

TOWARDS AI?: “IMAGINED FUTURES” FOR PROBATION AND ELECTRONIC MONITORING IN THE INDEPENDENT SENTENCING REVIEW

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Abstract

The 2025 Independent Sentencing Review (the Gauke Report) famously placed great emphasis on the use of technology in what has traditionally been called “community supervision”, to provide a way out of the capacity crisis in England and Wales’ prisons. It favours a significant expansion of electronic monitoring (EM) and markedly more punitive forms of remote regulation – dubbed “prison outside prison” in press releases. It further encourages the use of emerging forms of AI to make monitoring and supervision more efficient. In this, the Review was largely elaborating the Ministry of Justice’s own emerging view of the penal future. Its call for EM to be more integrated with the Probation Service, may have gone further, but the Review’s vision of the future Probation Service is of a punitive-surveillant agency with a rather ambiguous commitment to rehabilitation. Whether this imagined future is realised remains to be seen.

Keywords

Probation; Electronic Monitoring; Artificial Intelligence; Sentencing Review; Technopopulism

Introduction

The provenance of the Independent Review of Sentencing, chaired by David Gauke, (a solicitor and former Lord Chancellor/Minister of Justice) lay in the long-brewing crisis in prison capacity faced by an incoming Labour government in July 2024. Labour inherited from its Conservative predecessor a prison system that was overcrowded, under-resourced, unsafe, and, crucially, full to capacity. This was the legacy of increasing inequality, austerity-driven cuts to welfare services, a Probation Service weakened by a failed attempt at privatisation, and a pervasive culture of populist punitiveness. Rates of imprisonment had increased and the upper limits of some custodial sentences had been raised without regard to their impact on capacity. Sensible “talk” among penal reformers – also subscribed to by liberal Conservatives like Gauke – to systematically substitute community supervision for shorter custodial sentences remained unimplemented. The Covid pandemic had created a backlog of court cases, pushed remands in custody to unprecedented levels, stimulated increased use of electronic monitoring and accentuated a growing enthusiasm among policymakers for technological solutions.

With a daily prison population of 87,465 and only 1600 vacant cells the only immediate solution for Labour – embarrassing for any government – was an emergency early release programme for 3,800 prisoners over September-October 2024 (though not the full 5000 originally envisaged). This provided temporary respite for prison staff but added pressure to the Probation Service and the Electronic Monitoring Service (newly managed by Serco), which conspicuously failed to deal with the sudden upsurge of released prisoners requiring tagging. The Independent Sentencing Review – a panel of seven experts – was established in October 2024, and its Report appeared – accompanied by an extensive Evidence Review – in May 2025. While its terms of reference had tasked it with “a comprehensive re-evaluation of our sentencing framework” (Independent Sentencing Review 2025:151, henceforth ISP + page number) the need to continue with the prison building programme established by the Conservatives was not itself questioned. The practical focus of the Review was far more on identifying a shorter-term solution which might deflect sentencers away from traditional custodial sentences, pending the

availability of 14,000 more prison places by 2031 (Prison Reform Trust, 2024). Ominously, one of the Review's three guiding principles was to "expand and make greater use of punishment outside of prison" (ISP Appendix A:151), something which had already begun to preoccupy the Ministry of Justice (henceforth MoJ).

The terms of reference, oddly, did not mention paying greater attention to the potential of digital technologies, up to and including artificial intelligence (AI) in managing offenders and reducing recidivism, but all the official publicity surrounding the Review did, and all that was truly a "landmark" in the subsequent report was its strong focus on, and overwhelming confidence in, the technological transformation of community supervision. Most of its other, quasi-liberal recommendations had been proposed in the past without finding purchase in a populist punitive climate – but the huge emphasis on technology was new, ostensibly going beyond anything the MoJ had yet recommended. This focus was, in fact, part of a much larger "modernising governance" agenda, begun under the Conservatives and accelerated under Labour, built around the socially transformational potential of AI. Space precludes exploration of the geopolitical origins of "The Fourth Industrial Revolution" (Schwab, 2016) and "The Coming Wave" (Suleyman, 2024), or the growing reach of Silicon Valley companies and the persistent calls of the Council of Europe to support but also regulate AI to ensure it becomes a "trustworthy" technology. Suffice to say that in England and Wales the deployment of AI has become central to the Labour Government's economic and political aspirations, especially to proposed reforms in public services, with less emphasis on regulation and more on unchecked innovation (Hayward 2025).

