

Transform Justice

Resolving crimes without going to court – a messaging guide



Introduction

In a “tough on crime” climate, how can we build support for resolving more crimes without going to court?

There is a raft of ways to deal with crimes without sending people to court, using what experts broadly refer to as “diversion” and “out of court disposals”.

These lower gears of the justice system have proved effective in reducing reoffending, and in addressing the needs of victims.¹ But they rarely get a look-in in public conversations about how to deal with crime, which focus heavily on the system’s highest gears – prosecution and prison.

The good news is that the public are broadly supportive of resolving crimes without going to court. 58% of survey respondents supported policies to resolve more crimes without going to court, compared to only 17% who oppose. A majority think that such options are a sensible response to crime, a good use of police resources, and are likely to help people who commit crime make positive change in their lives. But that support can go up or down depending on the language we use.

This guide summarises how to communicate about resolving crimes without going to court in a way that leads to public support and acceptance. It is written for anyone writing or speaking about resolving crime without going to court, including charities, police, and police and crime commissioners.

The findings are based on focus groups and a nationally representative survey of the public commissioned by Transform Justice and funded by Lloyds Bank Foundation, as well as earlier research² done by the FrameWorks Institute on behalf of Transform Justice, the Criminal Justice Alliance, Clinks and the Standing Committee for Youth Justice.



**LLOYDS BANK
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England & Wales

How to communicate about resolving crime without going to court

01

Appeal to helpful beliefs and avoid unhelpful ones

02

Lead with commonly-held values: pragmatism and human potential

03

Explain the issue with facts, examples, and metaphors

Use these three elements in your messaging to deepen understanding and build support for resolving crimes without going to court. These elements are covered in more detail later on.

For example, the following message boosted support for policies to resolve crimes without going to court:

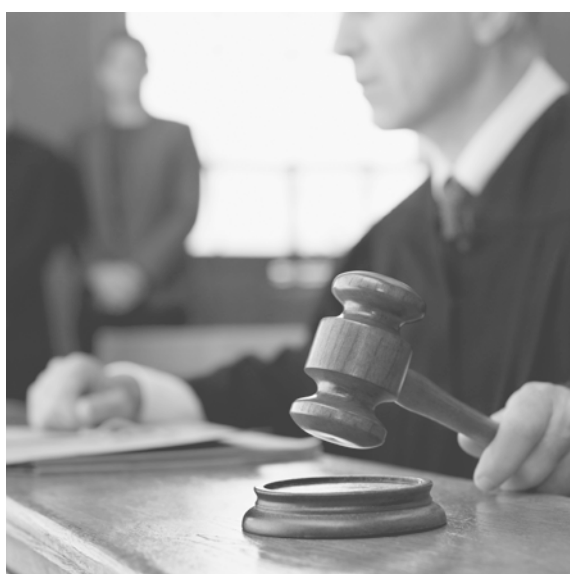
Our response to crime should help our communities feel safer and work better.

Taking someone to court often isn't a good way of changing their behaviour. Instead, it can draw them further into a cycle of crime.

At the moment, there are many ways to resolve crimes without going to court. For example, through addiction recovery programmes, formal warnings, or paying for damages.

These options offer us more sensible responses to crime. If we use them in cases like shoplifting, property damage, and fights, then we can prevent further crimes being committed.

Appeal to helpful beliefs and avoid unhelpful ones



How we react to different ideas and policies is heavily shaped by our beliefs.

These beliefs build up throughout our life and are often deeply rooted and cultural, influenced by many factors such as the country we grew up in, the education we received, and the TV we watch.

What causes crime and what should we do about it?

There are some commonly-held beliefs amongst the British public about why people commit crime and how to reduce it. These beliefs are deep seated, strong, and sometimes contradictory. We can change people's appetite for particular policies by triggering some beliefs and avoiding engaging with others.³ When communicating about policies aimed at resolving more crimes without going to court, we should appeal to and strengthen **helpful beliefs**, and we should avoid and, if possible, weaken **unhelpful beliefs** (see page 5).

Courts – flawed but essential

The public holds largely negative associations about the court process. Courts are seen as posh, stuffy, old fashioned and unwelcoming. People also accept that the court system doesn't always do a great job – that it can be a slow, expensive, blunt instrument and also scary and stressful for victims, sometimes doing more harm than good. But while people recognise there are problems with the court system, it is still viewed as the bedrock of the criminal justice system and not something to be replaced or interfered with.

