



House of Commons  
Justice Committee

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# Cutting crime: the case for justice reinvestment

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First Report of Session 2009–10

*Volume I*

EMBARGOED ADVANCE COPY  
Not to be published in full, or in part, in any form before  
0001 am on Thursday 14 January 2010





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***Volume I***

*Report, together with formal minutes*

*Ordered by the House of Commons  
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## The Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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### Committee staff

The current staff of the Committee are Fergus Reid (Clerk); Dr Sarah Thatcher (Second Clerk); Gemma Buckland (Committee Specialist); Hannah Stewart (Committee Legal Specialist); Ana Ferreira (Senior Committee Assistant); Sonia Draper (Committee Assistant); Henry Ayi-Hyde (Committee Support Assistant); and Jessica Bridges-Palmer (Committee Media Officer).

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## Summary

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We decided to undertake an inquiry into “justice reinvestment”, because of three linked issues. First, the criminal justice system is a complex network of agencies with substantial public funding operating under increasing pressure but the different parts of the system do not seem to be pursuing the same goals or making cogent contributions to an agreed overarching purpose. Secondly, the Government’s main answer to the current overcrowding of prisons and the predicted rise in the prison population—already at a record high—is to provide more prison places rather than to seek to address the root causes of this seemingly incessant growth. These causes include: a toxic cocktail of sensationalised or inaccurate reporting of difficult cases by the media; relatively punitive overall public opinion (compared to much of the EU); a self-defeating over-politicisation of criminal justice policy since the late 1980s and the responsiveness to all these factors of the sentencing framework and sentencers. Thirdly, it is clear that authorities and agencies outside the criminal justice system—with relevant objectives, remits and funding—could take more effective action to reduce both the number of people entering the criminal justice system in the first place and the likelihood of re-entry after serving a sentence. So questions arise as to whether the existing allocation of attention, energy and funding is the right one. “Justice reinvestment” approaches—which channel resources on a geographically-targeted basis to reduce the crimes which bring people into the criminal justice system and into prison in particular—offer potential solutions to these challenges.

The criminal justice system is facing a crisis of sustainability. Public expenditure generally is under pressure in all areas in the worst economic climate since the Second World War. The Ministry of Justice is no exception, being tasked with finding £1.3 billion worth of cost savings over the next three years. New and existing resources are being pre-empted by planned spending to accommodate a potential prison population of 96,000 by 2014 at enormous capital and running costs. This forecast represents an incarceration rate of 169.1 per 100,000 people in England and Wales, the highest proportion in Western Europe.<sup>1</sup> Household crime, such as car theft and burglaries, and violent crime, as experienced by victims, has fallen by 46 per cent., and 43 per cent., respectively since 1995 while the prison population has more than doubled since 1992.

Our evidence suggests that prison is a relatively ineffective way of reducing crime for other than serious offenders who need to be physically contained for the protection of the public. For others, prison is a very expensive way of dispensing justice and seeking reform. It seems to have deterrent effect for only some sorts of crime and some potential criminals. We are concerned that an unthinking acceptance has evolved of punishment—for its own sake—as the paramount purpose of sentencing, and as the only way of registering the seriousness with which society regards a crime. Members of the public, when asked to determine the appropriate sentence for a particular type of offence, are generally quite close to the sentence given by the courts. Furthermore, when the public are consulted on the best means of reducing crime in their local area, they are less inclined to see the criminal justice

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1 Based on 2008 population projections that the population in England and Wales will be 56.781m in 2014.

system as the answer. We believe that if reform, rehabilitation and reparation to victims were given higher priority, then sentencing and penal policy overall could make a much more significant contribution to reducing re-offending and making communities safer. We see risks that the direction of current policy will increase pressure on the prison estate, negating the valuable work on offender reform that does take place in prison, particularly for those in custody for over two years. It seems equally clear that, as matters stand, the probation service will also be overwhelmed by demand for resettlement services in relation to those coming out of prison, let alone the effective management of offenders in the community.

The Government in the future faces a tough choice: to continue with the expenditure trajectory the current administration is embarking upon with its prison-building plan, or to reinvest the public's money in attempts to reduce the need for new prisons in the first place. The biggest fiscal crisis since 1945 obviously poses a challenge to any proposals for shifting the direction of public expenditure. When public spending needs to be cut, major expenditure commitments—such as the prison-building programme—require even more rigorous scrutiny than usual. But scrutiny also offers the opportunity to re-think the model of current spending. Fundamental change in the pattern of public expenditure is entirely appropriate during economic recession, although such change can require additional spending to start the process. When change needs to cut across departmental boundaries and involves transfers between central and local government budgets, it is rarely a cost-free process. We believe the Government faces a choice of risks: either to muddle through with the current plans hoping that commitments made under the 'predict and provide' model of penal policy will prove affordable (and not merely a self-fulfilling prophecy); or to make more radical decisions, and investments, putting the system on a sustainable footing over the longer term by shifting resources away from incarceration towards rehabilitation and 'prehabilitation'. Our evidence convinces us that the latter approach, which we recommend, represents a prudent, rational, effective and humane use of resources over the longer-term and is necessary if the current costly prisons crisis—which even the planned prison building would only postpone—is not simply to recur.

Adopting such approaches is not straightforward because a large proportion of the resources necessary to tackle conditions known to contribute to criminality—such as social exclusion, low educational engagement and attainment, drug, alcohol and mental health problems, unemployment and lack of housing—are outside the criminal justice system. Additionally, in many cases the relevant services are provided at a local level, whether by local authorities or third sector, voluntary or community organisations. Similarly, much of the support available for the rehabilitation and resettlement of former offenders is in the gift of such local agencies. In contrast, the costs of custody are borne at a national level from a centralised budget. The overall system seems to treat prison as a 'free commodity'—even if not acknowledged as such—while other interventions, for example by local authorities and health trusts with their obligations to deal with problem communities, families and individuals, are subject to budgetary constraints and may not be available as an option for the courts to deploy.

During the course of our inquiry, we were particularly interested to learn about approaches in other jurisdictions that have taken a strategic look at the high costs of the use of court and prison compared with potentially preventative measures such as effective investing in

housing, employment and alcohol and drug services. It is important to note that in some of these overseas examples, justice reinvestment programmes have either achieved or have planned to achieve payback over a five year period. Closer to home, we describe examples of joint working across institutional boundaries, such as the use of anonymised accident and emergency admissions data to guide policing priorities which has led to 40% reduction in violence-related attendances at accident and emergency in Cardiff where the key to success was an agreed and scientific approach to analysing data, which went beyond police and criminal justice evidence to look at the real impact on members of the public and map incidence in a way which allowed targeted intervention. The examination of the costs of re-offending to local authorities and health trusts, can also contribute to more effective practices.

The Government should implement a holistic approach across central and local agencies and authorities in order to shift resources from the provision of custody for its own sake to the prevention of crime and the reduction of re-offending; This is nothing new: 'prevention' is not just better, more effective and cheaper, than 'cure' but is right in principle. Victims want to see fewer crimes. A genuinely victim-based approach to crime should therefore, go wider and deeper than providing supportive and responsive services for victims of crime, and be focused on crime reduction and prevention as well as justice. The challenges of putting such a strategy into practice, however, should not be underestimated. These include:

- finding the initial investment needed
- embedding such an approach across Government departments and local agencies to plug existing gaps
- establishing effective mechanisms and incentives for the various agencies, coupled with strong local leadership, and
- engaging with professionals and the public to promote understanding and, thereby, confidence.

This is vital for any move in a new direction to survive the inevitable 'bad news day' following the first sensational criminal case presented by the media as the result of new initiatives. Long-term continuity is needed in planning for a sustainable criminal justice system and this requires a cross party consensus and an evidence-based approach to investment, essentially taking crime reduction as well as "justice" out of the arena of party political knock-about. If we are to avoid a continuation of the "arms race" on being "tough on crime", which dates back to the early 1990s, means must be found for encouraging and informing sensible, thoughtful and rational public debate and policy development on the appropriate balance and focus of resources.

The key priorities for Government policy must be:

- putting in place appropriate community-based services to prevent potential offenders from entering the criminal justice system and to divert them from the offending behaviour which can lead to custody;
- creating a well-resourced, credible, nationally-available but locally-responsive

system of community sentences that our evidence shows would be more effective in reducing re-offending than custody and hence prevent low-level, but nevertheless persistent, offenders from remaining within the criminal justice system;

- establishing a financially sustainable and effective sentencing framework that can deploy community sentences on an evidential basis—including a mechanism, via statutory provision if necessary, to ensure custody is used only as a last resort—and promote the protection of the public by reducing crime effectively;
- looking to the judiciary to adopt an active role within local criminal justice boards so that they better understand the outcomes of their sentencing decisions, and are enabled to draw lessons from what happens to those they sentence; judges and magistrates should be encouraged to work closer with criminal justice agencies as has been proved successful in community, and drug and alcohol, court initiatives;
- committing to a significant reduction of the prison population by 2015—especially concentrating on women and those whose criminality is driven by mental illness and/or addictions to drugs or alcohol;
- establishing an institution, or other mechanism, to assess and report on the effectiveness of criminal justice interventions—in much the same way that NICE does in health care—in order to move policy onto a firmer evidential footing, responsive to public opinion but insulated from media-driven reactions to emotive cases;
- linking the planning and allocation of resources within the criminal justice system to the management and flow of relevant resources outside that system, principally at a local level;
- implementing the approach to crime and regeneration set out in the Justice for All white paper, reflecting analysis of where offenders live and what local factors may have contributed to their offending; and
- backing up these prudent initiatives with the initial investment necessary to achieve success while expecting significant savings across a wide range of public expenditure areas over the longer term.

A piecemeal approach to justice reinvestment is unlikely to work and a holistic approach to reform is necessary, with a very clear and explicit statement of the purpose of the whole system against which organisational aims can be tested to assess their contribution to cutting the extent and seriousness of offending and re-offending.

Our report is divided into two main parts. Chapters 1-5 set out the financial, policy and political context in which the criminal justice system is currently operating and the problems that the Government and society face in terms of controlling its expansion. The remainder of the report sets out how we believe these problems might be overcome to begin to transform the criminal justice landscape and create a sustainable and evidence-based response to crime for the future.

# Conclusions and recommendations

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## Government policies

1. The strategy outlined in the Justice for All white paper was clearly intended to signal a radical shift towards a rational approach to the use of penal policy resources, especially in its explicit aims to reserve custody for the most serious criminals, ensure effective community sentences, establish community prisons and require sentencers to consider crime prevention in passing sentence. We regret that the approach taken in the Justice for All white paper has not been implemented as the Government initially intended (Paragraph 21)

## Use of custody

2. We are pleased that the Government has abandoned its plans for Titan prisons but we are worried that the Government seems to accept the inevitability of a high and rising prison population and remains committed to building larger prisons. We are convinced that prison building on this scale will prove a costly mistake. It will preclude movement towards a more effective community prisons model and may limit this and any future Government's willingness and capacity to reinvest in creative measures to reduce the overall prison population in the future. (Paragraph 33)
3. If Lord Carter's analysis is correct in recognising that it is primarily sentencing and enforcement which has caused the problem (by creating a greater supply of offenders into the system and increasing the length of time they remain within it), the solution must include consideration of sentencing and enforcement practice. (Paragraph 41)
4. We welcome the financial injection given to prisons for drug treatment, health, mental health, learning and skills increasing available resources, albeit from a very low baseline. (Paragraph 49)
5. We are not convinced that aiming to spend more on rehabilitation in custody will work while the prison estate is so overcrowded. We believe it is better to invest resources on reducing crime and re-offending within targeted communities. (Paragraph 49)
6. We recommend the significant strengthening of community provision to enable probation to focus on the management of high risk offenders. The underlying needs of many persistent offenders who cause the most problems to local communities would be managed more coherently in the community. Prison resources could then be focused on higher risk offenders and, when they left custody, there would be better community provision for resettlement. All of which would improve effectiveness in reducing re-offending, improve public safety and reduce the prison population. (Paragraph 52)

## **Expenditure on prisons and probation**

7. We are concerned that the Ministry of Justice is overly focused on how each individual service can continue to function with reduced resources rather than assessing the most effective allocation of resources across the system as a whole. (Paragraph 67)
8. We have grave concerns about the impact of efficiency savings on practice at the frontline for both prisons and probation, which will undoubtedly undermine the progress in performance of both services. Neither prisons nor probation have the capacity to keep up with the current levels of offenders entering the system. It is not sustainable to finance the costs of running additional prison places and greater probation caseloads from efficiency savings in the long-term. (Paragraph 87)
9. The Government's over-emphasis on use of custody as a criminal justice response, although partially addressed by the promotion of community sentences for short-sentenced prisoners, intensive alternatives to custody and integrated offender management, has left a legacy that resources for effective community-based interventions have been depleted in relative terms and are now spread far too thinly. The Government must go very much further than paying £40m to correct this imbalance; the sooner it recognises this, the less damaging it will be to the confidence of the public and sentencers and to long-term finances. The test with the pilots will be whether resources are provided to roll them out across the country. We are concerned that there are no probation staff at a senior level in NOMS: this suggests a lack of advocacy on behalf of probation for better resources. We have not seen any evidence which suggests that bringing together prisons and probation has yet had a positive impact; in fact the available evidence on the financial outcomes of this merger point to the contrary. We are deeply concerned at this indication that the Government is moving further towards a prisons-oriented criminal justice system. (Paragraph 88)
10. We recommend that the Ministry of Justice reject any move away from contracting with small organisations with proven track records in providing rehabilitative services for offenders in the name of reducing administrative overheads. Other options should be examined for reducing costs in this area. (Paragraph 95)
11. We recommend that the Ministry of Justice publishes its estimates of the financial impact of both the existing prison building programme, and the new building programme, on the rest of the criminal justice system. (Paragraph 96)
12. The Government has spent too much time pursuing an unrealistic attempt to build its way out of the prisons crisis. Lord Carter's review of prisons, and the stark demonstration of the exorbitant costs of penal expansion, should have been seen as a watershed and a warning against the 'predict and provide' approach to criminal justice policy. The reaction against the proposed Titan prisons should be seized by the Government as an opportunity to switch direction and halt the seemingly inexorable growth of imprisonment. (Paragraph 97)



## Effectiveness of prison and probation programmes in reducing crime

13. We welcome indications that reconviction rates following time in prison and on probation have fallen by a considerable margin, although we are concerned at early signs that this trend may be reversing, particularly as this coincides with budgetary constraints for prisons and probation. We are worried that, if the prison system further expands and the increases in funding tail off, these resources will be spread too thinly to continue to reduce re-offending. (Paragraph 104)
14. We recommend that the Ministry of Justice undertake work to identify the key factors influencing changes in the rate of re-offending and crime as a priority. (Paragraph 110)
15. There is a very strong financial case for investing substantial resources in more preventative work with: former offenders; those with drug and alcohol problems; people with mental ill-health; and young people on the outskirts of the criminal justice system or who have been in custody. (Paragraph 127)
16. We recommend that the Government as a whole makes reducing the social exclusion of former offenders a central part of its social policies. (Paragraph 128)
17. We conclude that programmes aimed at rehabilitation—such as tackling offender behaviour, on the one hand, and improving skills and self-confidence, on the other—are worth running in prison, while offenders are inside and in sight. Nonetheless, a more effective investment would be in a substantial programme of ‘prehabilitation’, aimed at potential offenders and targeted on problem communities, with the objective of heading off the drift into crime and custody before it happens. (Paragraph 129)