The government had agreed to implement all fifty recommendations in an AI Opportunities Action Plan (Department of Science, Innovation and Technology 2025) in January 2025. This was strongly influenced by the avant garde ambitions of the Tony Blair Institute to "reimagine government" using AI (Geoghegan and Bulman, 2025). Gauke mentions the Action Plan (ISP Evidence Review: 50), and there are clear affinities between it and some of his report, suggesting that the Review Panel had been briefed on it. The Ministry of Justice's own AI Action Plan for Justice (MoJ 2025a) appeared in July, after Gauke had reported, but once again the affinities were obvious. Far from being fully "independent" of the MoJ, Gauke's Review seems very closely aligned with its already evolving tech agenda, and its primary role, regardless of its stated terms of reference, was arguably to elaborate on this, insist on its necessity, and underpin it with a sense of urgency.

I will contend in this paper that, notwithstanding its other quasi-liberal recommendations, the Gauke Report was framed to fit and advance a pre-existing tech agenda, rather than devising rationally-arrived at solutions to the current iteration of the penal crisis. Like the government's vision for AI, Gauke's vision of a hi-tech Probation Service is an "imagined future" not in the sense of an aspirational ideal but in the sense that economist Jens Beckert (2016) uses it, as a calculated (and quasi-fictional) attempt to galvanise financial and intellectual investment in a certain direction, to reduce market uncertainty, to create conditions of emergence for a desired future and to stifle alternative possibilities. The Labour government is tapping into Silicon Valley's vision of a hyperconnected future and assuring tech companies of their support in realising it. The inflection towards punishment in the MoJ variant of this vision has a different source, in the sustained populist punitiveness that has suffused debate on community penalties since the 1990s (Bottoms 2017). Bickerton and Accetti (2021) have coined the term "technopopulism" to capture the novel use of digital means to pursue populist ends, whether by incumbent governments or insurgent oppositions; this aptly encapsulates key aspects of the Gauke Review.

Electronic monitoring was the immediate cornerstone of Gauke's vision. At the time of his Review, EM was nationally available in three forms – radio-frequency-based curfews (since 1999), GPS tracking (since 2018) and sobriety tagging (since 2021) and was used widely and in a variety of ways across the remand, sentencing and post-release stages of the criminal justice process. Approximately 20,000 people per day were subject to it in March 2024, a 16% increase on the previous year (Ministry of Justice, 2024a). The legal frameworks in which it has been embedded have not been especially punitive (compared to American and even some European jurisdictions) but – remand notwithstanding, where its standalone use is defensible - it has been found to have a limited impact on desistance and recidivism, and has never been effectively integrated with rehabilitation (Hucklesby and Holdsworth, 2016). The fact that EM's delivery has, from its inception, been controversially contracted-out by central government to a series of private companies has made alignment with the operational structures and ethos of the Probation Service extremely difficult (Mair and Nellis, 2012). The last major MoJ initiative on EM, and its aftermath, under the Conservative government – a failed move towards a "New world" of mass GPS tracking at the expense of a weakened, part privatised Probation Service - was castigated as an expensive fiasco by the National Audit Office (2017, 2022; Nellis 2020). The Gauke Panel were aware of "readiness and resilience" issues (ISR: 126) with the Electronic Monitoring Service (EMS) but a mass expansion

of all forms of EM was integral to their imagined future. Their aspirations were not helped by a scathing television documentary about poor practice in EMS which aired in April, a month before publication of his report (Dispatches, 2025). Its adverse political consequences tainted the broader public reception of his report.

Electronic Monitoring in the Gauke Review

It had been a consistent ambition in the MoJ (and in His Majesty's Prison and Probation Service (HMPPS) to expand EM. Schemes were being devised several years before Gauke started work. While the National Audit Office (2022) had identified operational problems in EMS, it also welcomed HMPPS's "plans to widen the use of tagging over the next few years through a new expansion programme" (p5). The second, 2024-25, phase of this was further expected to "build the evidence base to demonstrate the effectiveness of electronic monitoring; be data-driven; be led by user needs *and integrated with probation*; and ensure cost-effectiveness" (p24) (*emphasis added*). This idea of "integration" was new, albeit of uncertain meaning. Gauke took it forward, whilst believing that expanding EM would begin by "the first half of 2026" (ISR:126).