Police know best?

The majority of the public believe the police are best placed to deal with low level crime based on their knowledge of communities and individuals. But around 1 in 5 people don't trust the police, and have reservations about options which they see as giving the police more power without accountability. They fear this over-reaches the role of the police and that it is fairer for people to be dealt with in court.



What causes crime?



Helpful beliefs

Crime has societal causes: People understand that there are societal (not just individual) drivers to crime. They recognise that our upbringing, health and social background can change the direction we take in life. This belief means people are ready to take societal factors into account when thinking about how the justice system should deal with people who commit crime.



Unhelpful beliefs

Crime is a rational choice: There is a strong belief that crime is committed by those who logically weigh up the pros and cons of committing the crime. This belief locates the problem at the individual level. This is unhelpful because it leads people to focus on what can stop or deter individuals from committing crime, rather than on addressing the societal drivers of crime.



How should we respond to crime?



Helpful beliefs

Rehabilitation: The public supports rehabilitation as one of the purposes of the criminal justice system. The belief isn't as strong as punishment, but it's there! This links to a strong concern that solutions to crime should tackle the root causes.



Unhelpful beliefs

Punishment: There is a strong and enduring belief in punishment as a goal of the criminal justice system. When triggered, this belief can stop people thinking about other purposes of the criminal justice system, such as rehabilitation.

Deterrence: The belief that committing a crime is an individual, rational choice leads people to believe in the power of punishment as a deterrent from committing crimes. This is unhelpful because it fuels the demand for harsher and more "consistent" punishment, as a strong incentive against committing crime.

Lead with commonly-held values: pragmatism and human potential



Every communication needs to hook people with a reason to go on reading or listening – a value.

There are some commonly-held values in the UK, for example that we should be tolerant of others, and that everyone should be allowed to speak freely and openly.

We can increase support for diversion policies by tapping into commonly-held values, framing our arguments in a way that aligns and connects with what people already consider important.

Two values get people interested in resolving more crimes without going to court. Use these values in your communication to increase support and acceptance for your policies:



Values that work: pragmatism and human potential

Boost positive attitudes towards resolving crime without going to court by focussing on the values of pragmatism and human potential.

Pragmatism is about dealing with problems practically, with a focus on solutions rather than principles or ideals. It's the view that there are feasible, pragmatic ways to improve our criminal justice system, and that doing what the evidence shows us will work is smart and "common sense".

There are two effective ways to use the pragmatism value when talking about resolving crimes without going to court:

- **Pragmatism about reducing crime** – talk about how courts are not necessarily the best way to prevent future crimes being committed, and that resolving crimes without going to court can address the root causes of crime.
- **Pragmatism about addressing the harm caused to victims** – when thinking about crime, people tend to imagine themselves as the victim. So talking about the victim's experience can be a powerful way to connect. People recognise that the courts are sometimes unsatisfactory for victims, and that resolving crimes without going to court can be a better option.

But bear in mind: people are sceptical that non-court options are indeed better for victims. So illustrate how these solutions offer resolution to victims with evidence and case studies.

Human potential – this value is about a criminal justice system that ensures everyone has the opportunity to achieve their potential, so that they can contribute to society. This value is useful because it makes people think of rehabilitation, and builds support for initiatives that help people to make positive change in their lives.



Values to avoid: swift justice and innovation

Some values didn't work so well.

Speed can backfire. Although resolving crimes without going to court is usually quicker than a court process, and can reduce demands on police time, phrases like "swift justice" can make people afraid that justice will be rushed. Similarly, talking about the approach as "innovative", "new" or "alternative" can make people worry that it's a complete overhaul of the justice system, rather than greater use of an already effective option.

While it's OK to talk about courts falling short (this will help people understand the problem), avoid saying anything that implies a replacement or de-prioritisation of courts. Instead, use the justice gears metaphor (see below) to illustrate how lighter-touch options co-exist with court, and can be the most effective solution in many scenarios.

Explain the issue with facts, examples and metaphors



While everyone has an idea of what courts and prisons are like, there is virtually no public awareness of how crimes can be dealt with without going to court. So we need to work extra hard to help people understand what we're talking about using plain English, examples and metaphors. Otherwise, people won't take in or remember what we say.

