement worker).

I had yet to leave my job as a library assistant when I first visited a prison but the sensory experience of this most particular of places seeped in to my bones. I wondered what this dizzying soundscape might tell us about the experience of being in prison, and for our understanding of the social world within it. Underpinning this was a desire to demonstrate the impact of these spaces on those who live and work in them, though the idea of 'making a difference' in doing so was and remains an ambition fraught with perilous ambiguity, particularly in the politically-charged field of prisons research (Carlen 1994). What form and effect might this difference take, in what circumstances and for whom are far from settled questions.

Attempting to resolve the tensions they create a deadlock primarily situated beyond the prison walls. For all the discomfort of researching prisons, questions remain about the source and sustenance of its totemic potency, and for how this translates to the experience of those who live and work within these spaces. And yet the need to reconcile the dissonance between personal and public politics remains.

I argue that accounting for the sensory aspects of social experiences offers the potential, at least in part, to circumvent this impasse. I will briefly outline the research I'm drawing from before moving on to consider how and why focusing on the sensory offers a different means of doing prisons research and disseminating it. I will then go on to consider what this means in the context of 'making a difference' with the attendant perils this involves. Privileging auditory experience, and by extension sensory criminology, has the capacity to make a difference to assumptions about how and what we know, as well as carving out space to consider who is, and who should be important in the production of knowledge.

The title quote is taken from an interview with Stretch; a member of the community at HMP Midtown. I spent more than seven months in this local men's prison, exploring the significance of the prison soundscape through aural ethnography and using this as a basis for interview with various staff and prisoners.[3]  My thesis argues that attending to sound – and by extension sensory experience more broadly – tells us different things about the motivation for order and means of survival in prison society. While Stretch was speaking specifically about the occasional need to give someone a clout, he also makes a broader point about the medium of the message. Attending to the neglected sensory aspects of social experience offers a means of inviting closer engagement with accounts of prison social life from a vantage point unconstrained by the limits of what we can see.[4] Sound functions as both a source of information and a conduit for its delivery, evoking the imagination of those who do not hear, but may be prompted to feel. In so doing the distance between our distinct positionalities is diminished, and potential for a broader, collaborative understanding is increased.

T.S Eliot (1933) describes the auditory imagination as a facility for traversing time, the imagination, consciousness and shared social meaning layered beneath our language in syllable and rhythm. Auditory experience is elsewhere identified as bridging internal and social worlds, imagination and reality, memory and expectation (for example, BSI 2014; Toop 2010; Ihde 2007). As personal

accounts of prison attest, the prison soundscape lingers long in the memory, its clamorous din a poignant reminder of freedoms lost (e.g. Cattermole 2019; Hassine 1996). The jangle of keys and slamming of gates become an auditory conduit of symbolic power and its attendant violence; 'See, those doors bang. They don't mean it, but it goes through you, you feel it in your body' (Clive, fieldnotes). Staff too are subject to the intrusive soundscape for the duration of their shift if not their stay. These embodied experiences of prison spaces constitute additional facets of prison life as well as their impact on social relations, revealing elements of shared understanding between prisoners and staff – groups commonly regarded as occupying discrete and opposing realities (Carrabine 2004). Attending to the soundscape revealed texture to the operations and experience of power within the prison, and the complexities of structure and agency within its ebb and flow. Additionally, acknowledging this convergence of experience had implications for how we understand the impact of prison environments on health and wellbeing for those who work as well as those who live in them.

When delivering the research summary to HMPPS I emphasised the role sound plays in safety and security – *"The noise, it can make you paranoid, when everything goes quiet in jail, real quiet, you know something's gonna go off…"* (Jack) - but also in wellbeing and the all-important relationships which can either

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[3] "Soundscape" refers to the aural components of a physical environment. The definition provided by the British Standards Institute includes dimensions of experience (expectation, memory, emotion) which do not reflect sound as it is heard, but rather as it is interpreted within particular spatial contexts (BSI 2014).

[4] I expand on this point elsewhere, see Herrity, K. (forthcoming) "Hearing behind the door: The cell as a portal to prison life" in Turner, J., Knight, V. (eds) The Prison cell: Embodied and everyday spaces of incarceration. London: Palgrave

help or undermine it.[5] Sound is a powerful medium for emotion, altering the feel of the wing for all within it. The ability to 'read' the soundscape was associated with safety and security: an unacknowledged but crucial aspect of jail craft. One of a series of suggestions arising from this research was making explicit reference to this aspect of prison life as a means of more effectively diagnosing impending threats to order and safety (Herrity 2019). The way members of the community interacted with, and responded to, the auditory environment was a powerful indicator of their degree of adjustment. Staff would report difficulty in escaping its intrusiveness and a corresponding impact on their nerves, their ability to think and operate. For prisoners it was a constant reminder of their circumstances. Additional sensitivities to its extremes were associated with a host of conditions more prevalent in prison populations such as PTSD, depression, learning difficulties, and autistic spectrum disorder (PRT 2019; Stansfeld and Matheson 2003; Stansfeld 1992). This issue arose repeatedly when speaking with people in the prison community, emphasising the importance of incorporating awareness of sound sensitivity and its potential impact on the prison community in to training (one of several policy recommendations included in the research summary). The prison environment itself could prove deleterious to wellbeing, and the hope is that empirically demonstrating this might inform practice and policy with regard to day-to-day prison operations and, ideally, how and whether they are built in the future. Foregrounding the sensory has corresponding implications for the ways in which prison is understood by those with no direct experience of life inside the prison walls.

Sound provided a means of exploring the rhythms and routines of prison life in a way which worked to both bypass and disrupt assumed knowledge. Evoking the auditory imagination as a means of conveying the significance of the soundscape allowed for the possibility of collapsing narrative distance- between myself and the community who accommodated me so graciously, as well as between these facets of experience and those I seek to convey them to:

*I'd been at HMP Midtown since February. Now at the tail end of a sticky August, I had grown accustomed to the familiar din of the men, animated in greetings from the landings, conducting business in corners, engaging in daily life or dawdling and dragging their feet in efforts to avoid it. The familiar, disorientating clang of the bell marking out points of the regime, officers shouting for artfully elusive prisoners, or to underscore the bell's message; "Ehxeerceyese!" "Peterson!" The floor echoes with the recent memory of the activity contained within. The relative quiet marks the absence of those 250-odd men who now were locked behind the door until morning. I had not come to see them, much as I missed the array of cheerful greetings shouted from landings above, and the updates on personal events; anticipation of a precious visit, a sought after move, an impending parole hearing. All to a backdrop of staff answering queries, exchanging pleasantries, or issuing warnings, random barking, whooping, the strains of music, shouting, staccato exchanges over the way and regular laughter; the sound of movement around stark and spartan spaces; all clangs, bangs, creaks and rattles. Tonight, I was here to listen.*

Herrity 2018

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[5] Her Majesty's Prisons and Probations Service

While there are inescapable contradictions in attempting to explore these neglected aspects of social experience through the visual constraints of text, my hopeful intention is to harness the power of this sensorially-derived knowledge to encourage engagement with and understanding of the closed social world of the prison. Emphasising this aspect of experience has the capacity to expand our understanding of how prisons retain their power, a necessary means of addressing how it might be disrupted and diminished. Drawing on the sensory extends our field of understanding beyond the visible, working at the edges of our vocabulary to more freely roam across boundaries between time and space, between hearing and feeling.