## Balance between punishment and reform

18. We are concerned that an assumption has been created that punishment is the paramount purpose of sentencing. There is an understandable public concern that offenders should suffer serious consequences for the crimes they have committed, but if other purposes, including reform and rehabilitation and reparation to victims, were given higher priority, then we believe sentencing could make a much more significant contribution to reducing re-offending and to improving the safety of communities. (Paragraph 138)
19. The starting point—not just for sentencing, but for the work of the police, prison, probation service and the contribution of third sector organisations—must be to analyse how and why criminal activity takes place, the factors that influence the seriousness of offending and “what works” in reducing both the frequency and the seriousness of offending. (Paragraph 138)
20. The Government should go much further in reducing the numbers of entrants and re-entrants to the criminal justice system. More emphasis must be placed on ensuring that the criminal justice system is effective in reducing re-offending, diverting people into appropriate support and embracing wider shared responsibility for reducing re-offending by tackling underlying causes within local communities. Resources must be shifted into targeting the reduction of re-offending on a much

- broader scale, taking a whole systems approach, which applies the best available research evidence to determine the most appropriate allocation of resources both between prisons and probation and outwith the criminal justice system. (Paragraph 140)
21. We are surprised by the cautious approach that the Government has taken towards restorative justice but we welcome its current commitment to revive the strategic direction in this area. We urge the Justice Secretary to take immediate action to promote the use of restorative justice and to ensure that he put in place a fully funded strategy which facilitates national access to restorative justice for victims before the end of this Parliament. (Paragraph 144)
  22. We are disappointed that the Government has not implemented its proposals for smaller community-based prisons which would enable prisoners to serve much more of their sentence in a single location, closer to their home community—with consequent benefits for their resettlement. Even if the community prison model is not currently feasible it would be beneficial to apply some of the principles to the existing prison estate so that the estate is not expanded in such a way as to prohibit such an approach in future. (Paragraph 149)
  23. We recommend that the Government implement the reform of the Rehabilitation of Offenders Act 1974, which it has conceded is required, before the end of this Parliament. (Paragraph 150)
  24. We are disappointed with the Government's slow progress in implementing Baroness Corston's recommendations for vulnerable women offenders, which it accepted in December 2007. We are concerned that the limited additional funding that has been committed to implementing the recommendations has been partially diverted to existing projects which have been unable to find sustainable funding. This is symptomatic of fundamental problems in funding initiatives which would reduce the use of prison. (Paragraph 157)
  25. We welcome Lord Bradley's review of the treatment of people with mental health problems or learning difficulties in the criminal justice system. There is strong evidence that swift action in this area, in particular to broaden access to diversion and liaison schemes and to secure hospital treatment, could yield short, medium and long-term reductions in the prison population and result in cost savings to the public purse, as well as provide more humane approaches to managing offenders with mental ill-health. (Paragraph 158)
  26. We commend the Government's progress in attempting to reduce the use of short prison sentences since our report, *Towards effective sentencing*. We have some concerns that a version of Custody Plus, which was not in itself implemented, is now being introduced 'by the back door' without sufficient funding. (Paragraph 159)
  27. We welcome Government emphasis on reducing the use of short-term prison sentences but believe a broader approach is required. This should include increasing the capacity of probation to deal with community sentences, and wider community work with the chronically excluded so as to reduce the waste of probation resources on lower risk offenders. It is more cost-effective to deal with offenders when



behaviour starts to become problematic rather than when it is entrenched enough to warrant a custodial sentence. (Paragraph 164)

28. It does not make financial sense to continue to ignore the needs of young adult offenders. They will become the adult offenders of tomorrow. Particular effort should be made to keep this group out of custody. A multi-agency approach, akin to that applied to young offenders aged under 18, might bring similar benefits in terms of the reduction of re-offending to those aged 18 to 25. (Paragraph 166)
29. We recognise the importance of society expressing its abhorrence of crime and understand the expectation that punishment will be an element of sentencing, but the over-riding purpose of the offender management system is public safety, therefore the prevention of future crime. Each offender completing their sentence should be less likely to re-offend than before. Yet there is compelling evidence that the Government has missed many opportunities to reduce re-offending by failing to invest in community provision outside the criminal justice system and by not delivering the raft of promising approaches proposed in recent years (Paragraph 169)
30. Even if the Government cannot agree that reducing re-offending should be the over-riding aim, there must be an agreement that it is currently the most neglected, and that this must change if the system is to become more coherent and rational. (Paragraph 170)
31. The reduction of re-offending and of the incidence of serious further offences requires an essentially public-focused and victim-based approach which goes beyond the traditional culture of the courts and the criminal justice system more generally. (Paragraph 175)
32. We welcome the move to joint targets and more sophisticated measures of re-offending. The Public Service Agreement performance framework and accompanying Local Area Agreement indicators are much more constructive than the preceding targets. (Paragraph 179)

### **Mainstream provision to reduce crime and re-offending**

33. We are concerned that there has been low take-up of crime-related indicators in local areas and we believe that local strategic partnerships should better reflect the priority given to crime as a matter of public concern both nationally and locally. (Paragraph 179)
34. There is no coherent strategy between the Home Office, Ministry of Justice and other departments to ensure the most appropriate allocation of resources to reduce crime. A considerable amount of management information about offenders is held locally by prisons, probation areas and other providers which, if captured centrally, would provide a wealth of material to support the case for cross-departmental reform. (Paragraph 187)
35. We welcome the NOMS benchmarking programme but we are concerned that it is motivated more by a desire to save money than to ensure that resources are allocated rationally to best effect; it is also limited to interventions that have typically been

provided by the probation service and does not seek to consider the cost-effective use of resources for reducing crime more widely. (Paragraph 188)

### Drivers of system expansion

36. Wider factors, such as the media, public opinion and political rhetoric, contribute to risk averse court, probation and parole decisions and hence play a role in unnecessary system expansion. If Ministers wish the system to become sustainable within existing resources, they must recognise the distorting effect which these pressures have on the pursuit of a rational strategy. (Paragraph 192)
37. We do not contest that crime and responses to it are important political issues but we believe that the extreme politicisation of criminal justice policy is counter-productive, undermines rational policy-making, and conceals the consensus that does exist around the future direction for the criminal justice system. (Paragraph 200)
38. A good deal of media comment assumes that sentencing is below the level that the public expect, whereas the evidence suggests that the public—when asked to make a judgment—set out expectations that are close to the levels that are actually being set by the courts. (Paragraph 215)
39. Parliament must listen to the public's rational perception of what changes are needed and act now to change the direction of the system, replacing expensive custody with community-based sentences and earlier intervention that will reduce re-offending. (Paragraph 216)
40. We welcome recent attempts to challenge public perceptions of crime and punishment, for example through case study websites and roadshows, but we consider that something more fundamental is required to challenge the perception that the criminal justice system is not sufficiently tough. (Paragraph 217)
41. The Government should lead a public debate on the aims of criminal justice policy, and seek to influence, as well as to be influenced by, the public response. In so doing the Government should assert that there are ways of reducing crime, other than expanding the use of imprisonment, which would better protect communities. (Paragraph 218)
42. In basing arguments for reform on the best use of taxpayers' money, the political argument could be shifted away from notions about which party is 'harder' or 'softer' on crime and criminals to questions about the most effective use of scarce resources to reduce offending and re-offending. It is time for an objective consideration of what is in the best interests of society (Paragraph 224)

### Blueprint for the future: justice reinvestment

43. There is an inescapable need for a longer-term rational approach to policy and the diversion of resources to prevent future expansion in the number of prison places and the size of probation caseloads. The Government must set a clear direction to

reduce the use of custody which must not be diverted by media pressure, even in response to individual difficult cases. (Paragraph 229)

### Rational use of resources

44. Organisation and funding should explicitly recognise the correlation between offending and social exclusion in the places where crime most occurs. (Paragraph 240)
45. Being tough on reducing re-offending is not being soft on offenders. Local strategies must take a more integrated and comprehensive approach which recognises that many of those who commit offences are also victims. Justice reinvestment would enable the most victimised communities, as well as offenders and their families, to benefit from additional targeted support. (Paragraph 245)
46. The implementation of Integrated Offender Management, and the London pilot in particular, shows that some of the principles of justice reinvestment can be applied successfully to England and Wales, although the framework for longer-term funding and national roll-out of such initiatives is, as so often is the case, uncertain. (Paragraph 254)
47. We urge the Government to think more widely in any application of justice reinvestment principles at a local level; in particular engaging local government, the health service and non-governmental sectors. (Paragraph 254)
48. A regional or sub-regional model of reinvestment may be possible in the future if the national custody budget for the majority of the prison estate could be fully devolved to directors of offender management. Resources could then be moved from prisons to probation and crime and disorder reduction partnerships (CDRPs). In the meantime local criminal justice boards should be encouraged to provide a linkage role between regional and local reducing re-offending plans and between NOMS and CDRPs, in addition to probation, to ensure that prisons are included, where possible, in local partnership plans. (Paragraph 255)
49. We do not consider that the Government's existing programme of work to reduce re-offending pays sufficient attention to the opportunities suggested by a justice reinvestment approach. Although there are welcome signs of an interest in costs and benefits, and some movement of resources between departments, this policy has not been backed by a demonstrable strategy to reduce the use of imprisonment and shift resources from within the criminal justice system; predominantly from prisons. (Paragraph 258)

### Justice mapping

50. The under-use of geographical analysis is partly the result of a lack of available expertise in mapping techniques and a lack of resources to conduct the necessary analysis. Where local leadership by local authorities and the police has driven the development of effective, analytical and innovative crime reduction techniques within proactive partnerships this has been extremely successful. The Government should undertake audits of the capacity of crime and disorder reduction

- partnerships, local criminal justice boards and local authorities to use geographical mapping. The combined results should determine whether additional resources must be employed to increase such capacity, for example, by providing hubs for technical support or by developing local expertise through training. Whatever form this capacity building takes it should be targeted in the first instance on improving areas which are failing against relevant public service agreement targets. (Paragraph 268)
51. Priority-setting to concentrate effort on existing offenders in particular areas is hampered by both the poor quality of data available locally and lack of accessibility to data that is available. We find it remarkable that there are still problems with information sharing when it is over 10 years since the Crime and Disorder Act 1998 made it quite clear that information can be shared for the purposes of preventing offending. (Paragraph 271)
52. Justice mapping should be used as a catalyst for stronger local authority and partnership strategies which prioritise the reduction of crime and re-offending in particular areas through, for example, local area agreements and crime reduction plans. (Paragraph 276)
53. The co-ordination of justice mapping activity at local level must be locally determined. (Paragraph 277)
54. The Ministry of Justice, the Home Office and the Department for Communities and Local Government should devise guidance and a mechanism whereby DOMS and Government Offices can work with regional “reducing re-offending” partnership boards to use justice mapping to inform their plans. The aggregated mapping information generated by local partnerships would similarly provide valuable data to inform national policy. (Paragraph 278)
55. Bringing together justice mapping with information on the costs of re-offending to local partners may provide a sufficient incentive for the reallocation of partnership resources in some areas. We welcome the evidence that local authorities have successfully used NOMS/Home Office methodology to help mobilise resources to reduce re-offending. The NOMS Civic Society Alliance should promote the principles of justice reinvestment among local authorities as part of its ongoing strategy to build capacity to reduce re-offending. All local strategic partnerships should use the NOMS framework to illustrate the costs of re-offending to local authorities and health care trusts. (Paragraph 282)
56. We welcome the work of the Youth Justice Board in exposing the costs of the use of custody for young people at local level and recommend that the same is done for adults. (Paragraph 283)

### Generating options for policy makers

57. The Government has not demonstrated the cost-effectiveness of its policies to reduce crime or re-offending. Neither has it produced any evidence that the prison building programme and the establishment of the Sentencing Council together represent a sustainable long-term policy. (Paragraph 301)

58. While Government can do more to identify those interventions which are successful by investing in high quality evaluation, a policy which promotes the most effective use of resources to reduce crime and manage offenders would benefit from the existence of an independent cross-disciplinary centre of excellence. Government could then identify the level of resources that should be invested in what is already known to be effective on a scale which would reduce medium and long-term costs to the criminal justice system. (Paragraph 301)
59. The Government should establish a national justice reinvestment working group at Cabinet Office level, for example, as a sub-group of the National Crime Reduction Board. As a starting point the Government should analyse the existing flow of resources at national level including total spending across central departments, for example on health, education, social welfare and criminal justice for key groups of offenders, including women, young people, young adults and persistent offenders. This, coupled with robust economic modelling of what is effective in reducing crime and re-offending, can be used to inform the development of a national justice reinvestment plan. (Paragraph 302)
60. Effective crime reduction policies should lead to reduced spending on the prison system and better return on investment in efforts to reduce crime and re-offending over several spending cycles. The Government must therefore develop incentives for longer-term planning nationally, regionally and locally. (Paragraph 303)
61. We recommend that the Government gives consideration to the most appropriate means of drawing together existing research with a view to devising a transparent and coherent model for directing resources more effectively to prevent further expansion of the criminal justice system and increases in costs. (Paragraph 308)
62. If local efforts to reallocate resources are to be effective in reducing the national costs of custody, local plans must be linked to a national strategy and subject to a quality assurance process to couple the results of mapping with the use of research on effective practice to determine the most cost-effective ways of meeting priorities. (Paragraph 312)
63. The [new] national centre should undertake monitoring to: ensure that local plans are based on robust evidence of effective and cost-beneficial practice; determine whether progress is being made in delivering results; and advise partnerships on adapting their plans if the desired outcomes are not being achieved. (Paragraph 312)

### Shifting resources to facilitate reinvestment

64. The prison population could be safely capped at current levels and then reduced over a specified period to a safe and manageable level likely to be about two thirds of the current population (taking Lord Woolf's 1991 proposal as a model and bearing in mind comparable figures from other Western European countries). (Paragraph 321)
65. It will take time to realise both the assets from the custodial estate and savings from the prison expansion programme, the payments for some of which are spread over 30 years. Initial investment is therefore required as part of an explicit attempt to reduce prison population. The Ministry of Justice cannot take forward such a policy

- on its own. It requires a higher level Government commitment and a combination of short-term and long-term strategies. We recommend that a business case is made to the Treasury for spending a significant part of resources which are currently earmarked for the new prison building programme on a programme of justice reinvestment. (Paragraph 323)
66. There is an urgent need to develop mechanisms for a longer-term approach to planning for crime reduction, including reducing re-offending, at the local level. We consider that a joint strategic needs assessment approach, similar to that required of primary care trusts and local authorities, should be applied to crime reduction and the reduction of re-offending. Justice mapping could support this. (Paragraph 328)
  67. It is worrying that so few probation areas have become trusts in anticipation of the Government's aspiration for all areas to have done so by March 2010. We are concerned that the capacity of probation areas to make the transition to trusts is being undermined by the severe scarcity of resources for them to perform even their most basic functions. We envisage that these trusts will take some time to embed and we expect the Government to take this in to account in movement towards opening probation to competition. (Paragraph 332)
  68. We do not believe that performance incentives alone will result in the reallocation of resources at a scale and pace sufficient to prevent further prison building. (Paragraph 333)
  69. If the Government is to realise its aim of integrated local commissioning in sufficient time to prevent the further escalation of criminal justice costs, there is an urgent need for further national direction. (Paragraph 333)
  70. The relevant agencies and partnerships would benefit from their responsibilities and shared concerns being collated and published together in a single guidance document. This should be published as soon as possible after probation becomes a responsible authority in crime and disorder reduction partnerships following the passage of the Policing and Crime Bill. (Paragraph 333)
  71. There needs to be a direct financial incentive for local agencies to spend money in ways which will reduce prison numbers. (Paragraph 338)
  72. There is a strong case for exploring greater devolution of custodial budgets, and we are encouraged that this is currently being given serious consideration with respect to youth justice. We are not convinced that simply making local authorities pay for custodial places represents the most constructive means of redistributing resources. We do not believe that this will be either possible or acceptable unless some money is invested up-front to enable local authorities to reduce the use of custody in their area. There is support for local partners to share money and invest in jointly funded services if there is some initial pump-priming. Devolution of custodial budgets must therefore be viewed as a longer-term goal. Such a model would also require much greater engagement between local authorities and the courts but this may be possible if the community justice court model were to be adopted universally. (Paragraph 352)