Use plain English

We tested several technical terms for talking about out of court approaches. While people could use them and repeat them, they were not instantly understood, and some of them had unhelpful associations. We suggest using plain English descriptions, even if they are a little more long winded.



Resolving crime without going to court

use plain English to spell out what you mean, even if it takes a little longer. A phrase that worked well in our research was "resolving crime without going to court".



Diversion

Is poorly understood by the public. Research has also found the term brings to mind unhelpful ideas about deviation from the "correct" course of action.⁴



Out of court

Can make people think of "out of court settlements", bringing up negative associations with rich and powerful people using the legal system unfairly.



Alternatives to court

Is generally understood. However some read "alternative" as meaning a replacement for courts, which is not well-received.



Police-led diversion / resolution of crime

Putting police front and centre triggers doubts amongst the significant minority of the public who do not trust the police to act fairly. As one focus group participant said: the "police should not be the judge and jury."

Use relatable examples

Add examples to your message to bring it to life.

This can be as simple as listing the different ways that crimes can be resolved outside of court (e.g. addiction recovery programmes, formal warnings, paying for damages) and the sorts of crimes they could be used for (e.g. shoplifting and property damage). Being more specific helps people understand what you're talking about.

We found the public to be supportive when presented with specific scenarios of how crimes could be resolved without going to court. We tested the two scenarios below:

A woman with alcohol addiction issues gets arrested for shoplifting. Instead of sending her to court, police refer her to a drug and alcohol agency for counselling.

Two men leaving a pub get into a fight, which leads to a pub window being broken. Instead of sending them to court, police ask them to pay for the damage of the window

In both scenarios, people support the police resolving the crime without going to court.

Draw on metaphors like “justice gears” and “channelling crime”

Metaphors are valuable tools to help people understand how the justice system works, and where resolving crime out of court comes in.

A metaphor helps people think about an unfamiliar concept or abstract idea – like resolving crime without going to court – by comparing it to something concrete, making it easier to understand and remember.⁵



Justice Gears

One useful metaphor for illustrating non-court responses to crime is Justice Gears. Justice Gears likens the different elements of our justice system to gears on a bike or car.

We need to use all available gears to best effect. If we overuse the top gear – imprisonment – the car won't work effectively, efficiently or economically. The first and second gears of the justice system represent the various ways to resolve crimes without going to court. The Justice Gears metaphor helps people understand that the justice system needs different levels for different situations, and that it's best to use the lowest gear possible for maximum effectiveness.

For example:

Just as a car works best when it uses the right gear for the terrain, our criminal justice system should use different responses for different situations. Resolving crimes without going to court, for example by sending people on addiction recovery programmes, or getting them to pay for damages, or restorative justice, have proven to be effective in preventing reoffending and in addressing the needs of victims. We can reduce crime by using these lower gears of our justice system to maximum effectiveness.



Channelling Crime

You can also use the Channelling Crime metaphor to talk about a diversion programme which seeks to support people to make positive change.

The Channelling Crime metaphor paints a picture of how the justice system can sweep people into a powerful current of crime, and how we need to keep people out of this current in the first place. The depiction of a current overwhelming people and sweeping them along, without control, also helps to trigger the belief that crime has societal causes.

For example:

Courts and prisons sweep people into a powerful stream of crime from which it is difficult to escape. We need to keep people out of this current of criminal behaviour in the first place. By resolving crimes without going to court, for example through addiction recovery programmes, formal warnings, or getting people to pay for damages, we can steer people to more stable shores and keep everyone safe.

Talking about resolving crime without going to court – what to say and what to avoid saying



What to say

Describe the background of those who commit the crime, and the actual circumstances of the crime, to help people see that crime has societal drivers.

Emphasise rehabilitation as a purpose of the criminal justice system, to connect to the view that solutions to crime should tackle the root causes.

Use tested values to frame your message, such as:

- **Pragmatism** – how resolving crimes without going to court can either help reduce crime or provide a better outcome for victims.
- **Human potential** – how resolving crimes without going to court offers people a chance to rehabilitate and contribute to society.

Use a plain English description such as “resolving crime without going to court”.

Talk about the victim perspective to help people understand what you’re saying. Most people relate to this issue through their experience of crime as a victim.

Don’t shy away from describing problems with our current courts system. The public know that courts aren’t perfect. By mentioning this we can prime people to see how resolving more crimes without going to court can offer more sensible and effective solutions.