While the intrinsic interdisciplinarity of this approach to prisons research appears novel, it is embedded within an age-old understanding of how we know, obscured as it has become by our increasing preoccupations with the visual. Recognition of sensory experience as a fundamental source of knowledge is as established as our attempts to document and advance it (Rosenfeld 2011). And yet we strive to attain an academic standard which rests on the ostensibly objective emphasis on randomised and routine observation and replication. These underscore the stubborn emphasis on visually-based sources of knowledge. These scientific forms and practices echo and reinforce the social inequalities that social scientists are partially concerned with documenting (Oakley 1959). The significance of these ways of knowing are every bit as potent in the field of criminology, where preoccupations with the visual mirror the "ways of looking" on which criminal justice processes rely (Cohen 1985: 1). From Lombrosian depictions of the atavistic man (and the physiognomy of the female 'offender') to

facial recognition technology, criminological concerns echo those of criminal justice and the systems of classification and categorisation on which its operations depend (Cohen 1985). These ways of knowing are indivisible from the criminal justice practices they underpin, which lends criminology an inescapably political hue concerned as it is with the processes and functions of social order and the unequal distribution of power on which this rests. If knowledge is power, the determinants of its hierarchies and its boundaries are intimately connected with those of our social world. There is nothing predetermined however, in an approach which replicates these systems. Privileging sensory experience as a source of understanding holds potential to reconfigure assumptions about what matters and what does not in processes of knowledge production. Ideas are a powerful force and we are not immune from their effects.

Academics are increasingly driven to account for the 'impact' of research, though this directive is often aimed at charting engagement with policymakers and other opinion formers. Our criminology ought to impact the public, so this thinking goes, but not necessarily through direct engagement with the great unwashed. Ideas though, as those in the ideas business ought to recognise, are powerful things over which we have but brief and limited power to control; '…our knowledge is situated not just, or not even primarily, in the "pure" academic world but in the applied domain of the state's crime control apparatus' (Cohen 1988: 67). Attempting to target research to more directly make a difference is also beset by perils of 'being fashioned to fit the mishmash of assumptions and interests whence prison reform lobbies usually draw their strength' (Carlen 1994: 133). Avoiding these pitfalls does not necessarily mean withdrawing from the

fray all together, but rather approaching such dilemmas with a mindfulness about the purpose of research, and the necessity of resisting putting the theoretical cart before the empirical horse. Privileging sensory experience as a source of knowledge disrupts assumptions about how we know, and in so doing holds the potential to challenge and collapse corresponding hierarchies of knowledge and their function as a means of reinforcing our social order. Challenging expectations of what counts as knowledge, and its relative value invites interrogation of who counts as knowledgeable; an acknowledgement of the unassailable expertise of those gracious enough to share their insights with the bumbling researcher. There is a political sensibility implicit in sensory criminology then, albeit one which accommodates the maintenance of a position which is at once 'theoretically open and politically awkward' (Carlen 1994). Sensory criminology, in collapsing and reconfiguring hierarchical assumptions about knowledge holds corresponding potential to disrupt systems of power, making a difference to who is recognised as knowledgeable in conjunction with rattling what counts as knowledge.

Disturbing our assumptions about what constitutes knowledge and its boundaries prompts increased scrutiny of what we might mean by 'impact'. It has assumed a particular meaning in the academic lexicon that bears little resemblance to what I stubbornly interpret it as referring to; an effect, a collision, a forceful contact. Our insistence on making this tangible, measurable, 'meaningful', robs it of its greatest potency; the power to disrupt what we think we understand and to broaden participation in the interrogation of ideas. There is impact too, in the way we conduct ourselves as we go about our inquiries. During one of my final interviews which was with Duke

– who had just been sentenced - I asked, as always, whether there was anything I had forgotten to ask him that he wanted to talk about. He was elusive, preferring to wait until after his sentence as a means of using the interview to talk it through. We had had many informal conversations, so this was as much about keeping my word and an appointment (and letting him run me around a little). I was accustomed to being put to use in one way or another – within the prison rules of course, and always making clear my role. I expected him to refer back to his particular concerns at the time, the lack of support in transitioning to post-sentence, his impending move, his young family. He answered:

> *It's a good job there's people like you that do come in and do care what people have got to say. Cos without people like you obviously that whole feeling of being alone an' that is just there innit, and nothing to change it. But at least it's good to have a say, it's good just to have a talk to somebody about what jail's really like cos people don't really care about jail, they don't really care about prisoners*

I fear Duke made more of an impact on me than I can ever hope to make anywhere with my work. But his words stay with me as I go about my business and I wonder whether I can realistically hope for any of it to matter more than it does in those instants. How to bottle that, and share it with you?
While my research was primarily compelled by curiosity about the significance of the prison soundscape to its social life, I have been equally motivated by a desire to convey its nature to those without direct experience of prison spaces. The auditory imagination has functioned as an explanatory mechanism to account for the meaning of the soundscape, as well

as providing a means of demonstrating its significance. In so doing, whether using sound as a means of exploring the rhythms and routines of prison life, or as a way of demonstrating its empirical significance, sound facilitates a bridging of perceived distance between social groups both within and between the prison and those beyond its confines. Sound, and sensory experience more broadly, constitutes a means of traversing boundaries between disciplines, people, time and space. Representing a different, though no less established source of understanding, sensory criminology holds the potential to disrupt hierarchies of knowledge and in so doing upset the social order undergirded by them. The sensory engages a broader social imagination, and in doing so makes a difference to assumptions both about prison life and our means of understanding it. While some people cannot directly hear, perhaps their imagination can be invoked to encourage them to feel, and in so doing make a difference to perceptions of distance between those inside and those beyond the prison walls.

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**About the author**
Kate Herrity is currently a part-time lecturer at De Montfort University and completed her PhD at the University of Leicester earlier this year. Her thesis was titled: *Rhythms and routines: sounding order and survival in a local men's prison using aural ethnography* and used a research method piloted in her master's dissertation: *Prison sound ecology: a research design.* Her undergraduate dissertation explored the significance of music for those serving time, and its main findings are published in the Prison Service Journal: 'Music and identity in prison: music as a technology of the self'. She has participated in other prisons research as a research assistant and is currently working to complete a project evaluating the effects of student design in prison visits spaces. A passionate proponent of sensory criminology, 'Sensory penalties: exploring the sensory in spaces of punishment and social control', (edited with Bethany Schmidt and Jason Warr) is due out next year.

## Increasing fairness in sentencing using quantitative research

## Jose Pina-Sanchez

In the last decade the jurisdiction of England and Wales has embarked on a transformative process of sentencing reform through the design and imposition of sentencing guidelines. The goal of the guidelines is to promote greater consistency, and in so doing increase transparency and public understanding of sentencing. The reach and depth of this process of reform cannot be overstated: it is expected that, by 2020, the sentencing of all major offences will be structured by guidelines, which the Coroners and Justice Act 2009 requires all sentencers to follow.