As far as an evidence base was concerned, the MoJ have relied on Belur et al's (2020) large scale statistical study of EM to show that EM reduced recidivism. The NAO may have had more qualitative data in mind when it asked for improved evidence, and it is doubtful that the newly commissioned series of effectiveness reviews of RF curfews, also statistical, (Brunton 2025) added to what was already known. The MoJ seems to have inferred from them that if short periods of monitored confinement reduced recidivism by a small amount, longer periods would reduce it by a greater amount. Such extrapolation is not warranted, if only because offenders' compliant attitudes towards shorter periods on EM may alter with longer ones. Moreover, sentencers to date have resolutely favoured shorter periods of EM – approximately three months - even when the law allowed, and ministers encouraged, longer ones.

The Gauke Review skimmed superficially over EM's past, writing as if its controversially "siloes" character, split between statutory supervisors and commercial delivery agents (p123) might easily be overcome. How was integration to be effected? Previous Probation Inspectorate Reports had prudently but pointedly told the MoJ that the siloes character of EM and probation was "a complicated business" which made collaboration on monitoring and supervision at practitioner level, with individual offenders, more or less impossible. Some lessons on more integrated approaches had been learned from the Integrated Offender Management (essentially police/probation) GPS schemes, using a separate EM service provider, outwith the MoJ contract. Gauke's endorsement of greater integration remained, less justifiably, as vague as the NAO's (2022) had been, calling only for EM to be used for more than mere compliance with court requirements:

electronic monitoring technology must be delivered in conjunction with skilled, well-resourced human support for offenders so that they can be rehabilitated [as] it is crucial offenders continue to receive interventions to address the root causes of their offending (p128).

Loosely aligning EM with rehabilitation in this way, and with "behavioural science", particularly nudge-based techniques to foster compliance and encourage wider choices (ISR: 130), whilst helpful in principle, was hardly equal to the challenge of organisational and cultural integration. There was no indication in the Review (or the MoJ) that the contracting-out - siloing - of EM to a commercial provider was being reconsidered, or that Probation Service-based delivery of EM of the kind that had always been common in Western Europe was now on the cards. Nonetheless, everything in the Gauke review hinted that the Probation Service of the future was being envisaged as a much more technologically infused agency. There were two interrelated aspects to this, one pertaining to AI – which will be addressed below - the other to creating more punitive regimes using new and existing forms of EM. Between the allure of technology and the pull of punitiveness, the Gauke Review arguably lost sight of what rehabilitation and desistance actually requires.

The intensification of EM's punitiveness was to take the form of more restrictive forms of spatial and temporal regulation. The Review put it euphemistically: "A greater use of monitoring and sensor technologies could also be used in the future to create secure environments outside prison for offenders, which match the intensity of supervision to an individual's level of risk and need" (ISR: 125 *emphasis added*). This was not in fact a novel idea. Academic Julian Roberts (2004) had made the case for "community custody" (also called "virtual prisons") twenty years before. Roberts' thinking was taken up by the conservative think tank, the Centre for Social Justice, and promoted as an Intensive Control and Rehabilitation Order (ICRO). This was incorporated in the MoJ (2020)

White Paper but not included in the subsequent Bill or Sentencing Act. In the months preceding the Gauke Review, MoJ civil servants themselves began blurring the distinction between community and custodial measures and talking up “community-based custody” as a way forward. Encouraged by this, the Centre for Social Justice resubmitted its case for the ICRO to the Gauke Review. While the Centre’s terminology was not adopted, it seems to have informed what Gauke meant by secure environments.

Their precise character was left vague in the Review, but they remained a work in progress in the MoJ. Roberts had originally presented his case for “community custody” as “the evolution of imprisonment”, and in the MoJ the term “community-based custody” gave way to the more abrasive “prison outside prison”. This was used in the MoJ press release that launched the Gauke Review, but not in the Review report itself. Nonetheless, at the time of the Review, the Foresight, Futures, and Emerging Technologies section of the MoJ were hosting a research project on “Public Trust in Digital Prisons Outside Prisons Enabled through Smart Technology” (personal communication, MoJ, June 2025). Among other things, this was appraising the potential of “smart home” technology to make home confinement more punitive, for example, by remotely turning lights out in convicted people’s houses, or using smart locks to restrict people to one or two rooms if they are curfewed in larger houses. It is unclear how seriously this is being taken.