Stress that options for resolving crimes without going to court already exist in our justice system. Use the justice gears metaphor to help bring this to life.



What to resist saying

Avoid talking about choice and personal responsibility so as not to trigger beliefs about punishment, deterrence and crime being a rational choice.

Avoid saying “out of court disposals are only appropriate for low level offences”. This just reinforces a view that prosecution is “best”, and undermines faith in other effective ways of dealing with crimes.

Avoid values which may backfire including swift justice and innovation.

Don’t put police discretion front and centre of your messaging as some people have concerns about police over-reach and think it would be fairer for people to be dealt with in court.

Try not to use terms such as “out of court”, “diversion” and “alternatives to court”, as they can lead to misunderstandings which decrease support.

Don’t forget to explain how these approaches offer resolution for victims, e.g. by using evidence about victim satisfaction, or victim stories where the approaches have worked.

While it’s OK to talk about how courts aren’t working, avoid saying anything that implies courts will be replaced. People recognise there are problems with the courts system but still see it as the foundation of the criminal justice system.

Don’t talk about diversion from court for more serious or repeat offences without explaining why they make sense.

Appendix

How we conducted the research

This guide has been designed using insights from research commissioned by Transform Justice comprising three focus groups and a nationally representative survey of the public. The research aimed to understand how the public think about resolving crimes outside of court, and to see what language and messages are most effective for helping people understand what resolving crimes outside of court involves, and to support such policies.

Three focus groups were held online in November and December 2020 with a total of 21 members of the public, recruited through networks and social media. Participants were all residents in England or Wales, and were selected to ensure a mix of age, gender, political views, and geography. Participants were offered a thank you gift for their participation.

The 90-minute focus group sought to understand how people react to the idea of diversion from court, explore what helps people to understand what diversion and out of court approaches are, and test what terms and values help people feel more positively about diversion from court.

Findings from the three focus groups informed the development of messages to test on a nationally representative sample of the public (n=2,009) via an omnibus poll in February 2021. Three messages were tested, alongside a control (no message), to see how they influenced responses to nine questions about attitudes and support for diversion from court.

We tested the following three messages, all of which were effective in increasing support for policies to resolve more crimes without going to court.

Human potential

Our response to crime should help people rehabilitate and contribute to our communities.

Taking someone to court often isn't a good way of supporting that person to stay out of trouble. Instead, it can hold people back from making positive life changes.

At the moment there are many ways to resolve crimes without going to court. For example, through addiction recovery programmes, formal warnings, or paying for damages.

These options offer people more opportunities for rehabilitation. If we use them in cases like shoplifting, property damage, and fights, then we give people a better chance to add value to society.

Pragmatism and reducing crime

Our response to crime should help our communities feel safer and work better.

Taking someone to court often isn't a good way of changing their behaviour. Instead, it can draw them further into a cycle of crime and do very little to change behaviour.

At the moment, there are many ways to resolve crimes without going to court. For example, through addiction recovery programmes, formal warnings, or paying for damages.

These options offer us more sensible responses to crime. If we use them in cases like shoplifting, property damage, and fights, then we can prevent further crimes being committed.

Pragmatism and justice for victims

Our response to crime should help victims move on with their lives.

Taking someone to court often isn't a good way of delivering justice for the victims of crime. Instead, it can be a stressful and frustrating process.

At the moment there are many ways to resolve crimes without going to court. For example, through addiction recovery programmes, formal warnings, or paying for damages.

These options offer us more sensible responses to crime. If we use them in cases like shoplifting, property damage, and fights, then we can deliver justice and help victims move on with their lives.

Endnotes

- 1 https://www.transformjustice.org.uk/wp-content/uploads/2021/02/TJ_Out-of-court-_052.pdf
- 2 https://www.transformjustice.org.uk/wp-content/uploads/2016/08/UKCJ_MM_July_2016_Final-1-2.pdf
- 3 For more detail see https://www.transformjustice.org.uk/wp-content/uploads/2017/02/Reframing-crime-and-Justice-a-handy-guide_Transform-Justice.pdf
- 4 <https://thecrimereport.org/2021/03/11/dont-call-it-diversion/>
- 5 Read more about the power of metaphors and how to use them in this article by the Frameworks Institute <https://www.frameworksinstitute.org/article/tapping-into-the-power-of-metaphors/>

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