**The Mounting Costs of Injustice: Calculating the Economic Costs of Joint Enterprise**

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This briefing document considers the financial and economic cost of Joint Enterprise (JE) across England and Wales.[[1]](#footnote-1) It has been prepared in the context of ongoing campaigns concerning the 30-year misapplication of the law and very real potential of a large-scale miscarriage of justice.

The injustice of JE leads to significant personal and emotional hardship for those who have been improperly convicted, alongside their families and communities. Relatedly, some believe (and have evidenced) that the over-zealous application of joint evidence falls unequally on some groups and communities (please refer to our research outputs to understand the disproportionate use and impact of JE).[[2]](#footnote-2)

Despite this, very little attention has been paid to the significant financial cost of using Joint Enterprise as a criminal legal strategy. Here we aim to address this question by examining the CJS costs of ***processing*** and ***punishing*** JE cases. We conclude this briefing document by questioning the *promise* of Joint Enterprise, illustrating that despite the claims of JE as a deterrence and a necessary response to violent crime, it is a costly, harmful and ineffective policing, prosecution and punishment strategy and fails to tackle the problem of violent crime.

## **Key findings**

The cost of processing and punishing homicide for a single defendant is **£1,368,542**

When using JE for **every additional defendant** to be processed and punished it costs **£1,291,031**

Data from the Crown Prosecution Service (CPS) pilot suggests an average of 3.6 defendants per case. It costs **£4,647,711** to process and punish a **typical JE homicide or attempted homicide case**.

Drawing upon the data from the CPS to estimate current scale of JE use, each year 1,360 defendants are processed, with 1,088 of these individuals convicted and punished (using costs outlined in Table 1 of the briefing).

Annual cost to PROCESS defendants in JE cases = **£242,123,520**

Future costs to PUNISH for those convicted in a one-year period = £**1,210,944,000**

## **Wider Context: Costs in the Criminal Justice ‘System’**

According to the National Audit Office (2016), criminal justice system expenditure stood more than £14bn. Criminal justice across England and Wales is delivered through a bewilderingly complex system comprised of over 300 institutions and organisations.[[3]](#footnote-3) Rather than a ‘system’ then, the CJS is perhaps better understood as a series of inter-related *processes* and *outcomes* operating from the pre-charge investigation stage through to post-sentencing stage.[[4]](#footnote-4)

## **Our Approach to Calculating the Costs of Joint Enterprise: *Processing* and *Punishment***

Attempting to calculate the use and costs of JE is therefore a complex assignment. Here we extrapolate the expenditure costs of Joint Enterprise prosecutions using validated unit costs data for Homicide cases. At present these costs reflect only direct costs to the taxpayer, rather than the wider social costs. We also acknowledge that JE cases are often more multi-faceted in those direct costs – of policing or prosecution - thus our calculations will inevitably be lower boundary estimates.

In our attempt to work with the data available to reflect additionality in the costs of processing and punishing JE cases, we focus on i) the costs of *processing* additional defendants in JE cases at trial and sentencing, and (ii) the costs of *punishing* additional defendants in JE cases post sentence, including prison, probation and NOMs/HMPPS costs.

In calculating the costs of processing and punishing an individual defendant, we are also then able to estimate the cumulative costs of JE cases where the number of defendants varies to that of the ‘average case’. As our research demonstrates, and the CPS attests, cases can have more than 10 defendants. In the following sections we outline the decisions and data sources that underpin the calculations on page one of the briefing.

**Calculating the scale of Joint Enterprise use in England and Wales:** Similar challenges arise when calculating the use of JE. Whilst the CPS flagging pilot (2023) provides some indication of scale, there remain challenges with confidently estimating use of JE. The CPS pilot~~[[5]](#footnote-5)~~ identified 190 cases of Homicide or Attempted Homicide prosecuted using JE in the pilot period of six months (Feb – Sept 2023), involving the prosecution of 680 defendants with an average of 3.57 defendants per JE case.