73. We believe that the movement of resources could be achieved much more quickly, bringing down spending on imprisonment more dramatically, if local partnerships were given an added financial incentive to reduce the use of custody as a proportion of the 'expected' rate, based on the characteristics of local offenders and the sentencing trends of the local courts. We consider that the use of social impact bonds—as a means of reducing crime and re-offending in particular areas, by particular groups, including women, young adults, persistent offenders and those with substance misuse or mental health problems—warrants serious consideration by Government. (Paragraph 353)
74. We recommend that the Government provide financial support at the local level to kick-start the process of reallocating resources to reduce crime. The Adults facing Chronic Exclusion pilots show the benefits of cross-departmental investment, but pilots such as this are not self-sustaining. A national justice reinvestment fund should be created, based on a business case for the long-term movement of resources from the criminal justice system to local areas. Funds previously allocated to building the three planned large accommodation prisons, and a significant proportion of the money which must be found annually to support the cost of the new resulting prison places, should be included in the new fund. Other government departments must also be encouraged to allocate resources to the fund. This fund should be used to provide central match funding to encourage partnerships develop plans to pool and align budgets and reduce the use of custody. It could also be used to support the use of social impact bonds. The fund could eventually become fully devolved as part of the local area grant once the pooling of resources for reducing re-offending is common practice. (Paragraph 358)
75. The value of multi-agency panels to review the cases of young people and adults on the threshold of the criminal justice system and at risk of custody should be highlighted in guidance issued to crime and disorder reduction partnerships. (Paragraph 359)
76. Local agencies must also work much harder to develop effective ways to deal with low level young and adult offenders outside the criminal justice system altogether rather than them unnecessarily absorbing the resources of Youth Offending Teams (YOTs) and the Probation Service. Lower risk offenders should ultimately become the responsibility of local authority and other mainstream agencies, enabling probation trusts and YOTs to concentrate on the core business of supervising serious, high risk and dangerous offenders. (Paragraph 362)

### Measuring the impact of justice reinvestment

77. We urge the Government to consider introducing an explicit indicator for adults related to reducing the use of custody in the next National Indicator Set. Areas which have been found to over-use custody in relation to the characteristics of those sentenced should then be encouraged to take up these indicators in the next negotiation of local area agreements. (Paragraph 365)
78. Developing something akin to a QALY to measure the relative cost-effectiveness of measures to reduce crime could take into account the quantity and frequency of re-

- offending and the associated costs, plus wider costs to society, victims and offenders' families. (Paragraph 372)
79. As the Government has acknowledged, there is a need for better mechanisms to monitor and evaluate the effectiveness of partnership interventions at a local level. This would enable areas to build up a picture of what policies are most effective. (Paragraph 374)
80. A broader set of outcomes—including the wider social costs of imprisonment to individual offenders and their families, and costs to communities—needs to be captured as a complement to existing measures, perhaps based on social return on investment methodologies. We are encouraged that the Office of the Third Sector has introduced such methodologies but we would like to see them being adopted more widely by Government. We owe it to victims and communities to recognise the wider social costs of crime and those of our responses to crime. (Paragraph 375)
81. It would only be necessary to reduce re-offending by a fairly small margin to cover the costs of many community interventions. (Paragraph 377)

### Engagement with the public

82. Public information campaigns should seek to promote understanding of the cost of the criminal justice system to the public purse and where the costs of the failure of current initiatives fall. The Government should use this to gauge public reaction to the costs of the system. The forthcoming election represents an opportunity for constructive local debates on the direction of policy, if party spokespeople and candidates are prepared to move the debate on to consider what is cost effective in reducing future crime and what the nation can afford. (Paragraph 384)
83. We welcome the proposals in the *Engaging Communities in Criminal Justice* white paper. We are encouraged that the Government is seeking to target efforts to engage the public in areas which are particularly affected by crime. Criminal justice agencies must recognise a sustained effort may be required to engage with some communities. The justice reinvestment framework also fits well with the community justice approach. It has the potential to help produce solutions to community problems, as well as to help reform offenders and reduce re-offending. It could also enable offenders to make amends to their victims and communities for their crimes. (Paragraph 397)
84. Public engagement should promote involvement in the system rather than simply seek views on it. We would like to see more sophisticated methods of public engagement implemented so that people can become more closely involved in the system in more informed ways, for example, through volunteering or by being encouraged to develop local solutions to local problems. In this context we welcome the Ministry of Justice's volunteering strategy, although it will only work if it is properly resourced. (Paragraph 401)
85. The Government should consider adopting the Connected Care model as part of its strategies to engage communities in criminal justice and manage the costs of the criminal justice system. (Paragraph 401)



86. Justice reinvestment is not just about moving money between agencies or partnerships but also about placing it under the direction of local communities and involving them in the process of spending it. Participatory budgets offer another means for local people to engage in determining local priorities, within a justice reinvestment model. We welcome progress made by the Home Office in this area in allowing reinvestment of the proceeds of crime in the community. We consider that participatory budgets could also help to increase the visibility of other positive aspects of the justice system, including the revenue generated by fines. (Paragraph 404)
87. The Government should develop a mechanism to allow the public to understand the costs of local offending to the criminal justice system and the wider costs to society, including costs to other services (e.g. health, housing, social services and benefits) of failing to reduce re-offending. (Paragraph 406)

### Challenges for the Sentencing Council

88. We welcome the fact that the sentencing guidelines are now recognising the effectiveness of different approaches more explicitly, for example, the youth sentencing guideline emphasised limitations in the effectiveness of custody for young offenders. This approach needs to be followed consistently. (Paragraph 417)
89. We support efforts to provide sentencers with information on courts' use of probation resources, although this is unlikely to be effective in encouraging sentencers to be more judicious in their use of resources on its own as it will not include the costs of custodial sentencing. The cost-effectiveness of all sentences given locally should also form part of the information shared at meetings between the judiciary and the probation service. (Paragraph 420)
90. We agree that the Sentencing Council must be well-resourced to enable it to perform its research function. We have concerns that it has taken similar bodies in other jurisdictions considerable time to ensure that data is of sufficient quality to form the basis of decisions about the most appropriate allocation of resources within sentencing guidelines. We do not believe that the Government's assessment of the cost implications of improved data collection adequately reflects the additional administrative burden on courts. It also underestimates the potential of improvements in court technology to provide a more rational approach to sentencing. (Paragraph 422)
91. The wider question of whether the cost of a sentencing framework is too high—in terms of its use of prison and probation resources—should be answered otherwise the existing system is left in a precarious position and at risk of its future sustainability being undermined. (Paragraph 431)
92. We believe that the role of the Sentencing Council should be to ensure that sentencing practice succeeds in reducing offending and re-offending. (Paragraph 432)
93. We agree with the judiciary and other witnesses that the availability of resources should not influence individual sentencing decisions but a mechanism must be

found to ensure that one element of the accountability of the judiciary and magistracy to the public is the appropriate use of scarce resources. We are emphatically not advocating a system of elected judges but there are advantages of the US system in terms of judges' accountability to the public to be cost-effective in their sentencing. Both the Government and the Sentencing Council should consider how sentencers can be given a better understanding of what works in terms of reducing offending and re-offending and is therefore best in terms of justice and public protection. Sentencers also need data on the cost-effectiveness, and thus the consequences for the taxpayer, of their decisions. This could be achieved, for example, by strengthening the role of local criminal justice boards, which bring together criminal justice agencies, including the Crown Prosecution Service and HM Courts Service, to consider the implications of decision-making at local level. (Paragraph 433)

94. The Sentencing Council must be given the resources to recruit expertise to develop a database housing all data on sentencing decisions and the characteristics of offenders sentenced to provide a basis for the development of evidence-based guidelines. In addition courts and probation areas must be given the capacity to record, collate and provide this data to the Sentencing Council. (Paragraph 434)

### Promoting confidence in community sentences

95. Sentencers must receive systematic feedback on outcomes so that they have a clear idea of the efficacy of their sentencing. We welcome the Government's proposals to explore whether oversight throughout the duration of community orders, along the lines of that provided by community courts, could be made available in all magistrates' courts. (Paragraph 446)
96. We recommend the Government assesses the potential for drawing in wider community-based sources of funding for courts, for example, through local businesses, which we heard about in Seattle. In the meantime probation could usefully provide feedback to courts on progress in individual cases, for example, through the use of case studies, in addition to sharing aggregated data on outcomes. (Paragraph 446)
97. Government should consult with sentencers and the Crown Prosecution Service to seek views on appropriate means of dialogue with crime and disorder reduction partnerships to ensure that provision to reduce re-offending is available to meet the needs of the courts. (Paragraph 447)
98. The public needs to be made aware that a tough outcome in terms of sentence length may not equate to an effective outcome in terms of the reduction of crime. (Paragraph 448)

# 1 Introduction

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1. The purpose of this report is to evaluate the current direction of policy and spending on the criminal justice system, in particular to examine whether the enormous sums being spent, particularly the large share allocated to imprisonment, could be used more coherently and effectively.

2. In previous work we have found widespread expert, professional and academic concern over the Government's plans for the allocation of significant resources to prison-building. The evidence we have seen in these inquiries suggests overwhelmingly that the purposes of sentencing, as set out in the Criminal Justice Act 2003, are not being achieved by the existing sentencing regime and related policies. The prison population is projected to grow to 96,000 by 2014 as the courts sentence offenders to custody for longer in the absence of effective and adequately resourced alternatives to custody and a sufficiently powerful and coherent strategy for reducing re-offending. We note that, despite the backdrop of a long term fall in the overall crime rate there has been an equally persistent increase in the prison population. Household crime, such as car theft and burglaries, and violent crime, as experienced by victims, has fallen by 46 per cent., and 43 per cent., respectively since 1995<sup>2</sup> while the prison population has almost doubled since 1992.<sup>3</sup> In an extremely tight public expenditure environment, with the Ministry of Justice expected to find £1.3 billion worth of cost savings over the next three years, it is doubtful whether further expansion in the criminal justice system, and prison estate in particular, is wise or financially sustainable. Existing resources cannot be stretched much further without compromising public safety especially when the high prison numbers militate against remedial work within prisons and the actions of relevant agencies do not seem to focus clearly on the extent to which current efforts to reform offenders are proving effective.

3. In previous inquiries we received compelling evidence that local community provision is insufficient. In recent evidence the Lord Chancellor and Secretary of State for Justice, Rt Hon Jack Straw MP<sup>4</sup>, has spelt out some of the steps the Government is taking to promote confidence in community sentencing, but the context for our report is that the courts appear to doubt the effectiveness and the availability of some criminal justice interventions to tackle offending and re-offending at a local level and the extent to which the needs of offenders are being met by local agencies outside the criminal justice system, such as employment services, housing, health—particularly mental health—and drug treatment services. The prison and probation services seem equally unable to adequately address the rehabilitation and resettlement needs of a large proportion of prisoners and former prisoners leading to arguably avoidable returns to crime and to custody.

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2 Home Office, *Crime in England and Wales 2008/09, Vol 1: Findings from the British Crime Survey and police recorded crime*, July 2009

3 Home Office, *Prison statistics in England and Wales 2002*, November 2003, Cm 5996

4 Hereafter 'the Justice Secretary'

4. The basis for an inquiry into the re-alignment of criminal justice policies, systems and resources, aimed principally at the reform and rehabilitation of offenders and the subsequent reduction of crime and re-offending, developed from these concerns.

5. As this inquiry began, a much lower than expected public expenditure allocation to the Ministry of Justice was announced for 2008-11. This appeared to mark the end of a period of significant growth in the prison and probation machinery. Despite this squeeze on Ministry of Justice resources, the public finance for further prison-building has been more or less guaranteed by the Treasury, outside spending review constraints, amounting to £4.24 billion over 35 years aimed at providing capacity for the projected increase in the prison population by 2014. Despite the overwhelming evidence that prison is not always the most effective means of reducing re-offending for many offenders (and therefore fails the test of increasing public safety, other than by simply incapacitating offenders), the Government appears wedded to a prison-building agenda, a policy which is not underpinned by supportive evidence and therefore merits the closest possible scrutiny. There is no doubt that the prison estate is currently bulging at the seams—with the Prison Reform Trust recently estimating that some prisons are up to 179 per cent. over-crowded and, as at 31 July 2009, 88 prisons out of 140 were operating over normal capacity with nine of these at levels judged to be unsafe.<sup>5</sup> There is an obvious and urgent question over whether directing vast sums towards increasing the number of prison places is a sensible or effective policy response.

6. The case for the closest possible scrutiny, and for looking at penal policy in the context of the approach to criminal justice, indeed social welfare, as a whole, is further reinforced by comparisons with other EU and OECD countries. In 2007, the UK Government spent approximately 2.5% of GDP on public order and safety, the highest of all OECD countries.<sup>6</sup> Such comparisons raise questions about attitudes in England and Wales to, and patterns of expenditure on, prisons relative to other criminal justice expenditure, spending on preventative measures and community sentences, and to other social policies such as health, education and housing. England and Wales also looks out of step and punitive when it comes to considering the balance between punishment and reform in developing policy and setting priorities.

7. The question of how resources should be distributed across the criminal justice system formed a key part of our inquiry and, in the light of the recent economic downturn, many submissions referred to the timeliness of the inquiry and the need for a debate on public spending and penal policy. The recent report of the Commission on English Prisons Today goes so far as to suggest that the global economic crisis is a blessing in disguise in this respect as it establishes the necessity to re-examine a set of incongruent policies that the Government can no longer afford to pursue uncritically.<sup>7</sup> This report explores the capacity of the current system and whether resources and policy priorities are directed in the best possible way to improve public safety and reduce crime, in particular:

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5 Prison Reform Trust, *Top 20 worst overcrowded prisons*, 25 Aug 2009.

6 Table 11 OECD. Stat database

7 Commission on English Prisons Today, *Do better do less: Report of the Commission on English Prisons Today*, London, 2009, paras 3.10-13

- the use of resources *within* the criminal justice system and the capacity of prisons and probation to reduce re-offending and their relative cost-effectiveness;
- the use of resources *outside* the criminal justice system and the potential re-direction of funding from that system into health, educational and other social provision to focus on the underlying factors which make offending and re-offending more likely;
- what can be learnt from policies and patterns of relevant expenditure pursued in other countries; especially those countries where rates of imprisonment are much lower, or have been recently reduced, without increasing crime rates; and
- the potential for achieving a more mature cross-party consensus on law and order policy—and more effective options for the future—than the current interaction of politics, media and public opinion appears to allow; it is necessary to get away from a self-defeating over-politicisation of criminal justice policy and develop an environment conducive to identifying, prioritising and implementing “what works” based on the best available evidence.