In my career as an academic researcher I have been involved in exploring this process using quantitative methods. Some of my work has helped to: i) refine the research tools used to assess the impact of new guidelines; ii) assess whether the guidelines are having their expected effect; and iii) identify inconsistencies in how the guidelines are being used by sentencers.

Much of the work summarised in this article has been shaped through multiple interactions with analysts from the Sentencing Council for England and Wales, with whom I have collaborated in a wide range of capacities: as an intern, a consultant, a co-investigator, and as principal investigator. In each of those experiences, the Sentencing Council has always been an extraordinary policy partner, one with which any sentencing or policy researcher would find it rewarding to engage.



**Working as a policy intern with the Sentencing Council**

The story of how I got into this area of research is not a conventional one. It begins in 2012, when I joined the Sentencing Council for England and Wales as a policy intern sponsored by the Economic and Social Research Council. At this time, I was a PhD student in social statistics exploring solutions to a technical problem of non-response affecting the Council's brand-new sentencing dataset, the Crown Court Sentencing Survey. This survey is truly remarkable, capturing the characteristics of cases processed in the Crown Court in a level of detail that, as far as I am aware, has never been achieved before for a dataset of this size, in the UK or anywhere else. Whereas the official sentencing statistics published by the Ministry of Justice do not include more than the - broadly defined - type of offence, number of previous convictions and whether a guilty plea was entered, this new dataset distinguishes cases by factors including harm and culpability, and by most of the relevant aggravating and mitigating factors which are present. This is any statistician's dream: an extremely rich dataset, never used before, on a uniquely relevant topic, in which research has been stumped by the limitations of official data. As a side

project to the non-response assignment driving my internship, I was allowed to 'play' with this dataset to see if I could find creative ways of using it to assess the impact of the sentencing guidelines.

First, I aimed to explore the principle of consistency in sentencing. Even though this is the main goal of the Sentencing Council, at that time no one really knew the extent to which the principle of consistency was being upheld, or whether the guidelines were actually helping. The available evidence stemmed from interviews conducted with judges. Many of them pointed at the guidelines as a positive factor, helping to promote a similar approach to sentencing across courts, yet not all sentencers seemed enthusiastic about this process. Furthermore, it was not clear whether sentencers were really complying with the guidelines since no real monitoring processes were in operation. If a share of the judiciary simply did not follow the guidelines, could the effect of the latter be diluted? Or, more worryingly, could it be that, by asking non-conformist judges to engage in a process they did not agree with, the guidelines were having a negative effect on consistency?

These questions illustrate how judicial compliance is a key condition in establishing the effectiveness of the guidelines in promoting consistency. We need to understand the former to be able to assess the latter. Furthermore, in evaluating the overall impact of the guidelines, it is equally important to consider any potential ramifications that could follow from the search for greater consistency. The key concern here is that a reduction in judicial autonomy might affect other equally important

principles such as that of individualisation (Alschuler 1991). If consistency is to be understood as the extent to which 'like cases are treated alike', individualisation could then be seen as its inverse: the extent to which 'different cases are treated differently'. Consequently, are the two principles inextricably linked so intervening on one will irremediably affect the other?

Last, but certainly not least, comes the question of severity. Most offence-specific guidelines are carefully designed to reflect, rather than alter, current sentencing practice.[6] However, that is an extremely complex task to achieve. It involves estimating first what the current sentencing practice is - already quite a challenging research question. Then, assuming an unbiased view has been attained, the estimated sentencing practice needs to be reflected in a written document, which again is an exceptionally complex policy challenge. Given the compulsory nature of the guidelines, any inaccuracies - e.g. attributing a lower weight to personal mitigating factors in the guidelines compared to current practice - could affect subsequent sentencing severity (Allen 2016; Cooper 2013).

All of the above considerations point at the ubiquitous 'law of unintended consequences'. Are judges complying with the guidelines? If not, are the guidelines really helping at all to promote consistency? And if they are, is consistency being achieved at the cost of undermining the equally important principle of individualisation, or even more worryingly, by artificially increasing sentence severity? The connections between all these questions makes it clear that an evaluation of the sentencing

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[6] One interesting exception is the case of drug 'mules', for which the guidelines intentionally aimed at lowering severity.

guidelines experience requires a holistic approach that goes beyond the assessment of their stated goal of consistency and contemplates unintended side-effects. I have tried to do this as I have progressed in my research by moving from the central concept of consistency to explore sequentially the concepts of individualisation, severity, and compliance.

**Thinking empirically about sentencing**
Quantitative research is often considered a rigid process, divided into two main stages: the collection and analysis of data. This common misconception ignores much of the creative thinking required, particularly important when the subject of the study is as elusive as the principles and concepts to be considered in evaluating the sentencing guidelines (consistency, individualisation, severity and compliance). How do we determine whether two cases are alike? Or whether different cases are treated uniformly? How can sentence severity be measured when disposal types available to sentencers are so different in nature? The exploration of these concepts has to start from their careful operationalisation. This involves formulating a 'workable' definition of the concept; one that is amenable to being measured, even if approximately. Once that was achieved our research process involved the following stages: i) accessing secondary data from the Sentencing Council and the Ministry of Justice; ii) estimating the level or prevalence of the concept under study; iii) and where possible, assessing whether any changes could be detected following the introduction of sentencing guidelines. This is how that process unfolded for each of the concepts studied.

**Consistency**
This was operationalised by defining 'like cases' as those sharing the same combination of factors explicitly listed in the guidelines (including harm, culpability, mitigating, and aggravating factors); *in*consistency could then be estimated as the extent to which individual sentences deviate from the average sentence observed for other similar cases. This definition is far from perfect (see Pina-Sánchez and Linacre 2016), particularly since the guidelines do not include an exhaustive list of aggravating and mitigating factors. To remedy this problem – albeit only partially – we also suggested elevating the unit of analysis to explore average disparities between courts as opposed to focusing on case-level disparities.