**Distinguishing between ‘principal’ and ‘secondary’ defendants:** Within the CPS pilot there is a lack of clarity regarding the attribution of *principal* versus *secondary* defendants. What level of alleged contribution is required to be a ‘principal’ remains a vexed issue. Often the prosecution establishes a defendant as the ‘stabber’, ‘knife man’ or the individual who struck the ’fatal blow’. Research shows that in many cases defendants are not at the scene or do not engage in violence.[[6]](#footnote-6)

**Number of JE defendants acted against in JE cases:** To calculate the average number of JE defendants prosecuted, we draw on the six-month CPS flagging pilot. Doubling to give an annual figure of 380 cases involving 1,360 defendants each year. We recognise not all these defendants will be found guilty. To address this, we draw upon the most recent CPS data on homicide conversion rates which stands at just over 80%.[[7]](#footnote-7) Using this to estimate prosecution to conviction rates of the 1,360 defendants, we estimate 1,088 would be convicted using JE each year.

**Further costs of imprisonment - accounting for age and gender:** The following are annual cost per prisoner for a place in different custodial settings.[[8]](#footnote-8) To calculate a cost of prison on remand we use the average cost per male prisoner of £46,546. To calculate a punishment cost we have used the Male dispersal cost. When calculating costs of punishment prison costs are significantly greater for young people and women. The CPS data indicates a substantial number of children (n=95; 14%) and young adults aged 18-24 (n=271; 40%), as well as some (47; 7%) female defendants.

Male (dispersal / cat A prison place) = £51, 580 Male YOI (18-21 year olds) = £63, 988

Child (15 - 17 years)= £153, 560 Female (closed conditions)= £49, 228

**Further increased CJS costs:** We are currently unable to isolate detailed unit costs for police, prosecution, magistrates and crown court, and jury – these are currently provided per homicide case.[[9]](#footnote-9) We have therefore not included any multiplier of these to reflect additional costs of police investigations, CPS charge and prosecution or court processing of multiple defendants in a JE case. Yet we know however that, as a general principle, complex cases take longer to process and therefore incur greater costs to most agencies of the CJS.

**Baseline - cost of processing and punishing a Homicide case:** The following lists the baseline costs for a homicide case involving a single defendant**[[10]](#footnote-10)**. To calculate average sentences length in these homicide cases we draw on two sources which both indicate average of twenty-year tariff.[[11]](#footnote-11)

Table 1.

Police costs £11,960

Prosecution costs £22,640

Trial and hearing (Mags & Crown costs; jury costs) £42,910

Defence costs (legal aid) [[12]](#footnote-12) *per defendant* £149,260

Remand costs[[13]](#footnote-13) *per defendant* £28,772

Cost of prison sentence[[14]](#footnote-14) *per defendant* £1,031,600

Probation costs *per defendant* £35,930

NOMS costs *per defendant* £45,470

*Estimated cost for processing and punishing a homicide case:* **£1,368,542**

**Calculating the cost of *processing* and *punishing* each additional defendant**

Table 2.

Additional defendant PROCESS legal aid defence costs £149,260 Additional defendant PROCESS remand costs £28,772

Additional defendant PUNISH cost of prison sentence £1,031,600

Additional defendant PUNISH Probation costs £35,930

Additional PUNISH for the NOMS (now HMPPS) costs £45,470

*Estimated cost for processing and punishing each additional JE defendant:* **£1,291,031**

## **Conclusions**

Despite the increasing use of JE prosecutions and punishments, there has been little analysis of the significant criminal justice system costs and expenditure to service this continued use across England and Wales. Drawing upon the findings from a range of government sponsored reports on the scale of JE and the unit costs of criminal justice processes and punishments, each year it costs over £242 million pounds to prosecute JE defendants. Once convicted the future punishment costs are vast, with estimates suggesting over 1000 defendants convicted each year, over £1.2 billion pounds will be spent post sentence on prison and probation responses to these defendants alone.

The evidence presented within this report is even more concerning when we consider the unequal use of Joint Enterprise prosecutions against children and young people, women and racialised communities. CPS data estimates that 14% of defendants prosecuted using JE are children. Beyond the serious moral questions this raises, each year it will cost £14.5 million to imprison these ninety-five children. For women who are convicted under JE, the economic costs of punishment are high, as are the costs for their children and families.