8. The question of whether imprisonment represents the most rational allocation of resources for criminal justice is not unique to the English and Welsh context. Many other jurisdictions including Scotland, Finland, Canada, Germany and some US states<sup>8</sup> have grappled with this question, driven by recognition that resources for criminal justice are not infinite. Although these other administrations and legislatures have come to a variety of conclusions on the way forward, they have shared the view that the use of imprisonment must be reduced. We have visited these countries over the course of our inquiry, giving us valuable alternative perspectives on whether the challenges we face are too difficult to fix and how we can move away from a position where over-burdened correctional services and exponential system expansion are accepted as the norm. We draw on examples from all these jurisdictions throughout our report but we focus particular attention on the potential applicability of the concept of justice reinvestment which has enabled some US states to begin to reduce expenditure on prison building and criminal justice.

## Justice reinvestment

9. “Justice reinvestment” is a term that refers to a variety of approaches to criminal justice policy reform developed in the USA over the last 10 years which have sought to tackle burgeoning prison populations by addressing the root causes of criminality. The growth in prison numbers in the US has placed enormous pressure on state budgets. Whatever their political allegiance, state governments have been faced with stark choices about whether to continue to spend public money on meeting the projected demand for prison beds or whether to consider ways of reducing that demand and introducing alternative measures which produce more cost-effective contributions to public safety.

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8 Including Arizona, Connecticut, Kansas, Michigan, Nevada, New Hampshire, Oregon, Pennsylvania, Rhode Island, Texas, Vermont and Wisconsin.

10. At its simplest ‘justice reinvestment’ refers to the persuasive proposition that it is far better—and probably much cheaper—to focus resources on preventing criminality than solely on catching, convicting and incarcerating criminals. The approach, in effect, looks to implement effectively the ‘getting tough on the causes of crime’ half of the Labour Party’s original statement of purpose on criminal justice before the 1997 election. Justice reinvestment seeks to reverse what many have argued to be a grave and expensive failure of social policy which leads to prison becoming a stand-in health and welfare system for people with problems—often bundles of problems related to legacies of low literacy, unmet mental health needs and/or drug and alcohol dependencies—that society in general, and their local services in particular, have failed to deal with. It also challenges policymakers to think carefully about the consequences of some criminal justice measures that are considered to be ‘tough on crime’, for example, by encouraging criminal justice agencies to seek to enhance offenders’ compliance with community orders rather than to focus on the enforcement of breaches.

11. Justice reinvestment involves the development of an evidence-based, data-driven, strategy designed to produce policies that “break the cycle of recidivism, avert prison expenditures and make communities safer.”<sup>9</sup> The process examines current spending and seeks to identify ways to improve effectiveness with the aim of establishing a longer-term strategy, re-directing prison funding towards more productive locally-based initiatives designed to tackle the underlying problems which give rise to criminal behaviour. Such initiatives are targeted on those populations most at risk of offending and re-offending which is why a local focus is required. The first step of the process is to analyse the relationship between high levels of various indices of deprivation, such as low employment, and high levels of re-offending in the same areas. This analysis enables locally-based policy options to be developed using what is known about the needs of offenders, demands for services and the most cost-effective practices, to prioritise investment and ultimately reduce spending on the criminal justice system as a whole.<sup>10</sup>

12. The analytical model which underpins the process was pioneered by the Justice Mapping Center in New York which we visited in 2007. The application of this approach in New York City identified so-called ‘million dollar blocks’, i.e. single residential blocks where the administration was spending over a million dollars on incarcerating the inhabitants. Tragically, spending on prison places was found to represent the majority ‘social investment’ in some of these blocks. The justice reinvestment process is now being applied in several US states, with the main impetus coming from the Council of State Governments Justice Center.<sup>11</sup>

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9 Allen, R. ‘Justice Reinvestment: A new approach to crime and justice?’, *Prison Service Journal*, Issue 176, pp 2-9

10 The US Council of State Governments describes justice reinvestment as a four-stage process: (1) Analysis of the prison population and of relevant public spending in the communities to which people return from prison—known as ‘justice mapping’; (2) provision of options to policy-makers for the generation of savings and increases in public safety; (3) implementation of options, quantification of savings and reinvestment in targeted high-risk communities; and (4) measurement of impacts, evaluation and assurance of effective implementation. See [www.justicereinvestment.org/strategy](http://www.justicereinvestment.org/strategy)

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Box 1

*Case study: justice reinvestment in Texas*

In 2007 the Texas state legislature rejected plans to spend \$0.5bn on building new prisons in favour of adopting a justice reinvestment approach. Half of this money was spent on expanding the capacity of residential and out-patient treatment for substance misuse, mental health treatment, community-based sanctions for offenders and post-prison support. This reduced parole revocations by 25% and the increase in the prison population was 90% less than projected.<sup>12</sup> This demonstrated that significant savings can be made in the relative short-term, as the cost of increasing the capacity of treatment and residential facilities was significantly less than the cost of increasing prison capacity. The state estimates budgetary savings of \$210.5 million in 2008/09 and additional savings of \$233 million from averted prison construction.<sup>13</sup>

The context in England and Wales is rather different from the US. England and Wales has a much lower proportion of its population in prison than the US where 760 per 100,000 of the population are in custody, compared to 151 here. The US also lacks a universal welfare system and the system of governance is very different with imprisonment provided at local (county), state and federal levels via different institutions and budgets for different offences. Despite these differences, interest has been emerging in the potential benefits of adopting key aspects of the approach in the UK.<sup>14</sup> A major part of our inquiry has been to examine the potential value of the justice reinvestment approach to the criminal justice system in England and Wales and, if it appears desirable to implement such an approach, to consider how our systems could be organised so that it could be applied. This is discussed in chapter 6.

## Conduct of the inquiry

13. Lists of the oral evidence sessions held, the written evidence gathered and the visits undertaken during this inquiry are set out at the back of this report. The substance of the evidence received can be found in a second volume. In addition to evidence received via traditional means, we also conducted an e-consultation between 9 June and 22 July 2008. The contributions received online inform the report throughout but we also include an overall analysis in an annex to this report (see annex 4). We also took into account a significant number of reports and analyses already in the public domain and, where relevant, these are referenced in footnotes to the text.

14. We would like to take this opportunity to thank all the providers of oral and written evidence, as well as the contributors to our e-consultation, for taking the time and trouble to do so. We are also very grateful to Rob Allen of the International Centre for Prison Studies at King's College London for acting as a special adviser to the Committee on all aspects of this inquiry.

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12 Council of State Governments, *Justice Reinvestment in Texas: assessing the impact of the 2007 Justice Reinvestment initiative*, April 2009

13 <http://justicereinvestment.org>

14 See for example, Allen, R. and Stern, V. eds, *Justice reinvestment—a new approach to crime and justice*, International Centre for Prison Studies, June 2007; Ross, H, *Justice reinvestment: what it is and why it may be an idea to consider in Scotland*, CJSScotland, July 2008

## 2 Background

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### Recent relevant reports

15. In our report, *Towards effective sentencing*, we explored the Government's performance in meeting the twin aims of the Criminal Justice Act 2003 to reserve prison sentences for serious, dangerous, and seriously persistent offenders and, for other less serious offenders, to use tough community-based sentences, which were seen as a much better alternative than short custodial sentences which can be ineffective in preventing re-offending.<sup>15</sup>

16. We concluded that whilst longer sentences had been imposed for serious violent and sexual offenders, low-level and persistent offenders were not being dealt with effectively; in other words by robust community punishments rather than short custodial sentences. This was partly because the former were not available for all who need them. This has contributed, along with other factors (including greater detection of crime and better enforcement of sentences), to considerable expansion of the prison system in particular, and rising caseloads for the probation service.

17. Protecting the public is of paramount importance, but our report identified many unanswered questions about the consequences of the Government's approach which denied resources for some aspects of the system which could reduce the use of prison—for example, community penalties and efforts to reduce re-offending—in favour of investment in the expansion of prisons, and about the basis upon which decisions are taken about the allocation of resources. Dame Anne Owers DBE, HM Chief Inspector of Prisons summarised the situation: “the difficulty we have at the moment is that the rising prison population soaks up resources like a sponge and takes away resources from the other things which are not prison which you would need to have in place in order not to use prison so much; so it becomes a kind of vicious cycle.”<sup>16</sup>

18. In our report, *Sentencing Guidelines and Parliament: building a bridge*, we looked at the Government's proposals for a new body to develop and issue sentencing guidelines.<sup>17</sup> We concluded that more attention needs to be paid to the effectiveness of sentencing if the new body was to contribute to public confidence in the criminal justice system and to an understanding of the costs of different sentences and their relative effectiveness in achieving the purposes of sentencing. We identified risks in a sentencing policy based on what we regarded as “misconceptions” about what the public ‘wants’ and, over the longer term, we feared that resources will be diverted away from a sentencing framework that is genuinely effective in contributing towards the reduction of re-offending.

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15 Justice Committee, Fifth Report of Session 2007–08, *Towards effective sentencing*, HC 184–I

16 HC (2007–08), 184–I, para 110

17 Justice Committee, Sixth Report of Session 2008–09, *Sentencing Guidelines and Parliament: building a bridge*, HC 715



## Government policies

19. The sentencing provisions of the Criminal Justice Act 2003 were introduced as part of a wider range of measures detailed in the Government's 2002 Justice for All white paper. These measures, summarised in the box below, were intended to form "a coherent strategy, from the detection of offences to the rehabilitation of offenders, designed to focus the criminal justice system on its purpose—fighting and reducing crime and delivering justice on behalf of victims, defendants and the community."<sup>18</sup>

### Box 2

#### *Justice for All conclusions*

- each part of the criminal justice system developed largely independently, and the agencies did not therefore always form a coherent whole
- custody is an expensive resource which should be focused on dangerous, serious, seriously persistent offenders and those who have consistently breached community sentences
- the criminal justice system is out of touch with reality and distant from the communities most likely to be victims of crime

#### *Justice for All solutions*

- ensure the police bring more offences to the courts
- speed up court processes
- ensure that offenders are subject to tougher sentences, including robust community sentences, which are more credible to the public and sentencers
- ensure that sentencers consider the best way of preventing crime when they pass sentence
- prioritise resources to focus on risk
- encourage criminal justice agencies to work closer together to be more effective at reducing crime.
- integrate crime reduction through long-term prevention into the work of all government departments
- strengthen links between the judiciary, magistrates, prosecutors and the communities they serve and ensure the criminal justice system is more responsive to the needs of communities
- modernise the prison estate to expand capacity in existing prisons which are viable for the future and build new multi-functional community prisons, closing outdated prisons as the population allows.

20. The Government's vision was "for a criminal justice system that puts victims at its heart and in which the public are confident and engaged [...] [and that is] effective in deterring offenders and bringing offences to justice through simple and efficient processes."<sup>19</sup> 'Rebalancing' the criminal justice system in favour of the victim and the community as the priority aim has become a central feature of Government rhetoric for policy on the prevention, detection and prosecution of crime and the 'punishment and rehabilitation' of offenders. However, success in achieving this rebalancing relies on accomplishing other priorities; for example, the system must be effective at reducing further crimes in order to create safer communities.<sup>20</sup>

21. The Justice Secretary, in a speech in October 2008 expressed the wish to "reclaim" two words he described as unfashionable, but straightforward and clear and the "very basis of the criminal justice system": these were "punishment and reform". Subsequently, the Government's most recent identifiable over-arching criminal justice policy statement, published in December 2008, was entitled, *Punishment and reform: our approach to managing offenders: a summary*. This is summarised in the box below. As well as focusing on punishment and reform it reflected a concern over resource constraints and refers to balancing these objectives with the need to obtain value-for-money stated:

A fair and effective criminal justice system must provide collective benefit: justice for victims and local communities, punishment and reform for offenders and value for the taxpayer [...] Prison and probation have received record investment in recent years. But we must make considerable financial savings in the coming years, whilst ensuring that taxpayers receive the best value-for-money from their investment.<sup>21</sup>

**The strategy outlined in the Justice for All white paper was clearly intended to signal a radical shift towards a rational approach to the use of penal policy resources, especially in its explicit aims to reserve custody for the most serious criminals, ensure effective community sentences, establish community prisons and require sentencers to consider crime prevention in passing sentence. We regret that the approach taken in the Justice for All white paper has not been implemented as the Government initially intended.**

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19 Office for Criminal Justice Reform, *The Criminal Justice System Business Plan 2008–09*, February 2008, p 6

20 The inter-relationship between these aims is explicitly recognised in the 2006 Home Office review, *Rebalancing the Criminal Justice System in favour of the law abiding majority*, which was subtitled, *Cutting crime, reducing re-offending and protecting the public*.

21 Ministry of Justice, *Punishment and reform: our approach to managing offenders: a summary*, December 2008, p 2

Box 3

*Punishment and reform*

*Key points*

- Offenders should be punished for breaking the law as well as given the opportunity to reform
- Since 1997 crime has dropped by a third; the chance of being a victim of crime is at its lowest level since 1981; Between 2000 and 2006, the frequency of adult and youth re-offending has fallen by 22.9 per cent and 18.7 per cent respectively; since 2002, the number of offences brought to justice has increased by 44 per cent.
- Prison is the right place for the most dangerous, serious and the most persistent offenders and prison capacity is being increased to ensure enough places for such offenders.
- Offenders with mental health problems should be diverted out of the criminal justice system into treatment and other types of support (if necessary in secure settings).
- For less serious offenders, tough community sentences are more effective than a short custodial sentence. For minor offences, fines can be very effective.
- Offender management exerts a firm grip on offenders throughout their sentence (custody or community) increasing the chance of reducing re-offending and overall crime.
- Offender management is a multi-agency responsibility at all levels ensuring offender access to employment, training, accommodation, financial, health and family support services to aid rehabilitation.
- Engagement of local people and communities in the justice process needs to be improved.

*Challenges over the current spending review period:*

- Demand for offender services is increasing, aligning the supply and demand of resources across prison and probation over the longer term is critical to delivering an efficient and effective system
- Ambitious efficiency savings are required, goals need to be achieved with fewer resources and improved efficiency and effectiveness in all areas
- Performance and public confidence need to be improved, decision-making will be devolved to the lowest level possible to support efficient and effective delivery and to provide more accountability for the frontline in making decisions that best support local needs.

## Use of custody

22. The Ministry of Justice estimates that up to 96,000 prison places will be required by 2014. Rt Hon David Hanson MP, then Minister of State, Ministry of Justice, described the factors contributing to this growth: “for good or evil, more people are being caught, sentences are longer and we have got more serious, dangerous and violent offenders serving longer sentences. Last year alone the number of people sentenced to life imprisonment rose by 5%.”<sup>22</sup> This appears to acknowledge that the growth is a consequence of the intention outlined in *Justice for All* to promote tougher and speedier justice.