We found that, using the case characteristics listed in the assault guidelines, 80.8% of custodial sentences imposed in the Crown Court could be predicted accurately (Pina-Sánchez and Grech 2017), while only 2.1% of the disparities in sentence length could be attributed to systematic differences between court locations (Pina-Sánchez 2013). We also detected that between court disparities in the use of custodial sentences following the introduction of the assault guidelines decreased by 7% (Pina-Sánchez 2015).  Figure 1 represents between-court disparities using vertical lines. Interestingly, we detected that the increase in consistency following the introduction of the assault guidelines seemed to have taken place while the range of sentences used was widening (Pina-Sánchez and Linacre 2014). This is important since it touches on the principle of individualisation.
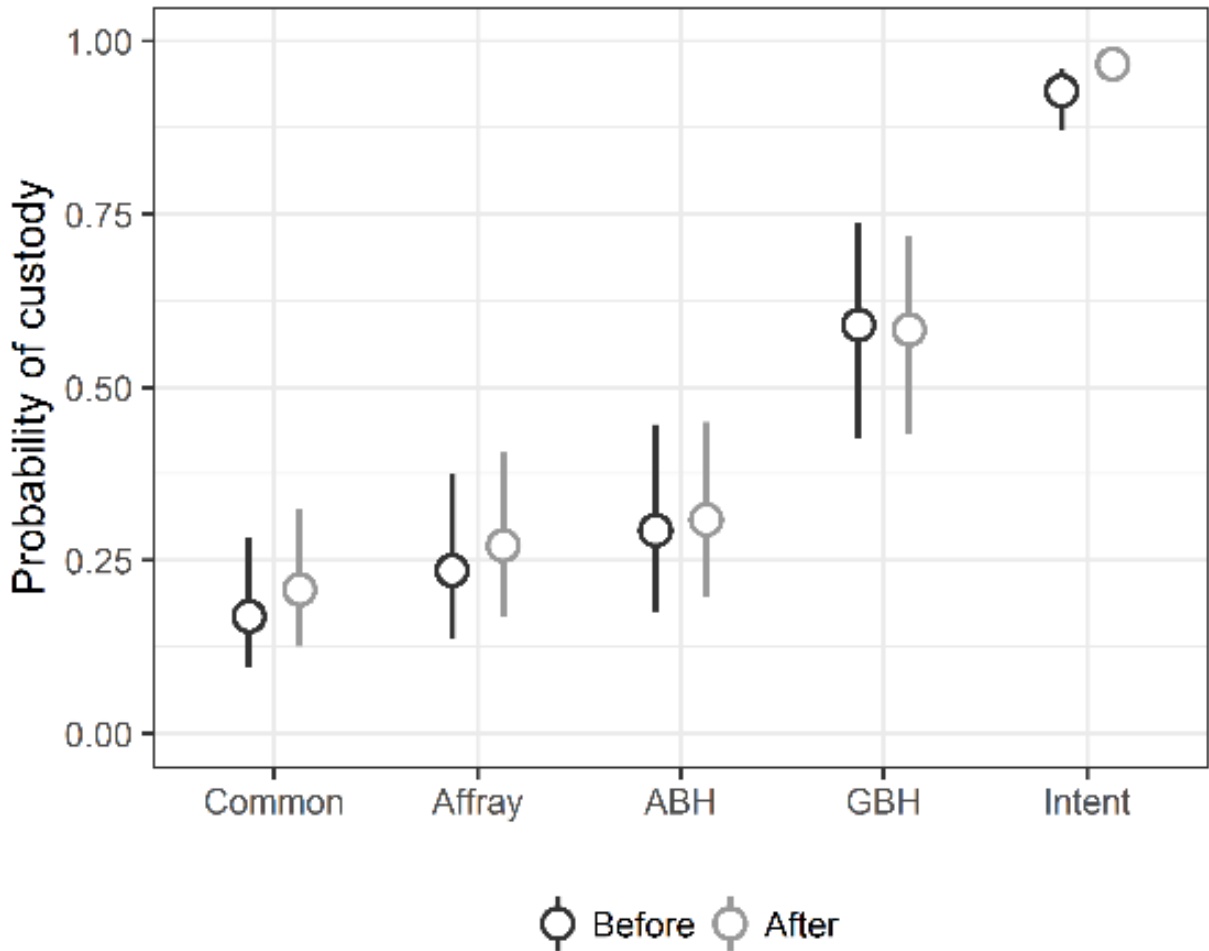
*Figure 1. Changes in probability of custody in the Crown Court before and after the introduction of the 2011 assault guidelines (including 95% confidence intervals representing between court disparities)*

**Individualisation**

The operationalisation of this principle is severely hindered by the limitations in official sentencing statistics, which only record the most severe form of punishment imposed in each sentence. As a result, sentences featuring multiple conditions are indistinguishable from much simpler sentences relying on the imposition of a unique and generic disposal type. Facing this limitation, we suggested focusing on sentence clustering (Pease and Sampson 1977) as a proxy for individualisation. The rationale is as follows: if all cases are different, why do we see so many sentences with the same outcomes? If the principle of individualisation was upheld, we should instead see a much smoother distribution of sentences imposed across the full range of outcomes available.

Figure 2 contrasts the observed distribution of custodial sentences for offences of assault sentenced in the Crown Court in 2011, with the hypothetical distribution we should see if sentencing was perfectly individualised (dashed line). The degree of clustering is clear: 56% of the custodial sentences imposed fall within the ten most common durations. Importantly, that proportion
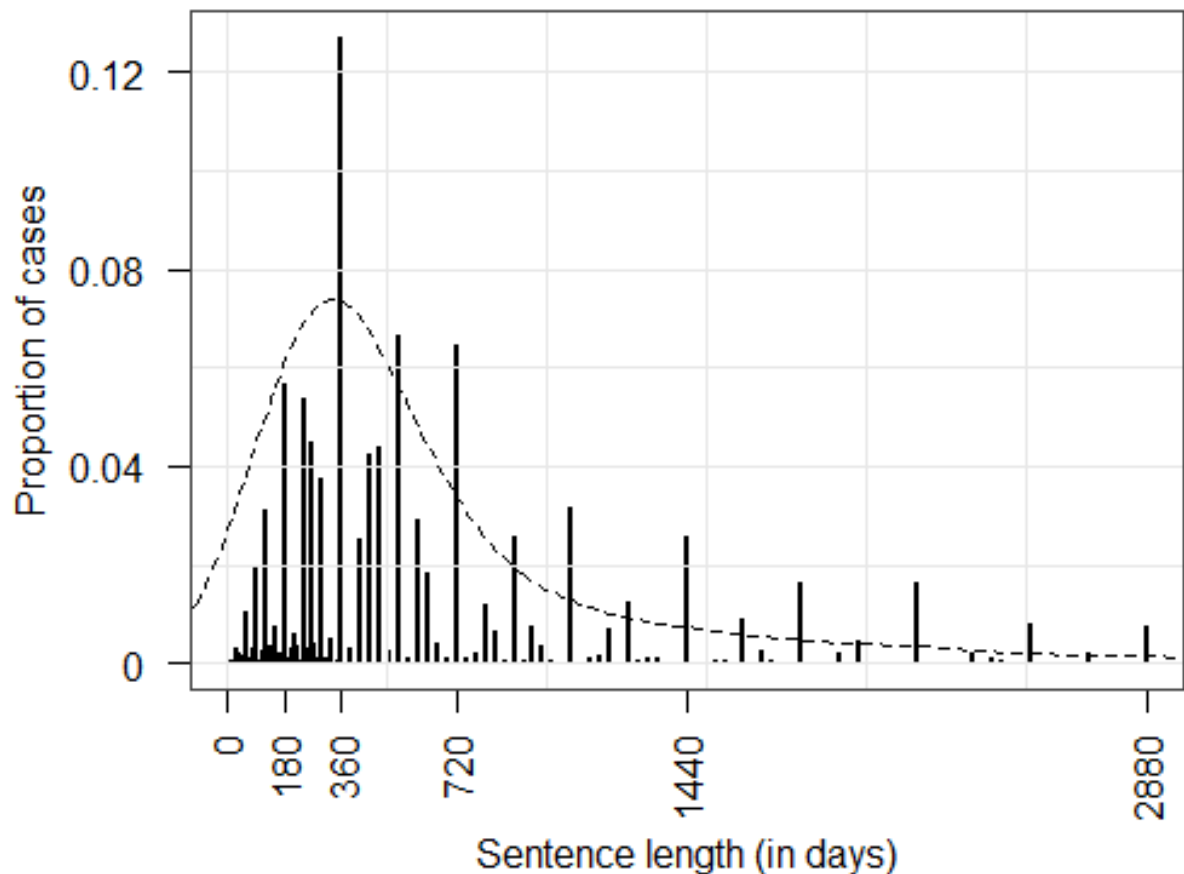
*Figure 2. Observed (in the presence of sentence clustering, vertical solid lines) and hypothetical (under perfect individualization, dashed line) sentence length distributions for offences of assault sentenced in the Crown Court in 2011 (y axis capped at 2,880 days)*