Gauke’s Review focussed less on restrictive domiciliary regimes – though it spoke of “community accommodation”, which may mean hostels - than on supplementing the affordances of GPS technology, suggesting that “facial recognition for prolific offenders in specific exclusion zones could support more robust punishment in the community” (ISR: 94). These, it was said, would further reduce drug-related, vehicle-related and property crimes, as well as shoplifting in stores (ISR: 132). The Government’s public (if not formally ‘official’) response to Gauke, pointedly “going beyond the Review’s recommendations”, endorsed this but spoke of offenders being “locked into specific ‘restriction zones’, monitored by GPS tags so victims can feel safe everywhere else” (Ministry of Justice 2025c).

Beyond EM, Towards AI

Live facial recognition can be understood as a form of AI (more specifically “machine learning”) because it scans faces in a crowd and matches them in real-time with a data-base (watchlist) of wanted individuals. Before the Gauke Review framed it as an aspect of offender management it had mostly been associated with policing and crime prevention, but there are no intrinsic reasons why it could not be appropriated to support punitive regimes. Similarly with smartphones which – following developments in the USA - Gauke wished to enlist for penal purposes, not only because they were a ubiquitous and convenient means of communication, they could also generate much more data about an individual offender’s mobility than standard location monitoring. Smartphone EM (blue tooth connected to an ankle tag) facilitates counselling, identity confirmation, mobile video check-ins, the delivery of rehabilitation courses, and the use of sensor apps for biometric monitoring. All this generate swathes of personalized data from which AI tools can generate dynamic risk assessments on demand and recommend appropriate courses of action.

Gauke framed his call for “mobile-based rehabilitation apps and tools [that] could be used to enable an offender to connect with the Probation Service and access information more easily, all in one place on their phone” (ISR: 125) as a convenient service *for offenders rather than agencies*, in much the same way as tech companies disguise their data extraction strategies as a service for the benefit of users. Offenders may well find service delivery via smartphone a positive experience, but it is “coercive connectivity” (Nellis, 2018) all the same, enabling “greater real-time monitoring of offenders so that alerts can be identified and responded to more promptly, to better protect the public and victims” (ISR: 127). The incessant - rather than intermittent - oversight of real-time monitoring is discursively presented as tougher than reactive, “hours later” checking on an offender’s trails and stopping points. It has been the norm in respect of GPS-monitoring of high-risk terrorist suspects: it is more personally intrusive (on families too), and intensifies the deterrent grip on those subject to it.

All the technological innovations that Gauke proposed and the MoJ endorsed will generate more data, and more data-sharing, and call forth a concomitantly greater use of AI to process it all, thereby generating usable information. It might, however, be argued that causality runs the other way – it is the Labour government’s deepening alliance with Silicon Valley and its overarching determination to build high value datasets and infuse AI into all aspects of governance that is driving technological innovation, compelling all sectors to adapt.

The Gauke report devotes a whole chapter to technology, and looks ahead. It's final recommendation to the MoJ is "further collabor[ation] with industry on research and development to explore new technologies for service transformation, including advanced AI" (ISR:135). A new phase of collaboration had, in fact, begun in May 2025, before Gauke's report was published, with a Lord Chancellors Roundtable for tech innovators, hosted by business think tank TechUK. Gauke himself was writing collaboratively, at least in the spirit of the Tony Blair Institute, when he called for "structured horizon scanning [to be] embedded into decision-making to anticipate shifts and developments in technology [and] dedicated efforts to trial emerging technologies, rapidly assess their impact and integrate what works into operational systems" (ISR: 135)

Anticipating the success of this approach, Gauke becomes very bold, imagining the use of a "smart digital assistant (also called an "AI-assistant") which will "revolutionise a probation officer's day to day role" (ISR: 135). This would go beyond the automation of efficiency and "enable practitioners to focus even further on building meaningful relationships with offenders" (ISR: 135, emphasis added) a somewhat cliched understanding of what automation might actually accomplish, of which even the Council of Europe (2024) is sceptical. AI-assistants, Gauke believes, would devise personalised rehabilitation plans, analyse compliance, predict breaches and tell officers how best to match supervised people to particular community services. Compared to what "personalisation" once meant to probation officers, its use to denote automated, mediated ways of dealing with offenders, speaks volumes about the kind of Probation Service Gauke has in mind.