23. In 2006 the Government stated its intention that prison capacity should be determined by the need for prison places and, therefore, if people needed to be in prison sufficient places would be supplied.<sup>23</sup> Paul Tidball, President of the Prison Governors’ Association, characterised the Government’s stance as “an out-of-control demand met by provision of little more than penal warehousing” resulting in “a revolving door which spins ever faster and benefits nobody but those who see prisons as a market opportunity.”<sup>24</sup> David Faulkner, Senior Research Associate, Centre for Criminology, University of Oxford, agreed that the “predict and provide” approach is flawed as it results in system expansion rather than control.<sup>25</sup> Lord Dubs, Chairman of the Prisons Policy Group, added that it was both simplistic and limited as a policy and asserting that: “as a country and a society we can do better”.<sup>26</sup> James McGuire, Professor of Forensic Clinical Psychology, University of Liverpool, described the approach as “atheoretical”, commenting: “we do not really understand [...] what are the mechanisms, the functions, the relationships between the different ingredients that contribute to the dependent variable, the amount of crime, the number of prison places that we will need.”<sup>27</sup>

24. Concern was expressed to us that the expansion of prison capacity could in itself contribute to the need for further growth; in other words, the more prison places are provided, the more the courts will fill them. For example, in the USA, Circuit Court Judge Marcus, told us that he believed that until and unless prison is used more wisely “adding prison beds will promote [...] the need for more beds”.<sup>28</sup> In a critique of the Government’s prison building programme, entitled *Building on sand*, Carol Hedderman, Professor of Criminology, University of Leicester, draws similar conclusions that expanding the prison estate can generate, rather than satiate, demand.<sup>29</sup>

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22 Q 565

23 Home Office, *Rebalancing the criminal justice system in favour of the law-abiding majority*, July 2006

24 Ev 257

25 Q 96

26 Q 513

27 Q 103

28 Ev 188

29 See, Professor Carol Hedderman, *Building on sand: why expanding the prison estate is not the way to ‘secure the future’*, Centre for Crime and Justice Studies (London, 2008). For example, she concludes that for most of the period that the use of custody has been rising, reconviction rates post-release have also been rising, and the higher frequency of reconvictions is partly fuelling the higher prison population. She also cites evidence to suggest that building more prisons as a policy response fuels the fear of crime and public debate about punishment.

25. Whether or not this is true, these arguments raise questions about the relationship between the availability, or otherwise, of prison places and the prevailing penal policy. The Justice Secretary denied that demand for prison places was a function of their supply, although he acknowledged that: "it is interesting that although the absolute pressure on the system has varied and is measured by whether you have to use police cells, as accommodation has been provided so the places are filled up."<sup>30</sup>

26. There is also a question about whether building more prison places really is the only, or best, solution to a mismatch between demand and supply. This has clearly taxed the current Government. The Justice Secretary's commitment to significant expansion appears to signal a recent shift in his personal approach to the value of prison building. In an address to the Prison Governors' Association AGM in 2007 he suggested that taking an approach to build as many prison places 'as it takes' was a risky option:

Aside from the economic and practical considerations of such a scenario; higher taxes, fewer hospitals, less money for education, prisons in or near everyone's back yard, we have to question whether that approach would actually provide a remedy to the problems it seeks to solve: would crime fall even further? Would re-offending rates come down? This must be our baseline in considering the future of the prisons estate. The evidence is not encouraging.<sup>31</sup>

In contrast, on 13 May 2008, he told us in evidence that that having sufficient prison places was an important component of his strategy for reducing re-offending and that the additional places were required no matter what the arguments were about the greater use of community sentences and other efforts to reduce re-offending.<sup>32</sup> He explained that this was true both for serious and violent offenders who need immediate imprisonment and in cases where community punishments and disposals have failed.

27. This statement appears to be based on two assumptions: first, that prison is more, or equally, effective at reducing re-offending for persistent offenders (i.e. those for whom community punishments and other disposals have failed) and, secondly, that community sentences fail because they are inherently flawed, rather than because they are insufficiently resourced, inappropriately tailored or unrealistic expectations are raised about how 'desistance' can be achieved. Paul Cavadino, then Chief Executive of Nacro questioned this reasoning:

I think we can sometimes have a double standard in discussing the issue of the repeat offender, because we tend to say, "We have tried fines and we have tried community penalties. The offender has re-offended. They did not work. Therefore, we must use custody". We less often say, "We have used custody. The offender re-offended. That did not work, so we ought to try something else". We tend to say, "We have tried custody. The offender re-offended, so we have to use custody again."<sup>33</sup>

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30 Q 59

31 Justice Secretary's address to the Prison Governors' Association AGM, 4 October 2009, <http://www.justice.gov.uk>

32 Q 35

33 Oral evidence taken before the Justice Committee on 3 June 2008, HC (2008–09) 649–i, Q 11

## *Developments in Scotland*

28. In contrast to the Ministry of Justice's position, the Scottish Prisons Commission's report of July 2008 on prisons overcrowding in Scotland, took an overwhelmingly "demand-side" approach to the problem.<sup>34</sup> The Commission identified a choice facing the criminal justice system in Scotland over how to use imprisonment; a choice which appears to have been settled in England and Wales without any public debate or expert consultation. Overall, the Commission recommended that the Government should adopt and pursue a target for the average daily prison population focusing on those who have committed serious crimes and constitute a danger to the public with an aim to cut the population by approximately one-third.

29. The Scottish Prisons Commission's report called for:

- the effective provision of community and conditional sentences which involve "payback" into the victim and/or the community, through financial payment, unpaid work, engaging in rehabilitative work or some combination of these, emphasising that one of the best ways for offenders to pay back is by turning their lives around;
- legislation requiring sentencers to use these options instead of short sentences wherever possible;
- a far greater emphasis in prisons on rehabilitation and reform and the preparation of those in custody for release and resettlement (with this reinforced as the sole purpose of the open prison estate); and
- recognition across the public services of the need to support the reintegration of former offenders into communities.

The Commission predicted long-term savings from targeting the use of imprisonment but asserted the need for up-front investment in better services in, and for, communities.

## *Titan Prisons*

30. When we began our inquiry the Government was preparing to spend £1.2 billion building three large and controversial prison complexes, known as "Titans", to provide sufficient capacity for the projected increase in the use of imprisonment and to remove some older unsuitable accommodation. This was recommended by Lord Carter of Coles in December 2007 in a report which we considered to be light on evidence and deeply flawed.<sup>35</sup> It was clearly and diametrically opposed to the policy set out in *Justice for all* of moving towards community prisons. As our inquiry was concluding, the Government announced that it was abandoning Titans, in favour of 5 prisons each with a capacity of 1500.<sup>36</sup> In our considered view, this is a marginal improvement but still goes a long way in

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34 Scottish Prisons Commission, *Scotland's Choice: Report of the Scottish Prisons Commission*, July 2008

35 HC (2007–08), 184–I; "Government still on course for 'Titanic' prison population", Justice Committee Chairman's press release, no. 27 of Session 2008–09, 27 April 2009

36 "Jack Straw sets out prisons and probation plans", Ministry of Justice press release, 27 April 2009.

the wrong direction. Rt Hon Maria Eagle MP, then newly appointed Minister for Prisons, told us—during evidence on another inquiry—that this decision had been made, after consultation, in order to achieve a “better balance [...] in terms of balancing value-for-money, the economies of scale that one can have from size but also being effective at reducing re-offending and doing the job properly.”<sup>37</sup> If this decision reflects the beginning of a genuine re-thinking of policy that will be very welcome. At the same time if other factors—such as emerging higher than forecast costs—have driven this change of emphasis it will help if Ministers will make that clear. Certainly, the Government remains committed to building large-scale custodial facilities to “get ahead of the curve of the increase [in the] prison population”<sup>38</sup> indicating its focus on a “supply-side” approach to the problem of a prison estate bursting at the seams. The first new prison is planned to start taking prisoners in 2013-14.<sup>39</sup>

31. Ministers claimed that much of the opposition to Titans stemmed from “misunderstanding around the concept.”<sup>40</sup> We do not agree. It was apparent to us that objections related not to the concept but the principle. For example, Paul Tidball of the Prison Governors’ Association described Titans as “the grotesque rabbit which emerged from the hat”;<sup>41</sup> while Jonathan Aitken, Chairman of the Prison Reform Working Group at the Centre for Social Justice and former Minister, described them as a “very expensive way of making bad people worse”.<sup>42</sup> Other witnesses objected to Titans on the basis that their rationale was solely efficiency and convenience. For instance, Lord Ramsbotham, former HM Chief Inspector of Prisons, described Titans as answering the question of ‘how to house as many people as possible as cheaply as possible’.<sup>43</sup> The Justice Secretary conceded in evidence to us that the case for larger prisons was largely related to costs and the relative ease of getting planning permission;<sup>44</sup> Lord Dubs dismissed the latter rationale as “absurd”.<sup>45</sup>

32. The second main objection to Titans was that the Government’s primary rationale was too narrowly focused on efficiency and cost-effectiveness in the short-term and ignored the evidence about what constitutes a genuinely effective prison over the longer term and with regard to the wider aims of the criminal justice system. This criticism of tunnel vision remains valid in respect of the larger prisons to which the Government remains so far committed. Her Majesty’s Inspectorate of Prisons has found that size is the best predictor that a prison will perform well, with smaller prisons consistently performing better than larger ones on most measures, including re-offending.<sup>46</sup> Prior to this finding, the Justice

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37 Justice Committee, Twelfth Report of Session 2008-09, *Role of the Prison Officer*, HC 361-II, Q 303

38 *Ibid*, Q 308

39 Ev 230

40 Q 562 [Mr Hanson]

41 Ev 257

42 Q 517

43 Q 475

44 Q 51

45 Q 522

46 HM Inspectorate of Prisons, *Prison Performance*, January 2009



Secretary was dismissive of these arguments against larger prisons: “[...] smaller prisons may be rather more pleasant places but they are more expensive.”<sup>47</sup> He later accepted that smaller prisons facilitated better regimes but re-affirmed that efficiency was the over-riding consideration.<sup>48</sup>

33. We expressed our concerns about the Government’s proposals for building huge Titan prison complexes in our report, *Towards effective sentencing*. **We are pleased that the Government has abandoned its plans for Titans but we are worried that the Government seems to accept the inevitability of a high and rising prison population and remains committed to building larger prisons. We are convinced that prison building on this scale will prove a costly mistake. It will preclude movement towards a more effective community prisons model and may limit this and any future Government’s willingness and capacity to reinvest in creative measures to reduce the overall prison population in the future.**

### *Evidence base*

34. In his first report in 2003, which recommended capping the prison population at 80,000, Patrick Carter, now Lord Carter of Coles, stated: “If there were new and convincing evidence on interventions that reduce crime then additional resources would need to be found (e.g. if greater use of custody was found to significantly reduce crime, more prisons would need to be built).”<sup>49</sup> Subsequent Ministry of Justice research suggests that imprisonment can be effective in reducing re-offending for those serving sentences of over 2 years,<sup>50</sup> although the evidential test which Lord Carter set in his first report remains unmet.

35. Concerns were raised about the evidence base for the conclusions of Lord Carter’s 2007 report on the use of custody in evidence gathered during our *Towards effective sentencing* inquiry. Although Ministry of Justice research analyst, Dr Chloë Chitty, told us that Lord Carter had analytical support during the conduct of his review from internal Ministry of Justice researchers, we continue to believe that concerns about the extent to which his recommendations were based on a substantial body of evidence are justified.<sup>51</sup> In particular, there was limited investigation into the costs and benefits of various alternative approaches to managing the prison population.

36. On the demand side, the independent review team which supported Lord Carter looked at options to manage the use of custody and the potential impact of each option in terms of the number of prison places which could potentially be saved (see table 1); he also considered the anticipated timelines for each option to become effective. Options to reduce demand were graded according to the ease of implementation, and how palatable they would be to victims, the general public, lobby groups, the judiciary and government

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47 Q 52

48 Q 53

49 Patrick Carter, *Managing Offenders, Reducing Crime: A new approach* (London, 2003), p 5

50 Ev 202–203

51 Q 94



ministers. If the Government implemented all the proposed demand measures, the analysts who supported Lord Carter estimated that some 8,935 places could be saved. In the event, Lord Carter only recommended implementing the ‘green’ measures which would reduce places by 4,480. These measures were introduced in the Criminal Justice and Immigration Act 2008.<sup>52</sup>

**Table 1: Options for managing the use of custody**

<b>Options</b>	<b>Max. prison places saved</b>
<b>Green (relatively straightforward to implement)</b> Reform of Imprisonment for Public Protection (IPP) for those sentenced in the future Apply 50% release rule from Criminal Justice Act 2003 to offences prior to April 2005 (excluding cases already reviewed by the Parole Board) Fixed term recall of 28 days for non-violent non-sexual offenders Presumption of no remand for summary offences Credit against sentence for time on curfew Limit suspended sentence orders to indictable and triable either way offences	2,180  504 953 200 210 433
<b>Amber (some implementation challenges)</b> Reduce maxima and remove statutory minima for burglary, theft and handling Make driving whilst disqualified non-imprisonable Make shoplifting less than £200 non-imprisonable Make criminal damage less than £5k non-imprisonable	453 608 460 98
<b>Red (difficult to implement)</b> Reduce maxima and related statutory minimum for all drugs offences Automatically release IPP offenders with tariff of <2years when tariff served Apply 50% release rule from Criminal Justice Act 2003 to offences prior to April 2005 (for cases already reviewed by the Parole Board)	912 980 944

Data source: Ev 222-227

37. The evidence confirmed that all of these options involved reducing demand by making changes to the sentencing framework, the use of remand and the length of recall for breach. These are proposals based on a crude arithmetical model rather than careful analysis based on asking “what works?”. There was no mention of alternative evidence-based options which could stem demand by reducing re-offending or devising options outside the criminal justice system for particular types of offenders or by targeting potential offenders. It appears that costs were not compared at all in weighing up recommendations to manage demand. On the supply side, by contrast, direct costs were an explicit consideration.<sup>53</sup>

38. A report by the organisation Rethinking Crime and Punishment considered alternative options to reduce the use of custody and devised indicative costs of investing more heavily in such initiatives.<sup>54</sup> Examples of such initiatives included strengthening community supervision for offenders receiving short-prison sentences; building a national network of women’s centres as recommended by Baroness Corston (in the report of her review

52 The measure on Suspended Sentence Orders was dropped during the passage of the Bill bringing the potential reduction of places by demand measures to 4047.

53 The Ministry of Justice subsequently calculated the costs of building 1500 place prisons and the projected cost savings by closing older prisons, Ev 231.

54 Esmée Fairbairn Foundation, *Rethinking Crime and Punishment: The Manifesto*, July 2008

commissioned by the Home Office into women in the criminal justice system);<sup>55</sup> providing additional support to offenders with mental health problems; and, expanding intensive fostering to reduce the use of youth custody.

### *The Sentencing Council and the Coroners and Justice Act*

39. Lord Carter said in his December 2007 review of prisons that the only alternative to continuous prison building, dangerous levels of prison overcrowding or continuous early release mechanisms was the development of a structured sentencing framework, developed and monitored by a permanent ‘sentencing commission’.<sup>56</sup> Such a commission should be able to accurately predict how many prison places and probation spaces the sentencing framework would require, and therefore how much money the penal system would need, and then present this breakdown to Parliament. Where new legislation was proposed the commission would be able to work out the resource implications, in prison and probation terms, allowing Parliament to take an informed decision about whether the legislative aims justified the increased criminal justice expenditure.<sup>57</sup> Ultimately, such policy aims could include looking at the total resources spent on criminal justice and determining whether this was appropriate, and, if not, how sentencing must change within available resources.<sup>58</sup>

40. The Government introduced what is now the Coroners and Justice Act 2009 in January 2009. The Act introduces a new Sentencing Council for England and Wales to implement the unanimous and majority recommendations of Lord Justice Gage’s working group set up in response to Lord Carter’s report. Where our witnesses commented on the value of the provisions expected, or included, in this legislation we have been able to consider the appropriateness of the Act’s provisions. We ourselves have made a report to the House specifically on Parliament’s scrutiny of draft sentencing guidelines, in the light of the reforms expected at that time. In this report we set out the priority we attach to a focus on the cost implications and effectiveness (in terms of reducing re-offending) of different sentences and the importance of promoting public understanding of sentencing policy and hence confidence in the criminal justice system. We discuss these issues further in chapter 7 and note that the Ministry of Justice calculated that the reforms could potentially mean reducing the additional prison places needed, but by only 1,000.<sup>59</sup>

41. We conclude that Lord Carter’s review of prisons and the use of custody was focused on the supply of prison places to meet demand and on efficiency. The only solution to changing the balance between supply and demand was the “sentencing commission”. A

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55A As this report was being prepared for publication, the Ministry of Justice announced a new policy initiative to reduce women’s prison places by 400 (around 10%) by March 2012 to free up funding for specialist services in the community aimed at turning vulnerable women away from crime (MoJ press release 181-09, 14 December 2009)

56 Lord Carter, *Securing the future: Proposals for the efficient and sustainable use of custody in England and Wales*, December 2007

57 Sentencing Commission Working Group, *Sentencing Commission Working Group consultation: A structured sentencing framework and Sentencing Commission*, March 2008. In some areas, where similar structures already exist, the sentencing commission is able to use this information to advise on adjusting the sentencing framework to meet policy aims, for example in Minnesota, Oregon and Washington the framework was used to reduce imprisonment for property offenders and increase it for violent offenders.