was reduced from 58.3% to 53.7% after the new assault guidelines were introduced, suggesting a move towards a more individualised practice (Roberts et al., 2018). We also found that the average number of sentencing factors defining individual cases increased from 3.6 to 4.7 following the introduction of the guidelines, although it is not clear whether this result was driven by changes in the questionnaires used to record these decisions.

**Severity**

Studies on sentence severity often explore changes in average sentence length and/or the use of different disposal types. The former are straightforward to interpret, but seriously lack external validity since custodial sentences represent just 7.2% of sentences imposed in England and Wales (Ministry of Justice 2018). The latter allows contemplating all sentences imposed, but when the relative use of multiple disposal types changes over the same time period it can be difficult to interpret what the overall effect on severity is. To overcome this methodological impasse, we designed a

scale ranking the relative severity of the main disposal types used in England and Wales. To do so we relied on the ordinal ranking provided by the 'sentencing ladder' (discharge < fine < community order < suspended sentence < custody), expert elicitation techniques, and a sample of 21 magistrates (Pina-Sánchez et al. 2019).

Using this new scale, we estimate that overall sentence severity has increased 8.8% in England and Wales over the last couple of decades (see continuous line in Figure 3). This is a substantial change; however, it almost seems irrelevant compared to the 34.7% increase in severity detected for indictable offences (dashed line). The rate of increase in both (indictable and all) offences seems to take off from 2004, pointing to a potential connection with the 2003 Criminal Justice Act. However, the rate of change accelerates solely for indictable offences from 2014, a period

of time when various new guidelines were rolled out. Separate analyses by offence types suggest that, although most of the guidelines do not seem to have had a causal effect in the observed increase in severity, some of them may have. Of the seven guidelines tested, we find such an effect for the guidelines for two types of offence: assault and theft, which corroborates some of the impact assessments undertaken by the Sentencing Council (e.g. Sentencing Council 2015).

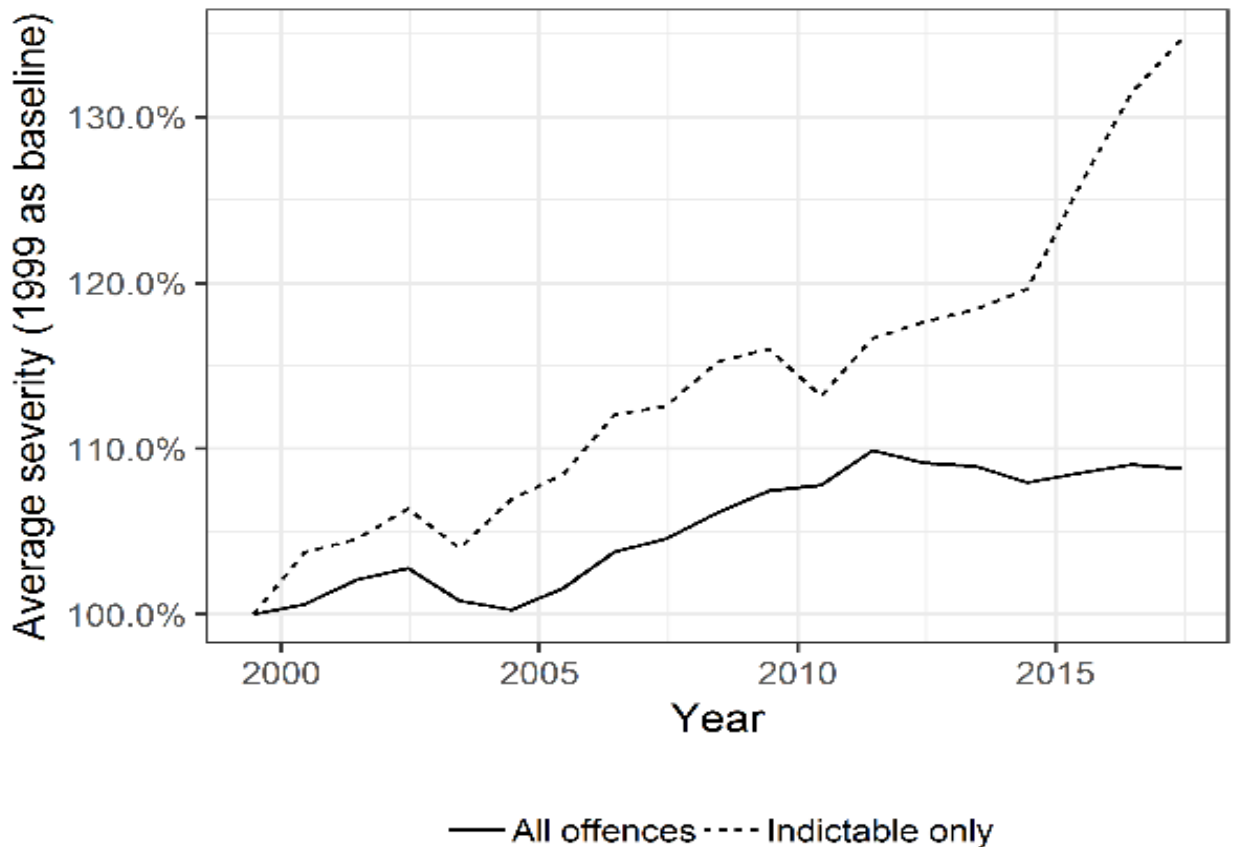*Figure 3. Trends in average severity in England and Wales (1999 as baseline)*