When Gauke speaks of the need for "a single digital channel for offenders on probation" (ISR: 137) he is envisaging probation as a platform – though he does not use the term - rather than an organisation. This platform "would bring together check-ins with the Probation Service, communication, rehabilitation plans and monitoring into one accessible place for offenders" (ISR: 137) from which joint planning between offender and officer could be undertaken. An app-based model of supervision akin to this in the Netherlands informs Gauke's thinking here, and an as yet unevaluated AI-chatbot "designed to mimic [human] interaction with parolees" (ISR: 136) in development at the University of Cincinnati excites his imagination, more than it does mine, although I had speculated about such possibilities (Nellis 2023).

What Exactly Might Probation Become?

It was never entirely clear in the Review's original terms of reference how "greater use of punishment outside prison" (ISR Appendix A:151) – which became "prisons outside prisons" - was to be squared with the Probation Service's valued rehabilitative ethos, and, moreover, no sense that blending rehabilitation with punishment was often easier said than done. There is a hint here – never made explicit – that in establishing the Review the MoJ had been hoping to marginalise and transcend a Service perceived by them to be obsolete. However, those who gave evidence to the Review overwhelmingly recommended taking probation seriously if both custodial sentencing and reoffending were to be reduced. Gauke himself saw the wisdom of this, but his imagined future Probation Service was saturated in technology.

The Review proposed that the development of offender management (in the community) was guided by three principles, prioritization, protecting the public and - as mentioned earlier - personalization. All three were to be implemented using digital technology. Prioritization referred to the use of efficiency-creating technologies like the recording and transcription programmes being piloted by HMPPS to enable probation officers to prioritise relationship building with offenders. Protecting the public was framed simply as enhanced risk management: "AI tools combined with other technologies such as facial recognition could be used to continuously gather and analyse real-world data on offenders, and to monitor their level of risk as it changes" (p125). Personalisation, as noted, referred to the data-driven tailoring of services to people under supervision.

Gauke had a particular concern with the effectiveness of post-custodial supervision (as part of a wider determination to reduce the likelihood of recalls and the pressure they put on prison capacity). To that end:

HMPPS should ensure that all individuals leaving custody have access to a communication device such as a basic phone. This would enable immediate practical support on release, better communication with probation officers and, where an offender has a smartphone, consistent behavioural nudges to improve compliance and engagement (ISR: 131)

Thus, to further strengthen post-custodial supervision Gauke produced a three-tier system, all utilizing EM. Level 1 for lower risk offenders “could be achieved through adapting mobile or existing tagging technologies” (ISR: 60), with limited human input. Level 2 for higher risk offenders might use nighttime or daytime curfews. Level 3 for the “highest risk offenders could be subject to an addition of the maximum level of GPS tracking and curfew” (ISR: 60). Released prisoners with “no settled accommodation”, the Review opined, might be managed in future by “mobile-enabled biometric check-ins or wearable devices not tied to a fixed location” (ISR: 61).

This highly prescriptive, top-down, tech-dominated scenario might legitimately be called offender management but it is not probation as we know it, and perhaps should no longer be called such. It represents a paradigm shift away from what was traditionally understood as probation practice. Victoria Knight (2025) has outlined what a more digitized approach to probation as we know it might look like, but her version presupposes a deeper, evidence-based commitment to rehabilitation and desistance than Gauke’s report, or the MoJ - which had banally reduced complex processes of personal change to a casual matter of simple volition, “turning one’s back on crime”, in the terms of reference (ISR:151)”. Gauke may say that the known rehabilitative capabilities of the Probation Service need no special emphasis, but he underestimates the ways in which untried technological prescriptions – primarily in the service of control and punishment – might interact and interfere with them.

The Service’s traditional rehabilitative capabilities cannot, in any case, be taken for granted, because it is chronically understaffed and struggles with both recruitment and retention. HMPPS leaders fondly imagine that a more tech-driven probation service might make it more appealing employment to a tech-savvy generation of young people, but – even if this is so – it begs the question of whether there will ever be sufficient government funds to achieve full staffing levels, or even if government wants to. HMPPS was aware in 2023 that it needed 17,170 full time staff to safely manage the overall probation caseload, but was actually 10,000 officers short (Kotecha 2025b). Individual caseloads were untenably high, and frontline officers were all too often inexperienced – a recipe for failure and misjudgment in supervision, which has already brought tragedy and scandal to the Service.