58 For example, Virginia Sentencing Commission introduced risk assessment to divert lower risk offenders from custody. Missouri now takes risk-based decisions in its allocation of prison beds Ev 186.

59 Ministry of Justice, *Impact Assessment of the Sentencing Council for England & Wales*, 1 January 2008, p 4

strategy for controlling the growth in the use of custody was missing. This is not a constructive direction for policy as it ignores potential means of reducing demand. **If Lord Carter's analysis is correct in recognising that it is primarily sentencing and enforcement which has caused the problem (by creating a greater supply of offenders into the system and increasing the length of time they remain within it), the solution must include consideration of sentencing and enforcement practice.**

## Reform of the governance of the criminal justice system

42. As part of its programme to tackle crime and reduce re-offending the Government has introduced new infrastructure, guidance and targets to strengthen the management of performance across the criminal justice system with the intention of bringing the individual component agencies closer together. The Government sought to clarify accountability for delivering the overall objectives of the criminal justice system at national level through the creation of the Office for Criminal Justice Reform, led jointly by the Home Secretary, the Justice Secretary and the Attorney General, and supported by a National Criminal Justice Board (the Board).

43. The Board supports the Justice and Crime Cabinet Committee which has responsibility for monitoring delivery of the criminal justice system targets and, more recently, the Public Service Agreement objectives.<sup>60</sup> The Board oversees 42 local Criminal Justice Boards (LCJBs) which co-ordinate the activity of criminal justice agencies (Police, Crown Prosecution Service, Her Majesty's Courts Service, Probation Service, Youth Offending Teams and Prison Service, with Victim Support and provides a forum for them to share responsibility for delivering national targets. Rather than having a clear focus on reducing re-offending (in terms of numbers and also seriousness of offences) these targets have focused on bringing more offences to justice and on catching more offenders. Steps have certainly been taken to improve the confidence of victims and witnesses; speed up court processes; and improve public confidence.<sup>61</sup>

44. Reflecting its assertion that "reducing re-offending should be everyone's business",<sup>62</sup> the Government has put in place arrangements aimed at both cross-departmental leadership and cross-departmental services. National cross-departmental activity to reduce re-offending is overseen by the Inter-Ministerial Group (IMG) on Reducing Re-offending, established in 2004, which brings together relevant government departments. The IMG feeds up into the National Crime Reduction Board and National Criminal Justice Board which, together with the National Policing Board, co-ordinates the crime, criminal justice and reducing re-offending strategies. The Government has also made a cross-departmental commitment to target resources more effectively to reduce re-offending and to seek improvements in the delivery of a range of services to offenders which are the responsibility of statutory agencies outside the criminal justice system. The Ministry of

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60 Ensuring effective co-ordination from government departments is driven at the highest level by a newly established National Crime Reduction Board (NCRB) chaired by the Home Secretary, which also drives government activity to reduce re-offending.

61 These targets do not explicitly focus on crime reduction, and may in fact contribute to the expansion of the system, but recent reform gives local criminal justice boards a new remit to reduce re-offending.

62 Home Office, *Rebalancing the criminal justice system in favour of the law-abiding majority*, July 2006, p 28

Justice has estimated that up to 50% of the resources necessary to manage offenders and reduce re-offending lie outside the criminal justice system.<sup>63</sup>

45. The Ministry of Justice, and formerly the Home Office, set out a framework for cross-departmental, regional and local partnership work to reduce re-offending in a series of strategic plans which address the 'pathways', identified by the Social Exclusion Unit in 2002, which are known to reduce re-offending: accommodation; skills and employment; health inequalities; drugs and alcohol; children and families of offenders; finance, benefit and debt; and attitudes, thinking and behaviour.<sup>64</sup>

46. The creation of the Inter-Ministerial Group on Reducing Re-offending has resulted in joint ventures between departments aimed at addressing the education, employment and skills, benefits and health and mental health needs of offenders. These include, for example, Health and Offender Partnerships with Department of Health; the Offender Learning and Skills Service with Department for Innovation, Universities and Skills (and formerly Department for Education and Skills) and efforts to improve access to support to enter employment alongside the Department for Work and Pensions. The Youth Justice Board, which was established by the 1998 Crime and Disorder Act to oversee the youth justice system, is now jointly sponsored by the Ministry of Justice and the Department for Children, Schools and Families. Three broader schemes, known as alliances, have also been founded to promote greater involvement from employers, local authorities and voluntary and faith-based organisations in reducing re-offending.

47. In addition to specific activity to reduce re-offending, the Government has attempted to reduce first-time entrants into the criminal justice system by integrating longer-term crime prevention into the work of other departments including, for example, activity on child poverty, employment, educational standards and neighbourhood renewal. According to the Home Office, a significant amount of money has been committed to the prevention of offending.<sup>65</sup> A number of large-scale initiatives, including Sure Start, Healthy Living Centres and early entry to nursery education, have been introduced to intervene in the early years of childhood to improve the life chances of children with a poorer background and to reduce the likelihood of those children becoming involved in crime and other social problems at a later stage. We consider that these are long-term investments which will take some time to have an effect on trends in numbers of people within the criminal justice system.

48. The Government's progress in its cross-departmental activity to reduce re-offending is set out in Annex 1. We were surprised at the lack of information on how much new funding has been brought in from other departments since the implementation of the reducing re-offending action plan. With the notable exception of drug treatment, which has pooled funding arrangements, the Government has placed emphasis on encouraging mainstream providers to fund provision to address offending-related needs in the community through local commissioning processes and guidance. It is apparent that this

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63 Ministry of Justice, *National Offender Management Service Strategic and Business Plans 2009–10 to 2010–11*, 2009

64 Social Exclusion Unit, *Reducing re-offending by ex-prisoners*, 2002

65 Q 600

strategy has had limited success. Provision has tended to come via the criminal justice system (for example at the point of arrest, in court or after sentence) rather than forming a safety net which prevents people entering or re-entering the system.

**49. We welcome the financial injection given to prisons for drug treatment, health, mental health, learning and skills increasing available resources, albeit from a very low baseline.** The movement of resources and sharing of responsibility with Government departments outside the criminal justice system have undoubtedly been positive step forward in achieving more effective rehabilitation support for prisoners. Practice on helping prisoners to prepare for release and lead law-abiding lives in the community is not consistently available and is vulnerable to the effects of prisoner transfer resulting from over-crowding. **We are not convinced that aiming to spend more on rehabilitation in custody will work while the prison estate is so overcrowded. We believe it is better to invest resources on reducing crime and re-offending within targeted communities.**

### **Building mainstream provision to reduce crime and re-offending**

50. Departments outside the criminal justice system have made progress in meeting their responsibilities to reduce re-offending but there is much more to be done. We heard that there remain significant difficulties in accessing the resources required from outside the criminal justice system. Departments have not fully faced up to their responsibilities and this has hindered progress in curtailing the expansion of the system. Many witnesses highlighted the lack of investment in community-based provision which could prevent crime and re-offending e.g. alcohol support, mental health treatment, learning disabilities, drug treatment, family and parenting, education and employment.<sup>66</sup> Some witnesses called for a redirection of resources from criminal justice to support greater investment in these areas. For example, the Revolving Doors Agency advocated greater emphasis on preventing re-offending outside the criminal justice system.<sup>67</sup> Nacro, the Local Government Association and Clinks called for better focused expenditure on tackling poor housing, education and health as causal factors related to crime.<sup>68</sup> Angela Greatley, then Chief Executive of the Sainsbury Centre for Mental Health, supported greater primary health care involvement with people with low level mental health and drug and alcohol problems.<sup>69</sup> The Magistrates' Association argued that there was a need to make better use of existing social, health and education budgets for offenders, and called for greater inter-departmental communication and more cohesive policies.<sup>70</sup>

51. Our attention was drawn to variations in the quality of interaction between mental health, drugs and alcohol and criminal justice agencies which in turn determines the quality and accessibility of provision to offenders.<sup>71</sup> Ellie Roy, former Chief Executive of the Youth Justice Board, firmly believed that if there were strong mainstream services it would

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66 Q 539 [Commander Jarman]; Ev 167; 180 [LGA and Clinks]; 237 [Napo]; 269 [Rainer]; 234–235 [Nacro]

67 Ev 289ff

68 Ev 180, 235 [LGA and Clinks, Nacro]

69 Q 340

70 Ev 182ff

71 Q 340 [Ms Greatley]

reduce the need to resort to the justice service but she described existing arrangements as “very dysfunctional”.<sup>72</sup> Dr Miles Rinaldi of the New Directions Team, South West London and St George’s Mental Health NHS Trust, agreed that partnership agencies all still tend to work in silos,<sup>73</sup> but Alan Campbell MP, Home Office Parliamentary Under Secretary of State, insisted that the system was broadly working despite “an element of silo mentality”, although he admitted that the question of finance in determining cross-departmental responsibilities can be thorny: “[Departments] can understandably be protective of their mainstream funding, and in effect we find sometimes within the government similar problems to the ones that partnership working can find on the ground”.<sup>74</sup>

**52. We recommend the significant strengthening of community provision to enable probation to focus on the management of high risk offenders. The underlying needs of many persistent offenders who cause the most problems to local communities would be managed more coherently in the community. Prison resources could then be focused on higher risk offenders and, when they left custody, there would be better community provision for resettlement. All of which would improve effectiveness in reducing re-offending, improve public safety and reduce the prison population.**

### **Governance**

53. Savas Hadjipavlou, then Head of the Health Policy and Strategy Unit, Ministry of Justice, identified weaknesses and variable effectiveness in the governance of partnership working between government departments, especially in the field of health.<sup>75</sup> Many of our witnesses emphasised the importance of using encounters with the criminal justice system to facilitate access to mental health treatment.<sup>76</sup>

54. The quality of governance in the youth justice system was also questioned. For example, Ellie Roy, then Chief Executive of the Youth Justice Board cited difficulties encountered by youth offending teams in getting local partners outside the criminal justice system to fulfil their obligations towards children and young people who offend by facilitating access to mainstream services and making available appropriate provision to meet their needs.<sup>77</sup> Mike Thomas, Chair of the National Association of Youth Offending Team Managers, agreed that once a young person is labelled as an offender they are seen as a problem that youth offending teams are expected to resolve rather than being seen as a problem to be shared and tackled jointly; so young people are batted from agency to agency.<sup>78</sup> He commented that it is increasingly difficult for youth offending teams to tap

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72 Q 202

73 Q 357

74 Q 587

75 Qq 325, 326

76 Q 517 [Lord Dubs]; Q145 [Professor McDougall]; Ev 183 [Magistrates’ Association]; 295ff [Sainsbury Centre for Mental Health]; 288ff [Revolving Doors Agency]; 291 [Prison Reform Trust]

77 Q 200

78 Q 229



into mainstream resources to increase expenditure on young offenders and he called for a demonstration of the benefits of such an approach.<sup>79</sup>

55. Zoë Billingham of the Audit Commission, described how competing local priorities had worked against each other prior to the introduction of local area agreements:

[...] we think that there has been a problem in the past about the setting of priorities by different organisations to drive community safety. On the one hand, police might be running after one set of priorities and outcomes in a community, the local government might be focused on another set of priority outcomes, the Probation Service on another set.<sup>80</sup>

56. Witnesses, including the Vice-Chair of the Local Government Association, also advocated a greater role for local authorities in tackling the underlying problems related to offending behaviour.<sup>81</sup> The Local Government Association report, *Going Straight*, noted many instances where services that are key to reducing re-offending and building safer communities are managed at a local level, for example: housing, benefits, education, employment and social services.<sup>82</sup> Some witnesses criticised local authorities for not engaging sufficiently with wider criminal justice issues (discussed further in chapter 6).<sup>83</sup> For example, Clive Martin, Director of Clinks, suggested that a battle of hearts and minds characterised local authority ownership of offenders.<sup>84</sup> The role of the voluntary sector is also under-utilised in the rehabilitation of prisoners.<sup>85</sup> According to Napo the number of new contracts won by voluntary sector to assist prisons and probation since 2004 has been negligible.<sup>86</sup>

57. Local authorities are not the only agency with responsibilities towards offenders. Commissioning activity to reduce re-offending is embedded in work by a range of local partnerships (and their component agencies), including local strategic partnerships (LSPs), crime and disorder reduction partnerships (CDRPs) in England and community safety partnerships (CSPs) in Wales, multi-agency public protection arrangements (MAPPA), drug action teams (DATs) and local criminal justice boards (LCJBs). Descriptions of these partnerships are set out in Annex 2.

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79 Q 215

80 Q 266

81 Ev 181 [LGA/Clinks]; Q 19 [Mr Beecham]; Q 516 [Mr Aitken]

82 Local Government Association, *Going straight: reducing re-offending in local communities*, 2005, p.11

83 Q 304 [Rob James]

84 Q 459

85 Q 516 [Mr Aitken]

86 Ev 239



## 3 The sustainability of the current system

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58. Witnesses raised serious concerns about the detrimental effect that the existing level of Government spending on prisons has had on its ability to dedicate sufficient resources to other less costly means of dealing with offenders, in particular non-custodial sentences, which may be more effective in reducing crime by many offenders. They also expressed fears about the impact of committing such a high level of new resource to building large prisons on the already dire financial shortfall in probation resources.

### Expenditure on prisons and probation

#### *The National Offender Management Service*

59. Reform of the whole criminal justice system has taken place alongside developments to bring together the criminal justice agencies specifically responsible for delivering the sentences of the courts—prisons and probation, also known as ‘correctional services’. In 2004, following an earlier major independent review, again by Patrick Carter (now Lord Carter of Coles), which included a detailed examination of the cost-effectiveness of correctional services, the Home Office announced plans to bring prisons and probation together as one organisation; the National Offender Management Service (NOMS).<sup>87</sup> NOMS, which began operations in June 2004, had the explicit purpose to deliver a reduction in re-offending and improved public protection and the new organisation was expected to pay for itself through gains in efficiency savings. Patrick Carter envisaged that his proposals for NOMS “should keep numbers under supervision lower than forecast” but emphasised that this also relied on the effectiveness of the Sentencing Guidelines Council, which was also created in 2004.<sup>88</sup>

60. Patrick Carter coined the phrase “offender management” to refer both to his national framework for handling offenders and processes for handling individual offenders. However the passage of the Offender Management Act 2007 resulted in a model which is predominantly regional but includes an element of local commissioning, with newly created probation trusts to replace probation boards in time, and become both providers and commissioners of services.