For minority ethnic people, the costs of disparity and unequal treatment across the CJS of England and Wales have been estimated to be £309 million a year.[[15]](#footnote-15) Given the evidence to demonstrate the disproportionate use of JE prosecution and punishment with Black and other racially minoritized individuals, we begin to indicate how some of these costs of racial disparity are generated.

A decade ago now, in submission to the Justice Select Committee16, JENGbA wrote:

*‘It is a big ask to expect an innocent person to serve a 25-year minimum life sentence for another person’s crime and an abomination to expect the decent honest taxpayers of this country to pay for it.’*

The promise of Joint Enterprise prosecutions as a legal deterrent, and a political solution to address the problem of violent crime has driven an increase in the use of JE. Perversely, beyond the exponentially increasing costs of prosecuting and punishing Joint Enterprise cases, there is little evidence to suggest that JE prosecutions deter or reduces the committal of serious violent acts.

Beyond the huge personal and emotional costs of such prosecutions and convictions, this paper demonstrates the escalating financial costs driven by the increasing use of Joint Enterprise.

Alongside the moral, ethical and social costs of the law ‘taking a wrong turn’, the ineffective criminal justice practices that prosecute additional defendants, often representing more and more young people being drawn into the criminal justice net, implies the significant financial costs of injustice.

At the heart of establishing more effective and just responses to violent crime, policy makers must include an understanding of the need for change when current strategies are costly failures. In this briefing document we have sought to outline the economic costs of using JE to respond to incidents of homicide, to calculate the level of resource currently being used to process and punish defendants. Many of these individuals have not directly engaged in violence, may not have been at the scene or made a significant contribution to the offence.

1. We would like to thank the following individuals for their support in reviewing drafts of this briefing document: Kevin Albertson, Professor of Economics, MMU; Ashwin Kumar, Professor of Social Policy & Director of [PERU](https://mmuperu.co.uk/); Laurie Hunte, Criminal Justice Programme Manager, Barrow Cadbury Trust. [↑](#footnote-ref-1)
2. Dangerous Associations

   [Dangerous associations: Joint enterprise, gangs and racism | Centre for Crime and Justice Studies](https://www.crimeandjustice.org.uk/publications/dangerous-associations-joint-enterprise-gangs-and-racism)

   [Dangerous Associations - a documentary - HOME (homemcr.org)](https://homemcr.org/article/dangerous-associations-a-documentary/)

   [(Re)producing Guilt in Suspect Communities: The Centrality of Racialisation in Joint Enterprise Prosecutions | International Journal for Crime, Justice and Social Democracy (crimejusticejournal.com)](https://www.crimejusticejournal.com/article/view/1268)

   Stories of Injustice

   [Stories-of-Injustice-women-and-JE.pdf (barrowcadbury.org.uk)](https://barrowcadbury.org.uk/wp-content/uploads/2020/11/Stories-of-Injustice-women-and-JE.pdf)

   [Joint by Jay Bernard, performed by Indra Ové - YouTube](https://www.youtube.com/watch?v=Qp8lYH0hGzg)

