

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/after-the-riots-harsh-sentences-will-strain-a-burdened-system>

Public Facing Advocacy Writing

Amid public outrage and calls for retribution, [English courts have been working around the clock](#), swiftly processing more than 3,000 individuals arrested and charged for participating in the riots that rocked the United Kingdom earlier this month. To date, magistrates and judges have issued extraordinarily severe sentences for offenses that routinely carry lesser penalties. They have also detained defendants without bail, pending trial and/or sentencing, in situations for which bail would usually be granted. In many cases, magistrates, whose maximum sentencing powers are six months in prison or a 5,000 fine, are referring cases to the Crown Court, which has broader authority in sentencing, suggesting that many apprehended offenders will spend substantial time behind bars.

These trends have resulted in a number of outcomes [inconsistent with those recommended in guidelines](#) promulgated by the Sentencing Council of England and Wales, and which judges typically use to determine appropriate sentences for convicted offenders. At the Camberwell Green Magistrates Court, for example, first-time offender Nicolas Robinson received a six-month custodial sentence after pleading guilty to stealing a bottle of water worth \$5 during the riotsan offense that would ordinarily be met with a community-service sentence or a police caution. In another case, a Crown Court judge sentenced two young men to four years in prison after they admitted to using Facebook in a failed attempt to organize riots in Northwich. Although no trouble resulted from their actions, the judge issued a sentence normally given to serious offenses such as vehicular homicide.

Departures from the countrys sentencing guidelines are not uncommon. In the interest of justice, aggravating factors (or mitigating factors) allow judges to veer away from sentence ranges outlined in the guidelines. It is clear that the courts consider rioting an aggravating factor of such a degree to justify the recent excessive sentences. This aggravating factor, unfortunately, is overwhelming other considerations that are usually taken into account in sentencing, such as intent or the degree of participation. In one well-publicized case, Ursula Nevin, a mother of two, was given a five-month custodial sentence for receiving a pair of looted shorts from a friend. It seems unfair as in this examplethat no distinction was made between individuals who participated in the riots and those who did not. Lord Macdonald, a former director of public prosecutions, has warned that courts risk being swept up in a "collective loss of proportion" by handing down jail terms that lack "humanity or justice."

The rush to judgment, so to speak, has serious implications for justice administration and the appearance of fairness in the United Kingdom. First, due to the uptick in detention without bail and custodial sentences for rioters, prisonsalready overcrowded, understaffed, and insufficiently fundedshould expect a huge influx of people in the near future. The Prison Governors Association has reported that the prison population is now rising by more than 100 people a day as a result of the riots. This at a time when resources are incredibly tight, and despite the Ministry of Justices advocacy for more cost-effective modes of punishment, such as those based in the community. Second, cases are being disposed with wild inconsistency, and this suggests the potential for appeals to flood the appellate courts. Despite similar circumstances, an individual in Manchester might receive six months for a riot-related offense that in London receives one day in prison, time-served. It is likely that the higher courts will not tolerate such inconsistency. Finally, the severity with which alleged rioters are being handled in the courts has been coupled with calls for persons convicted of riot-related offensesand their familiesto automatically lose their entitlement to social benefits, such as public housing. If the riots to some extent grew out of a larger sense of social alienation, such disparities can only harden this disengagement from mainstream society, and could be, as one commentator put it, a recipe for further exclusion and social division.

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