61. In 2008 NOMS was restructured and re-established as an executive agency of the Ministry of Justice; the Ministry of Justice retains responsibility for strategic oversight of policy and direction and NOMS is expected to commission and provide services which deliver to a specified framework. Directors of Offender Management have been appointed to take responsibility for devolved budgets for commissioning services in each region.

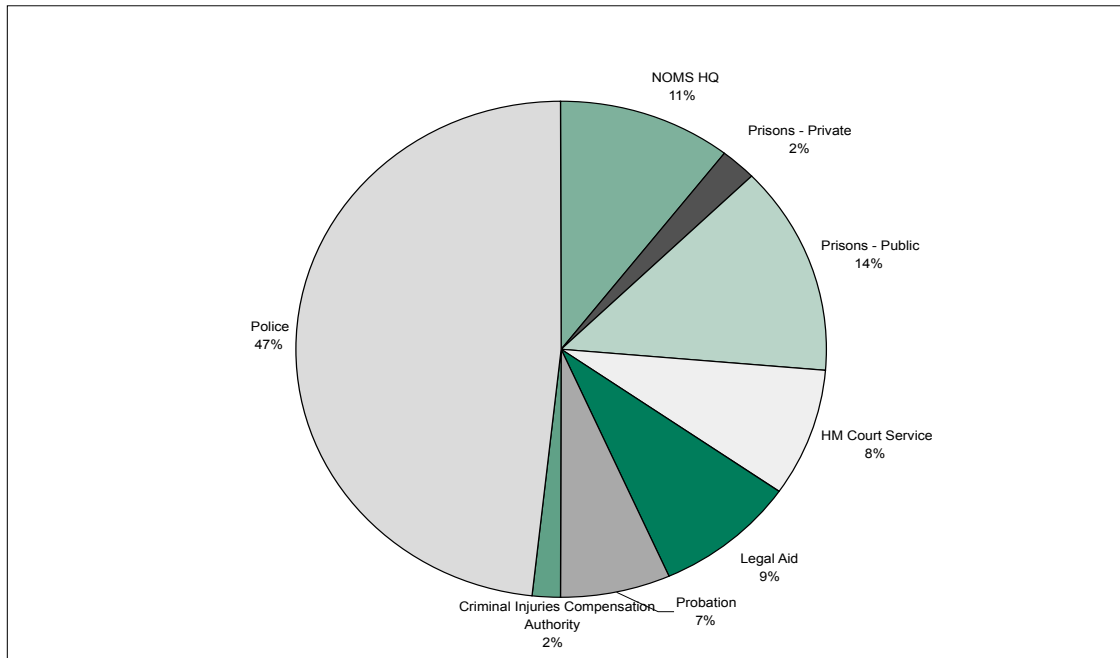
62. Spending on NOMS, prisons and probation represents 35% of the budget for the criminal justice system, illustrated in the chart below.

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87 Home Office, *Reducing Crime, Changing Lives*, 2004; Patrick Carter, *Managing Offenders, Reducing Crime*, December 2003

88 Patrick Carter, *Managing Offenders, Reducing Crime*, December 2003, p 39

Chart 1: The distribution of criminal justice expenditure in England and Wales 2007–08



Sources: Ministry of Justice Departmental Report 2007–08, Cm 7397 and Home Office Departmental Report, Cm 7396. HM Courts Service includes civil courts expenditure.

63. The total NOMS budget for 2008–09 was £4bn billion.<sup>89</sup> Expenditure on prisons comprised the lion's share; just under £1bn (£915m) was reserved for probation services.

64. The total budget for correctional services has grown since 2001 but our calculations indicate that this growth has not been as extensive, in real terms, as the Ministry of Justice has claimed. We estimate that there has been a 17.9% real terms increase in expenditure for NOMS, prison and probation between 2002 and 2008.<sup>90</sup>

### Efficiency savings

65. In October 2008, the Permanent Secretary at the Ministry of Justice, Sir Suma Chakrabarti, explained to us that his department was required to make savings totalling £1.3 billion by 2012. This included £0.3 billion to provide funding for new projects and a margin for contingency in addition to the figure for savings announced following the Autumn 2007 comprehensive spending review. The worsening economic situation has since resulted in the need for an additional £70m savings from the Ministry of Justice in 2010–11.<sup>91</sup> He was unable to tell us the likely extent of job losses on the frontline as a result

89 Ministry of Justice, *NOMS Strategic and Business Plans 2009–10 to 2010–11*, 2009, p 35

90 Calculated by applying HM Treasury GDP deflator (as at 28 April 2009) to cash expenditure figures from, *Ministry of Justice Departmental Report 2007–08*, Cm 7397

91 HM Treasury, *Budget 2009*

of these savings<sup>92</sup> but there was speculation in the press, that 1,320 jobs may be lost in the probation service and 2,672 in the prison service.<sup>93</sup> He told us that the final decisions on headcount reductions would not be made until December 2008.<sup>94</sup> The Rt Hon David Hanson MP, then Prisons Minister, said that the re-established NOMS agency was expected to deliver efficiency savings in 2009/10 by reducing duplication in the management structures of prison and probation at regional and head office level, thus trying to protect the frontline delivery of correctional services.<sup>95</sup> The total efficiency savings that NOMS is expected to achieve for 2009/10 is £171m.<sup>96</sup>

66. The Chief Executive of NOMS, Phil Wheatley, assured us, that the prison estate is expanding at the same time as it is becoming more efficient, so there would be no fewer prison officers.<sup>97</sup> This of course implies more prisoners per prison officer which does not bode well for relationship-building, pro-social modelling or other aspects of managing, challenging and improving offender behaviour.<sup>98</sup> The implications of efficiency savings for frontline probation staffing are equally unclear. The then Director of Probation, Roger Hill, outlined expected probation budgets to 2012 and revealed that £120 million would need to be cut over this period.<sup>99</sup>

**67. We are concerned that the Ministry of Justice is overly focused on how each individual service can continue to function with reduced resources rather than assessing the most effective allocation of resources across the system as a whole.**

## The impact on capacity

68. Witnesses expressed concerns that recent progress in reducing re-offending and probation performance could be undermined by the continued expansion of the system alongside budget restrictions. For example, Napo described the Ministry of Justice's strategy as being pre-occupied with crisis management and the efficiency of resources.<sup>100</sup> Andrew Bridges, Her Majesty's Inspector of Probation, explained that the widening gap between probation budgets and demands on the service had been met in recent years with efficiency savings. He believed that it would be counter-productive to expect more savings in the future, and that it would instead be necessary for hard decisions to be made about what probation should be expected to achieve within its allocated resources.<sup>101</sup> David Faulkner, Senior Research Associate, Centre for Criminology, University of Oxford also

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92 Oral evidence taken before the Justice Committee on 21 October 2008, HC (2007-08) 1121-i, Q 9

93 10,000 jobs to go as crunch hits public sector, *The Times*, 15 October 2008

94 Oral evidence taken before the Justice Committee on 21 October 2008, HC (2007-08) 1121-i, Q 9

95 Q 568

96 National Offender Management Service, *Annual report and accounts 08/09*, July 2009

97 Oral evidence taken before the Justice Committee on 21 October 2008, HC (2007-08) 1121-i, Q 9, The Ministry of Justice has since stated that all new prisons will be run privately for the foreseeable future and hence not staffed by public sector prison officers.

98 See Role of the Prison Officer, Twelfth Report from the Justice Committee, Session 2008-09, HC 361

99 Ev 240

100 Ev 238ff

101 Ev 162

expressed doubts as to whether further savings were a sustainable solution to funding system expansion.<sup>102</sup>

69. Professor Cynthia McDougall, Co-Director of the Centre for Criminal Justice Economics and Psychology, University of York, described the impact that expansion has on the system:

We have a finite amount of money for prisons and a finite amount of money for probation, and although sentences are not restricted by how much money there is, nevertheless, if there are too many prisoners for the spaces in prison, the prison has to cope, and it does cope, but it copes by being overcrowded, by having people sharing cells who should not be sharing cells, it has situations where it cannot run programmes in the same way as they did, perhaps because of the overcrowding you have disturbances in the prison, you have not got quite the level of decency that you would want, and you might also have suicides because of that [...] In probation you have got a similar situation.<sup>103</sup>

She explained that as a result of stretched resources, the system is unable to be proactive and take resources into account in a rational way.<sup>104</sup>

70. The Ministry of Justice has explicitly stated that there is a shortfall of resources to meet demand:

Across the whole of the justice system, demand for our services is growing. Despite falling crime rates, more offenders are being sent to prison, and more are receiving community sentences which need probation resources. These challenging demands mean that prisons and probation face rising expectations. Coupled with changes in demand, we have a challenging spending review settlement that means an increased focus on offending is crucial.<sup>105</sup>

### ***The capacity of the courts***

71. The potential for the costs of other elements of the criminal justice system, and offender management in particular, to put the funding of courts at risk has been raised in the House of Lords.<sup>106</sup> Court caseloads are rising, in Crown Courts in particular.<sup>107</sup> The National Audit Office (NAO) identified that, while the physical capacity of courts will be extended by 6% by 2012, the workforce has reduced by 6% since 2005 and some courts are running at full operational capacity. Despite reductions in Her Majesty's Courts Service's annual budget up to 2010, expenditure on the frontline is projected to remain the same.<sup>108</sup>

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102 Ev 151

103 Q 114

104 *Ibid.*

105 NOMS, *National Commissioning and Partnerships Framework 2008/09*, February 2008, p 5

106 HL Deb, 5 December 2007, col 1714-5 [Lords Chamber]

107 Her Majesty's Courts Service, *Business Plan 2009-10*, March 2009

108 *Ibid.*

However the NAO was critical of the approach taken by the courts service to assess the resources required to meet its projected future workload. We note the recent announcement of plans to consult on the closure of a number of “under utilised” magistrates courts.<sup>109</sup>

### *The capacity of prisons*

72. Several witnesses, including Napo and Sarah Pearce, a Durham magistrate, commented on the detrimental effects that prison over-crowding and reduced resources can have on the effectiveness of prison, in terms of rehabilitation and the prevention of re-offending.<sup>110</sup> The impact that efficiency savings are having on a prison system which is becoming increasingly overcrowded is most strikingly apparent in the loss of half a day in prison regimes.<sup>111</sup> Paul Tidball, chair of the Prison Governors’ Association, warned that the commitment to expand the capacity of the prison estate, whilst spending less on existing prisons, risks undermining the effectiveness of the latter.<sup>112</sup> He has since raised concerns that efficiency savings impact on public sector prisons only as a result of the Government’s contractual obligations to private prisons.<sup>113</sup>

73. Ellie Roy, the former chief executive of the Youth Justice Board, explained to us that, as a result of inflation and the rising costs of utilities and food, the costs of custody will keep rising even if the numbers stay the same.<sup>114</sup> Table 2 illustrates that the cost of an average prison place has risen by £6000 over the last 5 years.

**Table 2: Average cost of prison places**

Year	Average cost of prison place
2007/08	39,000
2006/07	37,500
2005/06	36,500
2004/05	34,500
2003/04	33,000

Source: Hansard 3 Feb 2009: column 1176W, figures are to the nearest £500

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109 Ministry of Justice press release, *Changes to court services in England*, 13 October 2009

110 Ev 236 [Napo]; Ev 300 [Dr Pearce]; and Q 81 [Dr Chitty]

111 From April 2008, all Friday afternoon activities, including education, offending behaviour programmes and work, were cancelled in public sector prisons.

112 Ev 255

113 Cash strapped jails ‘ready to blow’ governor warns, *guardian.co.uk*, 5 October 2009

114 Q 195

74. For this reason Paul Tidball argued that, in order to maintain existing levels of effectiveness, the number of prison places would have to be reduced.<sup>115</sup> The Local Government Association and Clinks, which supports voluntary organisations that work with offenders and their families, argued that the prison population must be reduced to enable constructive prison regimes to be run effectively.<sup>116</sup> We discuss the running costs of new prison capacity later in this chapter.

### *The capacity of probation*

75. Probation caseloads have increased every year since 1997 with the exception of 2000 and 2001.<sup>117</sup> Napo described the Probation Service as “over-burdened”, drawing our attention to very high probation caseloads with probation officers routinely now having 70 to 100 cases each.<sup>118</sup> While the Government argued that increases in expenditure on probation up to 2005 subsidise this,<sup>119</sup> caseloads have increased by 3% between 2006 and 2007.<sup>120</sup> We calculated that the probation budget actually declined in real terms by 14.8% between 2002 and 2008.<sup>121</sup> Napo remained “unconvinced” that the additional resources have all gone to the frontline, highlighting the high overhead costs of NOMS headquarters.<sup>122</sup>

76. Frances Crook, of the Howard League, also said that probation resources are not getting to the frontline.<sup>123</sup> Both she and Nacro explained that high caseloads do not allow for the level of supervision and support required to manage offenders in the community, particularly those with high levels of offending-related needs; thus making it impossible for probation to deliver the service properly and hence reducing the risk to public safety.<sup>124</sup> The Magistrates’ Association stated that the inadequacy of probation resources impinges on the effectiveness of non-custodial sentences aimed at reducing re-offending.<sup>125</sup> The Revolving Doors Agency and David Faulkner, Senior Research Associate, Centre for Criminology, University of Oxford shared this view, highlighting the lack of capacity of probation to meet the support needs of offenders, including the delivery of courses, treatment and unpaid work placements.<sup>126</sup> This resulted in insufficient funding for probation to implement what is known to be effective practice.

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115 Q 428

116 Ev 179

117 National Offender Management Service, *Offender Management Caseload Statistics 2007, 2009*

118 Ev 238

119 According to *Offender Management Caseload Statistics 2007* the probation budget has grown by 21% in real terms since 2001, and caseloads have risen by the same proportion. The Government claim that recent budget reductions will not affect frontline delivery.

120 National Offender Management Service, *Offender Management Caseload Statistics 2007, 2009*

121 Calculated by applying HM Treasury GDP deflator (as at 28 April 2009) to cash expenditure figures from *Ministry of Justice Departmental Report 2007–08*, Cm 7397

122 Ev 237

123 Q 453

124 Q 453 [Ms Crook]; Ev 223 [Nacro]

125 Ev 183

126 Ev 151, 286 [David Faulkner; Revolving Doors Agency]

77. There remain wide disparities in the use and availability of requirements<sup>127</sup> that can be attached to community orders. The National Audit Office (NAO) found that many of the 12 sentence requirements available to the courts are not available in certain areas and offenders often do not receive vital requirements if they are not available locally.<sup>128</sup> Potentially rehabilitative requirements such as alcohol treatment and mental health treatment<sup>129</sup> in particular are under-used in relation to offenders' needs.<sup>130</sup>

78. According to the National Audit Office and the Sainsbury Centre for Mental Health this under-use can, in addition to other more practical obstacles, be accounted for by insufficient funding and failures in partnership arrangements.<sup>131</sup> For example, the Ministry of Justice provides additional funding to the Department of Health to support offenders with serious drug problems but this is not the case for alcohol treatment. Probation areas must arrange provision of alcohol treatment directly with local primary care trusts and these arrangements had not been made in all areas at the time of the NAO study. The accountability of agencies outside the criminal justice system for their contribution to reducing re-offending is discussed further in chapters 4 and 6.