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*Figure 4. Influence of different sentencing factors in the determination of 'harm and culpability' (Step One), 'guilty plea reduction' (Step Four) and the severity of the final sentence outcome (statistically significant effects in black, non-significant in grey) for offences of assault sentenced in the Crown Court in 2011*
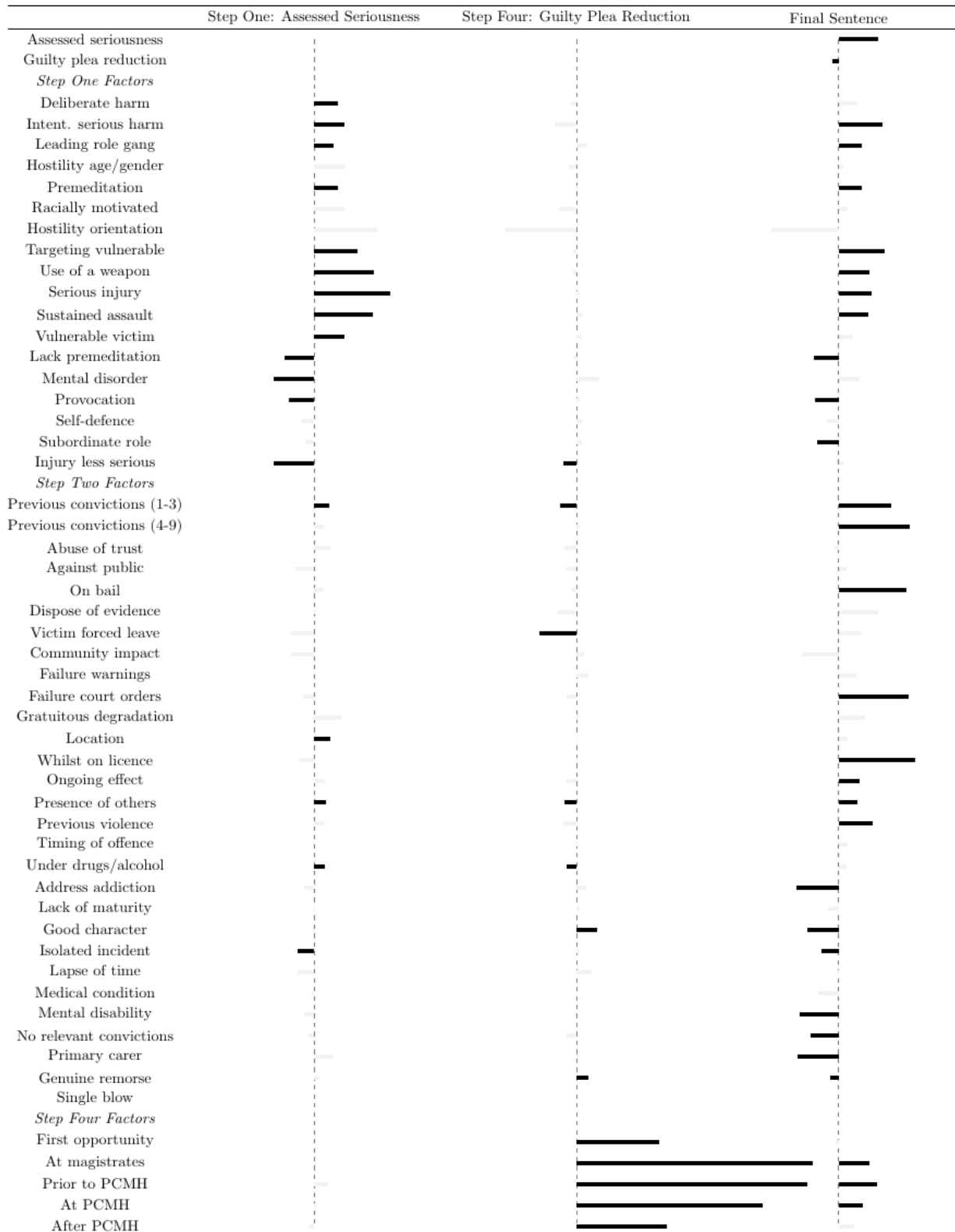
**Compliance**
The extent to which sentencers are following the guidelines can be assessed in a straightforward way by focusing on their more prescriptive sections. For example, Roberts (2013) and the Sentencing Council (2011) calculated the proportion of offences covered by the assault guidelines falling within the established sentence range, or the extent to which guilty plea reductions were determined by the timing at which the plea was entered. Such analyses can shed much light on the question of compliance, and should not be discontinued, however they are bound to provide a fragmented view of the subject. To complement them we have suggested employing multivariate multilevel models, which can help us assess: i) the influence that different factors have throughout the full sequence of steps designed in the guidelines – or at least those steps for which data is recorded – and ii) whether these factors are applied consistently across courts.

Under this approach we have corroborated findings by Roberts (2013) and Roberts and Bradford (2015) pointing at factors beyond the timing at which a guilty plea was entered influencing the sentence discount offered. Furthermore, we have identified some of those factors (Pina-Sánchez et al. 2018). This is shown in Figure 4, where the black bars indicate the direction and size of the effect that different guideline factors exert in determining the level of offence seriousness, guilty plea reduction, and the final sentence. For the case of guilty plea reductions, we see they are influenced by personal mitigating factors such as the offender's 'good character', show of genuine 'remorse', together with other factors pointing at domestic violence, such as the victim 'forced to leave' their home. We also corroborate the point made by Irwin-Rogers and

Perry (2015) on the importance of previous convictions, which, as a Step Two factor, should in principle only be used to 'fine-tune' the starting point determined after establishing the level of seriousness in Step One. In fact, we see that the weight of previous convictions is such that it influences not only the final sentence length, but also the determination of the level of seriousness and guilty plea reductions too.

**Summary of recent empirical research on sentencing**
By embracing the potential of data analysis, in an academic field traditionally dominated by doctrinal and theoretical research, this body of work has contributed to improve our understanding of the functioning of the guidelines, helping with ongoing efforts to assess the influence they have on sentencing practice. We have shown how the guidelines in England and Wales seem to be promoting consistency and individualisation simultaneously, while in a few cases they also seem to have increased sentence severity. In addition, we have identified a number of factors that are not always used by sentencers as indicated in the guidelines, and we have suggested modifications to facilitate their correct use. Perhaps more importantly, much of this research has had an impact beyond academia.

**Impact of our academic research**
We have redesigned some of the analytical tools used by the Sentencing Council to undertake the evaluation of their guidelines. Specifically, the Council has adopted our scale of sentence severity, which should result in more accurate detections of any potential shifts in severity caused by the guidelines that previously might have passed unnoticed. This evaluation phase is key since – unlike the guidelines experienced in different US jurisdictions - in England and Wales the guidelines are

conceived as an iterative process. Those guidelines identified as 'problematic' will be the first to be reformulated, ensuring that any unintended effects can be addressed. The Council has also adopted some of the multilevel methods we have recommended for the analysis of consistency in sentencing. In addition to providing more generalisable evidence of the general impact on consistency attributed to the guidelines, these techniques can also be used to identify those factors that are applied inconsistently – a question about which the Sentencing Council has recently launched a consultation process (Sentencing Council 2019).

The connection of any of the changes to the Council analytical tools to the actual sentencing practice is only indirect. The impact achieved is on the capacity to detect undue effects of the guidelines, which then will need to be reformulated. Only after these changes are made and the new guidelines come into force will our impact trickle down to the actual sentencing practice. However, if we consider how the guidelines will soon cover most of the main offences, and that sentencers in England and Wales are required to follow the guidelines, the reach of this work becomes quite significant. Furthermore, our work seems to be influencing the debate regarding the benefits of adopting systems of sentencing guidelines in other jurisdictions. In particular, the Sentencing Advisory Council (2018) has recently argued in favour of creating a Sentencing Guidelines Council for the State of Victoria (Australia), citing findings from our work that show how consistency and individualisation do not need to be mutually exclusive goals.