   [The Criminalisation of Women in Joint Enterprise Cases: Exposing the Limits to ‘Serving’ Girls and Women Justice | International Journal for Crime, Justice and Social Democracy (crimejusticejournal.com)](https://www.crimejusticejournal.com/article/view/2542) [↑](#footnote-ref-2)
3. This complexity is compounded by the separation of ministerial and governance responsibilities which means that the Home Office is primarily responsible for Policing; with the Attorney General’s office having responsibility for the Crown Prosecution Service (CPS) and Serious Fraud Office; and then the Ministry of Justice being responsible for (Magistrates and Crown) Courts, National Offender Management Services (including Prisons and Probation Services). [↑](#footnote-ref-3)
4. [Efficiency in the criminal justice system (nao.org.uk)](https://www.nao.org.uk/wp-content/uploads/2016/03/Efficiency-in-the-criminal-justice-system.pdf) [↑](#footnote-ref-4)
5. [Crown Prosecution Service Joint Enterprise Pilot 2023: Data Analysis | The Crown Prosecution Service (cps.gov.uk)](https://www.cps.gov.uk/publication/crown-prosecution-service-joint-enterprise-pilot-2023-data-analysis) [↑](#footnote-ref-5)
6. See footnote one, in particular [Dangerous associations: Joint enterprise, gangs and racism | Centre for Crime and Justice Studies](https://www.crimeandjustice.org.uk/publications/dangerous-associations-joint-enterprise-gangs-and-racism) and [Stories-of-Injustice-women-and-JE.pdf (barrowcadbury.org.uk)](https://barrowcadbury.org.uk/wp-content/uploads/2020/11/Stories-of-Injustice-women-and-JE.pdf) [↑](#footnote-ref-6)
7. Table 2.1 [Prosecution-Data-Tables-Year-Ending-June-2022.xlsx (live.com)](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cps.gov.uk%2Fsites%2Fdefault%2Ffiles%2Fdocuments%2Fpublications%2FProsecution-Data-Tables-Year-Ending-June-2022.xlsx&wdOrigin=BROWSELINK) This conversion data on Homicide suggests 80% of these defendants will be convicted. It is noteworthy that conversion rates are higher for white defendants when compared to minority ethnic groups. [↑](#footnote-ref-7)
8. Latest MOJ published data [Prison performance data 2021 to 2022 - GOV.UK (www.gov.uk)](https://www.gov.uk/government/publications/prison-performance-data-2021-to-2022) [↑](#footnote-ref-8)
9. Taken from 2018 publication [The economic and social costs of crime (publishing.service.gov.uk)](https://assets.publishing.service.gov.uk/media/5b684f22e5274a14f45342c9/the-economic-and-social-costs-of-crime-horr99.pdf) [↑](#footnote-ref-9)
10. Taken from 2018 publication – included detailed data validation with CJ practitioners. Table 23 on p58 Homicide costs [The economic and social costs of crime (publishing.service.gov.uk)](https://assets.publishing.service.gov.uk/media/5b684f22e5274a14f45342c9/the-economic-and-social-costs-of-crime-horr99.pdf) [↑](#footnote-ref-10)
11. Average sentence length. [Dangerous Associations](https://www.crimeandjustice.org.uk/publications/dangerous-associations-joint-enterprise-gangs-and-racism) average JE sentence / tariff 20 years (n=241 JE prisoners); [Cambridge Lifer Study](https://academic.oup.com/bjc/article/59/6/1328/5498428) average tariff JE prisoners 21 years men and 18 years women. (n = 153 JE prisoners) [↑](#footnote-ref-11)
12. Taken from 2018 publication – included detailed data validation with CJ practitioners. Table 23 on p58 Homicide costs [The economic and social costs of crime (publishing.service.gov.uk)](https://assets.publishing.service.gov.uk/media/5b684f22e5274a14f45342c9/the-economic-and-social-costs-of-crime-horr99.pdf) [↑](#footnote-ref-12)
13. Calculated on basis of the current average days wait from post charge listing to trial date in crown court. NAO report this as 230 days. [https://www.nao.org.uk/wp-content/uploads/2021/10/Reducing-the-backlog-in-criminal-courts.pdf](https://protect-eu.mimecast.com/s/dPydC9prxI5OgzkHobxj9?domain=nao.org.uk) We have used the proportionate cost of prisoner place in a male reception prison (£45,582). [↑](#footnote-ref-13)
14. Calculated on basis of the cost per prison of male dispersal prison space (£51,580) for average tariff of 20 years average sentence length. [↑](#footnote-ref-14)
15. [david-lammy-open-letter-to-prime-minister.pdf (publishing.service.gov.uk)](https://assets.publishing.service.gov.uk/media/5a82b6c8e5274a2e87dc29cf/david-lammy-open-letter-to-prime-minister.pdf)

    [JEF0010 - Evidence on Joint Enterprise: follow-up (parliament.uk)](https://committees.parliament.uk/writtenevidence/52012/html/) [↑](#footnote-ref-15)