The HMPPS promise to recruit and train approximately only 1300 new officers by 2026 per year does not sufficiently dent the pressing long term staffing crisis, and it is unclear how far the seemingly generous £700m new funding for the Service, announced in the immediate aftermath of Gauke’s report, may go. It is a 45% increase on its existing probation budget of £1.6 billion, spread over several years (MoJ press release 2025), but it is as likely to be spent on technology (including EM), renovating office accommodation and perhaps finding premises for “prisons outside prisons”, as much as on staffing and training.

The Probation Service is in a fragile state, and we might note at this point what a more fearful tech commentator says about the strategy of “fragility amplification” (Suleyman 2023:179) that governments and commerce alike can pursue to further weaken already stretched human services, and to incrementally replace them with automated services. This strategy is apparent in the Tony Blair Institute’s approach to AI and public services – never again will they be fully funded, avers the Institute, and the only way to achieve more (and better) for less is through technological transformation. The slogan “better than human” frequently used to promote AI was often mistakenly understood to mean “better” in the superior cognitive processing sense – machine as genius - but it is in fact mundane human and professional tasks like writing and speaking on which profitable AI tools like ChatGPT have targeted, hence the growing public anxiety about the replacement of entry level professional jobs with automation.

With Probation there is a further factor. Weakened and broken public services which are mandated to help people who are perceived through populist eyes as difficult, dangerous, unpleasant or evil, can come to be portrayed by governments, media and citizens alike as an undesirable and dispensable form of “dirty work”. With new technological options in play, people who have traditionally been othered, loathed and shunned by society, may come to be seen as undeserving of state-funded welfare services, fit only for management via machines and technicians, or moral abandonment, which may amount to the same thing. Whether this is an apt characterisation of the Gauke and MoJ strategy for Probation, time will tell, but it is a possibility.

Conclusion

The “imagined future” that Gauke and the MoJ envision for the Probation Service is not a foregone conclusion, but that does not mean that attempting it will not do great damage, and leave wreckage in its wake. There is certainly energy and momentum behind this “imagined future”, as there is in the Labour government’s

determination to place AI at the heart of business and governance. Peter Kyle MP, a former Innovation Secretary, has officially called this a “paradigm shift” which, spoken in the early days of policy-making, usually signifies keenness to depart from tradition. The Lord Chancellors Roundtable in May and the MoJ’s Innovation Den in July both sought to enlist tech companies in the realization of this “imagined future”. The former asked “what could a Digital, Data and Technology-enabled Justice System look like in 2050?”, pre-empting the view that justice could or should look like anything else. Lord Timpson (2025), the Minister for Prisons, Parole and Probation, who once had a decidedly humanitarian view of what reintegrating former prisoners requires is now cheerleader-in-chief for Probation’s tech future.

The current Sentencing Bill has begun the process of implementing the Gauke Review. The MoJ announced in September that this legislation would enable 22,000 more people a year to be given GPS tracking as part of an intensive supervision package, which would eventually become the norm for all people leaving prison, unless probation officers decreed an exemption. “It is the biggest expansion of tagging since the adoption of curfew tags in 1999” observed the press release, “with an extra £100 million being invested into electronic monitoring – an increase of 30%.” (Ministry of Justice 2025d). A new pilot scheme using “remote check-in surveillance” via offenders’ phones is being established, presciently described by Lord Timpson as “keeping the watchful eye of our probation officers on these offenders wherever they are, helping catapult our analogue justice system into a new digital age” (MoJ 2025e).

The steepest irony of the Independent Sentencing Review’s belief that to deliver “a shift away from custody to community sentences will require greater confidence in community sentences” (p150) is its amnesiac replication of the Home Office’s “punishment in the community” strategy in 1988-1993. It was under this rubric that the then “tech innovation” of EM-curfees were first introduced, claimed by the Home Office as something manifestly superior to – tougher than - the then Probation Service’s predominantly social work ethos. By making non-custodial measures more punitive, the Home Office reasoned then, as the MoJ does now, the public would accord them greater credibility and, in threshold cases on the cusp of custody, sentencers would more willingly opt for them. The larger rationale for this is now quite different. “Punishment in the community” at least aspired to reduce or stabilize the then prison population from its then “high-level” of 40,000 per day. The new iteration of the principle merely seeks “to ensure that prisons never run out of space again” (MoJ 2025c:1) by offering sentencers a notionally appealing stopgap while more prison places are built. The official projection of a prison population of between 95,700 and 105, 200 by March 2029 (Ministry of justice 2024c) suggests that the MoJ has no confidence that a more punitive and more technologically-infused Probation Service will make a relevant difference, despite all the effort currently being expended on building it.

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