**Taking sentencing research (and impact) forward**
The Sentencing Council's commitment to evidence-based policy is truly

remarkable. It is clearly demonstrated by their regular meaningful consultation processes, the multiple knowledge exchange events organised with researchers and members of the civil society, and more generally by the Sentencing Council's interest in learning about the latest research findings and opinions on the field.

It is worth highlighting one particular dimension where the Sentencing Council has played a key role in promoting sentencing research, which is through the commissioning (from 2011 to 2015) and publication of the Crown Court Sentencing Survey. This dataset has been a real catalyst of empirical research on sentencing in England and Wales, used by academic, government, and independent researchers. In turn, such research has benefited the Sentencing Council by providing a pool of evidence that the it's analysts would not have been able to generate internally due to resource constraints. However, not all is perfect.

I believe that more could be done with regards to sharing this data in its original format, a crucial issue that has affected the quality of the research generated. Unlike other gatekeepers of official sentencing data (namely, the Ministry of Justice and HM Courts and Tribunals Service) the Sentencing Council deserves a lot of credit for going to the trouble of releasing their sentencing records at the case level, which is essential to be able to carry out complex data analyses. Yet, in publishing those records some key variables - such as the court location where the sentence was imposed, or the defendant's number of previous convictions - have been dropped or grouped into broad categories. We believe that the arguments used to justify this, which relate to a potential threat to the defendant's anonymity, are questionable

since court practices are open to the general public. But even if that was to be taken as a real concern, there are technical solutions available to share data securely that could be put in place. If sentencing records were disclosed in full, not only would this serve the interests of transparency, but it would also facilitate further research collaborations from which numerous stakeholders – including academics, policy-makers, sentencers and the wider public – could mutually benefit.

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**About the author**
Dr Pina-Sánchez is a Lecturer in Quantitative Criminology at the University of Leeds. Previously he worked at the London School of Economics as a Fellow in Statistics. His research interests span substantive and methodological areas such as sentencing, compliance with the law, survey research and statistical modelling.

## Making a difference in the area of sexual violence and the law: Theoretical underpinnings

## Anna Carline

My research stems from a general interest in legal and social responses to, and the construction and regulation of, gender identity, femininity and female sexuality. Over the years, this has taken shape in various projects examining criminal law and criminal justice system responses to: prostitution/sex work; rape and sexual violence; and abused women who kill their partners. Each piece of work is framed by my ethical commitment to explore, illuminate and ultimately improve women's experiences of the criminal justice system through critiquing and transforming the legal, social and cultural discourses that pertain to each substantive area. At its heart, my work considers how legal constructions of gender and sexuality, particularly when reinforced by the coercive institutions of the State, have a real and material impact on women's lives. My work aims to 'render perceptible' the impacts of law and regulation on lived realities.

In order to accomplish this, my research tends to be inter- and multi-disciplinary, engaging with feminist, queer and gender theories and utilising both legal and social science methodologies. Initially, my projects were more theoretical in nature, drawing upon the work of Judith Butler (1990/1999; 2004/2006; 2009) in order to provide a close and critical reading of policy and law relating primarily to prostitution/sex work and also pornography (Carline 2009, 2010, 2011a, 2011b, 2012). I employed Butler's conceptualisation of gender as performativity, along with her insights into vulnerability, precarity and

ontology, to scrutinise the construction of gender identity and female sexuality in relation to how women are often 'punished' for their failure to correspond to gendered and sexed normative scripts and the inability of the legal and criminal justice system to recognise and respond appropriately to the experiences of and harms committed against women. This exploration also included examining how women's vulnerability is used by government to buttress the coercive power and function of the State and eschew a wider commitment to recognise and respond appropriately to the increased precarity of others (see Carline 2011a, 2011b, 2012).

Unlike many legal scholars, I am committed to empirical investigation. Projects have mainly, although not exclusively (see Gunby et al. 2012; Carline et al. 2018, 2019), involved qualitative research, in particular semi-structured interviews and focus groups. I have interviewed legal and criminal justice practitioners, female victims/survivors, offenders and young adults. Professor Jane Scoular and I explored 'Engagement and Support Orders', which were used against women convicted for soliciting on a street or a public place the for the purposes of

prostitution (see Scoular and Carline 2014; Carline and Scoular 2015).[7] Dr Clare Gunby and I interviewed counsel across England and Wales to examine the impact of various law reform and policy initiatives introduced over the last decade to improve criminal justice responses to rape (see Gunby and Carline 2010; Carline and Gunby 2011, 2017, 2019a; Carline et al. in press a, in press b).[8]

My interest in the working reality of the criminal justice system combines with my theoretical curiosity about the effects of specific discursive regimes, practices, policies and law reforms and underpins my current interest in new materialism and affect theory (see Carline et al., in press a, in press b). Drawing upon Spinozian and Deleuzian inspired approaches, I explore the material affects and embodied effects of law, policy and practice through centring the ability of the body to affect and be affected (to be moved and transformed). This theoretical framing fosters an ethical commitment to promote the flourishing of life. The turn to affect foregrounds my adoption of affective assemblage and complex systems theory, to explore the utilisation of Engagement and Support Orders, in the context of on-street sex work and, more recently, the operation of the criminal trial and the working reality of the courtroom in rape cases (Carline and Murray 2018; Carline et al. in press a, in press b). These projects constitute an essential and radical theoretical and methodological re-orientation of approaches to socio-legal studies, criminal justice and criminology. Adopting a processual philosophical approach, attention is turned to the connections between the heterogeneous components which comprise a system,

moments of self-organisation, non-linearity and emergence and the reality of an intensive and non-representational ontological regime which is adjacent to, and interacts with, the actual ontological regime (or life as we generally understand and experience it) (See Carline et al. in press a for a more detailed discussion). Such an approach sheds new light on the working reality of systems, in particularly the adoption (or otherwise) and impact of various reforms and policy measures, and is thus vital for practitioners, legislature and policy makers, as well as those engaged in research. Through these theories, I examine how barristers engage in 'techniques of affect' and promote 'adaptive management' for those involved in producing and implementing reform measures (see Carline et al. in press a).

Also falling within the turn to affect theory, Dr Clare Gunby and I have recently explored the impact of emotional labour on those who prosecute and defend rape cases. We conceptualise trying rape cases as a form of 'dirty work', which can have both negative and positive implications for those involved in practice (see Gunby and Carline 2019). Subsequently, we were invited to speak with the [Women in Criminal Law group](#) . I am currently in the process of developing a large multi-method and comparative project which will explore emotional labour and vicarious trauma that flows from being involved in the criminal justice system.

### Collaboration, engagement and making a difference
The interdisciplinary and empirical nature of my research lends itself to collaborative ventures. In addition to

engaging in comparative work with international colleagues (see Carline and Easteal, 2014; Hopkins et al., 2018) I frequently work with scholars and researchers from other disciplines, in particular psychology and criminology, as well as a range of non-academic partners (such as criminal justice practitioners, national and local governmental bodies, non-departmental public bodies, third sector and voluntary organisations, university support and welfare colleagues and artists and graphic designers, HE students and the wider public).

Engaging with practitioners formed the basis of a project with psychologist Dr Heather Flowe, focused upon improving criminal justice responses to alcohol related rape. With funding from the British Academy, we established an interdisciplinary network comprising of practitioners (including Rape Crisis, the police, the CPS and professional police consultants who deliver training on how to conduct interviews) and academics (e.g. criminologists, psychologists and lawyers) to foster dialogue about the effects of alcohol on memory and the problems faced when interviewing intoxicated survivors and investigating cases.[9] Subsequently, in conjunction with the network, Dr Flowe and I co-developed guidance which draws upon the most update psychological evidence regarding the impact of alcohol on memory (see Flowe et al. 2019) and aims to dispel various misconceptions and improve practice (see Flowe et al 2015 in process). I have also worked closely with the Sentencing Council, on a multi-method project which evaluated the impact of the new sentencing guidelines for both sexual offences and robbery and developed recommendations (see

Carline et al. 2018, 2019). The project involved collating and analysing quantitative sentencing data from all crown courts in England and Wales, as well as conducting semi-structured interviews with judges to explore in further detail how the guidelines worked in practice.

Perhaps the most innovative, exciting and transformative collaborative project I have been involved in is 'Let's Talk About Sexual Violence' (see www.TalkSV.uk; Carline and Gunby 2019b). Funded by the Office for Students and the University of Leicester, this 'artful intervention' involved the creation of a multifaceted art exhibition which aimed to raise awareness of sexual violence, and challenge myths and misconceptions regarding it. I worked closely with the lead artist – Kajal Nisha Patel – to facilitate the production of six pieces of artwork, which were displayed across the University of Leicester's campus during sexual violence awareness week in 2019. The exhibition was ultimately a team effort – an affective assemblage if you will – with the involvement and support from numerous colleagues, including Harriet Smailes, Dr Clare Gunby, Dr Becky Barnes, Barbara Sandin, Saria Digregorio and Samia Malik – amongst many others. New artists were commissioned while existing artwork was included to reflect eight themes that recur when speaking to who have experience of the criminal justice system (be that as a rape victim/survivor, practitioner, voluntary/support worker and/or academic/researcher): power, consent, trial, shame, myths and misconceptions, justice, space and resistance. Artists, designers and activists were selected based on their

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[9] Funded by the British Academy/Leverhulme Small Research Grant 2014 round [grant number: SG141783].

demonstrated awareness and commitment to human rights and social justice. In working with these individuals, we were able to translate some of the complexities surrounding sexual violence, while foregrounding important personal and political issues. The interdisciplinary nature of the project also inspired us to deploy a variety of creative approaches, so that people would be encouraged to engage with academic research in a more accessible way. We facilitated tours of the exhibition during sexual violence awareness week and we are currently in the process of developing an online/virtual exhibition site, working with the company V21artspace (https://v21artspace.com/), and intend to host another exhibition during the 2020 national sexual violence awareness week.

Perhaps acting as a precursor to the TalkSV 'artful intervention', I previously worked closely with Liverpool City Council on the development, implementation and evaluation of two media campaigns, which aimed to reduce sexual violence that was in some way linked to the night time economy (NTE). These campaigns, which can be conceptualised as primary prevention interventions, evolved from an interdisciplinary project which, *inter alia,* explored the experiences of, and perspectives towards, alcohol intoxication and non-consensual sexual activity amongst students (see Gunby et al., 2012 for an overview of the key findings). Following our involvement, the council initially decided to develop a campaign focused on raising awareness and educating young men (aged 18-24) on the issue of intoxication, consent and the law of rape. The key significance and impact of my work here relates not only to the council's decision to tackle alcohol related rape, but also their decision to aim the intervention at potential perpetrators, as opposed to women as

possible victims. This was a much called for and significant change, as sexual violence prevention campaigns have tended to focus on the behaviour of young women, an approach which tends to problematically reinforce rape myths (see Carline et al. 2017).

Subsequently, in 2014 I worked with Liverpool City Council, the police and representatives from the student unions in Liverpool, to develop another male-focused campaign, which aimed to reduce incidents of 'low-level' sexual assault against women in the night time economy. I helped design the poster campaign and engaged in an assessment of its effectiveness, which comprised conducting focus groups with young men and women (see Gunby et al. 2019 regarding young women's experiences of, and responses to, unwanted sexual attention in the NTE). Through these interventions, it can be seen that my work has impacted on the council, Universities and students and the wider public population who were recipients of the campaign and exhibition messages (Carline et al. 2017).

In addition, my work can be seen to have had an impact on policy and practice in relation to criminal justice responses to alcohol-related rape. Following the development of our guidance, Dr Flowe and I have facilitated various training events for police officers, RASSO units, prosecuting barristers and the CPS. In addition to influencing and informing the nature and content of such training, the pre and post testing of our sessions indicate that we have successfully challenged misconceptions regarding the impact of alcohol on memory, and thus will potentially transform practice (Flowe et al, in progress). The Let's Talk About Sexual Violence intervention also brought about a significant change in practice at the University of Leicester, as it was the first multi-faceted exhibition

which aimed to raise awareness of, and tackle issues relating to, sexual violence that had been displayed on campus. Furthermore, over 100 individuals participated in a tour and the qualitative and quantitative evaluation of the exhibition indicates that we were successful in our aims regarding raising awareness and dispelling myths and misconceptions (Carline and Gunby 2019b).

If one adopts a broad understanding of what it means to make a difference to the world, then I would maintain that this is central and core to my research. To a significant extent, my theoretical framework - whether that be feminist theory and Judith Butler or my most recent deployment of new materialism and affect theory - recognises the affective, impactful and potentially transformative nature of most, in not all, interactions. This intersects with my ethical commitment to expound, explore and improve women's experiences of the criminal justice system. In this frame, making a difference may take various forms and intensities, and encompasses the ongoing advancement of knowledge and theoretical concepts in addition to more applied and policy focused work. It also involves various audiences – not only other academics and researchers, but also and the broader public, as well as practitioners and/or policy makers. From this position, I understand research as having the capacity to bring about change – to make a difference – in a multitude of ways and conceive (at least part of) my role as an academic as being concerned to explore these potentialities, with an overall commitment to promote the flourishing of life. Within this framework, making a difference to the world may involve targeted and strategic research and working closely with non-academic audiences, but on other occasions it may be more nuanced and even unexpected in nature.

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**Acknowledgements**

**About the author**

Dr Anna Carline is a senior law lecturer at the University of Liverpool. Her main areas of expertise are criminal law and criminal justice (in particular violence against women and sexual offences), family law and feminist/gender theory. Dr Carline's research is socio-legal, comparative and interdisciplinary in nature, examining legal developments by drawing upon a range of social science and legal methodologies and different theoretical approaches. She has researched and published extensively on the issues of rape and sexual violence; prostitution and trafficking; and domestic homicide. Her most recent projects include a co-authored monograph with (Drs Clare Gunby and Jamie Murray), entitled: *Rape and the Criminal Trial: Reconceptualising the Courtroom as an Affective Assemblage* which is soon to be published by Palgrave Macmillan. This book brings new materialism and affect theory into a conversation with barristers' insights into the rape trial process and impact of reforms to argue that the courtroom needs to be reconceptualised as an 'affective assemblage'.

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