79. Napo explained that the under-use of some requirements may be due to costs and lack of resources for their provision.<sup>132</sup> Notwithstanding the costs of treatment itself, these requirements cost much more for probation staff to manage than stand-alone supervision: it costs an average of £3,700 for a mental health requirement; £1,920 for a drug treatment and; £1,670 for an alcohol treatment compared to simple probation supervision costing £650.<sup>133</sup> The under-use of requirements is therefore a matter of scarcity of resources both for external community provision and for probation.

80. The Ministry of Justice acknowledged that alcohol and mental health treatment requirements are not available or rarely attached in some areas.<sup>134</sup> It suggested two reasons for this. Firstly, NOMS was still in negotiation with the Department of Health to improve the level of service. Secondly, in some areas probation workloads had increased to the extent that decisions had been taken to restrict the delivery of some requirements for a temporary period in order to meet budgetary restrictions. Pursuing departmental objectives should not get in the way of Government policy and should be dealt with by respective Ministers.

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<sup>127</sup> In making a community order, magistrates and judges can choose from 12 requirements to tailor the sentence to the offender based on the seriousness of their offence and the factors which may have contributed to it.

<sup>128</sup> National Audit Office, *The National Probation Service: The supervision of community orders in England and Wales*, January 2008

<sup>129</sup> Where mental health requirements have been used this has tended to be for offenders who were already in receipt of treatment before the order began.

<sup>130</sup> National Audit Office, *The National Probation Service: The supervision of community orders in England and Wales*, January 2008

<sup>131</sup> *Ibid* [NAO]; Ev 295, Q 333 [Ms Greatley, Sainsbury Centre for Mental Health]

<sup>132</sup> Ev 236

<sup>133</sup> National Audit Office, *The National Probation Service: The supervision of community orders in England and Wales*, January 2008

<sup>134</sup> Ev 209



81. In February 2008, an additional £40m was made available to improve the capacity of probation to deliver community orders and to support the delivery of alcohol treatment amongst other gaps related to the increase in probation workloads.<sup>135</sup> This payment was intended as a one-off allocation but it was repeated in 2009. In our subsequent discussions with Ministers it became clear that this is seen by the Ministry of Justice as sufficient to overcome the difficulties with probation capacity but we are not convinced that this has been based on any assessment of the scale of need.<sup>136</sup>

82. The Centre for Crime and Justice Studies concluded that the additional £40m was unlikely to compensate for the impact of continuing budget reductions and warned that there was a risk of court sentences not being carried out because of resource shortfalls.<sup>137</sup> All three organisations which represent probation staff and management have described the extent of the problem with probation resources. In 2007 the Probation Boards' Association (now the Probation Association)<sup>138</sup> found that the national picture was of "moderate to severe financial difficulty with a widening gap between demand (workload) and resources (money and staff)"; almost one third of boards expected to have to make redundancies over the next three years.<sup>139</sup> Napo's more recent calculations indicated that the level of efficiency savings now required equates to average cuts of 20% which could lead to 3,000 job losses, resulting in concerns that the high levels of probation performance may fall and suggested that there is a real risk of reversing the trend in declining re-offending and hence increased crime.<sup>140</sup> David Scott, then chair of the Probation Chiefs' Association, described the resource shortfall for probation as "corrosive".<sup>141</sup> Lord Ramsbotham warned that probation was so overwhelmed that it was not sure exactly what it was doing; neither is it able to do enough either with higher risk or low seriousness offenders.<sup>142</sup>

83. We also encountered some anxiety that probation funding would be further restricted as a result of the expansion of the prison estate. In relation to a question about the supply and demand for prison places, David Scott told us that probation was at a "critical cross-roads" and added:

[...] there is a critical issue about what the balance is and should be between the prison population and offenders being sentenced in the community. There is a real risk that probation is drawn into the crossfire of that.<sup>143</sup>

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135 The Government has referred to this money as the solution to the lack of community provision for women offenders, accommodation, alcohol treatment requirements, drug rehabilitation requirements, unpaid work intensive community orders and to finance work with sentencers. See, Ev 212ff for description of how this has been allocated.

136 Ev 208

137 Centre for Crime and Justice Studies, *Probation Resources, Staffing and Workload 2001–2008*, April 2008

138 Now known as the Probation Association

139 Ev 262. This was based on review of 176 probation boards.

140 Ev 231

141 David Scott, Speech to All-Party Parliamentary Group on Penal Affairs, 20 January 2009.

142 Q 476

143 Q 425

84. The Magistrates' Association agreed, warning that there was a risk of funds for probation being reduced to allow for further prison provision.<sup>144</sup> These concerns are discussed later in this chapter.

### *The capacity of youth offending teams*

85. Mike Thomas, Association of Youth Offending Team Managers, made similar observations about the capacity of youth offending teams to work constructively with an increasing number of young people. He suggested that recent progress in the performance of the youth justice system may be undermined as resources are spread "thinner and thinner":

We know from the Audit Commission report of 1996 that [...] the amount of time being spent face to face with young people was just over an hour a week. The 2004 Report basically said it had hardly increased at all. I think now, if we were to look at again, because we have seen more youngsters come into the system in the last four years, we would be back to an hour a week. That is not a sufficient amount of time to turn around a young person's offending lifestyle.<sup>145</sup>

86. Frances Done, Chair of the Youth Justice Board, agreed that YOTs' ability to prioritise within scarce resources was limited.<sup>146</sup>

**87. We have grave concerns about the impact of efficiency savings on practice at the frontline for both prisons and probation, which will undoubtedly undermine the progress in performance of both services. Neither prisons nor probation have the capacity to keep up with the current levels of offenders entering the system. It is not sustainable to finance the costs of running additional prison places and greater probation caseloads from efficiency savings in the long-term.**

**88. The Government's over-emphasis on use of custody as a criminal justice response, although partially addressed by the promotion of community sentences for short-sentenced prisoners, intensive alternatives to custody and integrated offender management, has left a legacy that resources for effective community-based interventions have been depleted in relative terms and are now spread far too thinly. The Government must go very much further than paying £40m to correct this imbalance; the sooner it recognises this, the less damaging it will be to the confidence of the public and sentencers and to long-term finances. The test with the pilots will be whether resources are provided to roll them out across the country. We are concerned that there are no probation staff at a senior level in NOMS: this suggests a lack of advocacy on behalf of probation for better resources. We have not seen any evidence which suggests that bringing together prisons and probation has yet had a positive impact; in fact the available evidence on the financial outcomes of this merger point to**

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144 Ev 183

145 Q 212

146 Q 188

**the contrary. We are deeply concerned at this indication that the Government is moving further towards a prisons-oriented criminal justice system.**

## Costs of system expansion

89. Clive Martin, Director of Clinks, believed that prisons are presented as a no-cost option but argued that we should send to prison only those who absolutely need imprisonment.<sup>147</sup> The Secretary of State told us that “nothing would be lost” if, as the prison estate is expanded, the system become more successful at reducing re-offending and diverting offenders from custody. He argued that the additional headroom created would enable old, inappropriate and inefficient accommodation to be removed.<sup>148</sup> The *NOMS Strategic Plan to 2011* explains how costs will be saved as a result:

By increasing capacity, the Prison Capacity Programme will ease pressure on existing resources by freeing up resource to focus on core areas of delivery and by reducing the potential call on expensive police cells. Replacing old accommodation with more modern prison establishments will lead to savings in overhead and running costs.<sup>149</sup>

90. Ministers were unable to give us an indication of the estimated total capital and running costs required to develop the three Titan prisons despite being questioned several times prior to dropping these plans.<sup>150</sup> The Ministry of Justice has now estimated that the total cost of the new prison building programme over 35 years is between £3.2 and £4.2 billion, yielding benefits of between £480 million to £1,850 million<sup>151</sup> factoring in the social value of crime prevented and costs saved through the planned decommissioning of 5000 places which are inefficient.<sup>152</sup> Figures are adjusted (discounted) to take account of savings made over 35 years by building now rather than at a later date; the average capital build cost per place without adjustment for inflation almost tripled to £153,000 between 1998 and 2008.<sup>153</sup> The running costs for the existing additional prison places are estimated to cost £482 million per year to run, representing a 16% increase in the annual prison budget.<sup>154</sup> While the running costs of the new capacity programme of larger prisons may be lower than for the existing building programme<sup>155</sup> this is dependent on securing private finance which may be difficult in the current economic climate.

91. These huge sums of money have been committed without any obvious cost-benefit analysis of alternative options or any public consultation on the desirability of a prison

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147 Q 471

148 Q 35

149 National Offender Management Service, *Strategic and Business Plans 2009–10 to 2010–11*, February 2008, p 31

150 Oral Evidence to the Justice Committee, 17 December 2007

151 Ev 230ff

152 Nearly 50% current prisons opened prior to the 19th century. The National Audit Office criticised the way in which NOMS planned and prioritised the maintenance of prison assets over their economic life (National Audit Office 2009).

153 HC Deb, 25 April 2008, col 53W [Commons written answer]

154 Hansard, 16 December 2008, col 575W

155 Ev 231

building programme. There are serious long-term financial implications for the taxpayer and for the rest of the criminal justice system. The vast majority of prison building in recent years has been funded by private finance initiatives and all the planned new prisons will be built and managed privately, adding to the existing private finance debt.<sup>156</sup> Professor Ian Loader believed that: “the way in which we are using, and under the Titan regime [would] continue to use, imprisonment is a candidate for the mismanagement of public money”.<sup>157</sup>

92. It has become apparent that the prison building programme will have a considerable immediate impact on other parts of the criminal justice system, which are already struggling to keep pace with increased demand. Rt Hon David Hanson, then Prisons Minister, explained how he must balance costs to fund the additional prison places:

I am very anxious to try to continue to do work on community-based activities, on prevention, on re-offending for people who go through probation and the community, but at the same time I have also to look at funding the cost of additional prison places in revenue costs, and we have got 4,000 extra places this year which all have a revenue cost, and we have to look at what we do to people in prison in a much more effective way than we have done in the past to change their behaviour, and that has a cost as well.<sup>158</sup>

93. We believe that some of the additional £300 million efficiency savings, discussed above, are required to finance the prison expansion programme. In February 2008 NOMS stated that plans for £250m efficiency savings to 2010-11 would be subject to change once the implications of Lord Carter’s recommendations on prisons were fully scoped out.<sup>159</sup> Despite this uncertainty over the exact amount of savings, NOMS expected regional commissioners to continue planning for the provision of prison and probation services:

The impact of Carter will need to be factored into commissioning negotiations, not only for prison service level agreements but also in terms of the impact on community services and our partners.<sup>160</sup>

94. Furthermore, NOMS made it clear that if commissioners were unable to make sufficient savings to balance their budgets via “robust negotiations” in commissioning, they would need to “negotiate disinvestments” i.e. cut services.<sup>161</sup> The total level of efficiency savings that NOMS is now expected to deliver has doubled to more than £500 million in the period to March 2011.<sup>162</sup>

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156 HM Treasury, *Budget Report 2009*, 22 April 2009, p 125

157 Q 484

158 Q 568

159 National Offender Management Service, *National Commissioning and Partnerships Framework 2008/09*, February 2008

160 *Ibid*, p16

161 *Ibid*, p14

162 National Offender Management Service, *Strategic and Business Plans 2009–10 to 2010–11*, February 2008, p 28

95. Some of the best intervention work with offenders is undertaken by voluntary organisations or other third sector bodies. In some cases these are major national organisations while others are small local or regional bodies with scarce resources. Government contracting policy has sometimes put an unacceptable level of pressure on such organisations which are squeezed by a departmental wish to cut overheads while contracting with larger bodies or with commercial organisations rather than with a larger number of smaller organisations which are closer to the coalface. We are worried about the references to “negotiating disinvestments” as this could lead to further damage to the sector which contributes so much to reducing re-offending. The Ministry of Justice and NOMS should pay more attention to the Compact agreement between Government and the voluntary and community sector in England. **We recommend that the Ministry of Justice reject any move away from contracting with small organisations with proven track records in providing rehabilitative services for offenders in the name of reducing administrative overheads. Other options should be examined for reducing costs in this area.**

96. We are at a loss to see how the additional running costs which must be found for both this and the new capacity programme can be secured without radical longer-term expenditure reductions elsewhere. **We recommend that the Ministry of Justice publishes its estimates of the financial impact of both the existing prison building programme, and the new building programme, on the rest of the criminal justice system.**

97. Some 16 months lapsed between the announcement of the prison building programme and the production of the business case which enabled the procurement of land to commence. The additional places will not be delivered in full for a further five years. **The Government has spent too much time pursuing an unrealistic attempt to build its way out of the prisons crisis. Lord Carter’s review of prisons, and the stark demonstration of the exorbitant costs of penal expansion, should have been seen as a watershed and a warning against the “predict and provide” approach to criminal justice policy. The reaction against the proposed Titan prisons should be seized by the Government as an opportunity to switch direction and halt the seemingly inexorable growth of imprisonment.**

### **Effectiveness of prison and probation programmes in reducing crime**

98. The public perception of the aims of prison and probation in terms of crime reduction appears to be three-fold: first, to prevent offenders from causing further harm within their communities through physical incapacitation (this applies predominantly to imprisonment); second, to act as a deterrent to anyone contemplating committing a crime; and third, to rehabilitate offenders so that they become less likely, rather than more likely, to re-offend on completion of their punishment.

99. Prisons have become more effective at the physical incapacitation of serious and violent offenders through effective incarceration, separating offenders from the general public for the duration of their time in prison. This can be demonstrated by statistics on prison

escapes and abscondings which are at a record low.<sup>163</sup> On the other hand, the available evidence suggests that prison does not act as an effective deterrent to crime and is not perceived as such except by the already generally law-abiding citizenry.<sup>164</sup> ‘Professional’ criminals are likely to view prison as a more or less acceptable hazard and a majority of other prolific offenders are ill-equipped—by virtue of mental ill health, learning disability, behavioural issues, the effects of drug or alcohol misuse or other factors—to make such judgements or, having made them, to act thereon.

100. The effectiveness of prisons in preventing re-offending through rehabilitation is less easy to demonstrate. According to the National Audit Office, significant barriers exist in principle to prison regimes having significant impacts on the rates of re-offending.<sup>165</sup> The Chair of the Prison Governors’ Association, Paul Tidball, felt that investing resources for rehabilitation in prisons was worthwhile but he questioned the financial sense of not using those resources in communities as an alternative to custody or a means of preventing it:

The £1 million spent on a new drugs rehabilitation unit in [my] prison did not make a lot of financial sense in terms of those women [prisoners] attending it who were not serious offenders in the first place and who were dragged 150 miles away from their homes in Haverford West to Staffordshire, or whatever the example may be, at the cost not just of the rehabilitation unit but housing them at the current cost £30,000 a year and the disruption of their home life.<sup>166</sup>

101. Ian Porée of the National Offender Management Service, admitted that, whilst “very full” prisons are not the most effective way of delivering rehabilitation and reform for offenders, re-offending levels have improved. Nonetheless, he acknowledged that a large number of people are going through the system again and again.<sup>167</sup>

102. The Permanent Secretary of the Ministry of Justice recently emphasised the renewed attention his teams were paying to the “repeat offending agenda”.<sup>168</sup> Reconviction is used as a proxy measure for re-offending because it is the best indicator available, although there were obvious limitations in its use. Until recently no indicators existed to monitor progress in reducing reconvictions at local level, either for prisons or probation.<sup>169</sup> Following two independent reviews of crime statistics,<sup>170</sup> the Government introduced more sophisticated

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163 Q 264, 19 May 2009

164 According to Professor Pfeiffer it is the probability of an offender getting caught rather than the consequences if they do get caught that acts as a deterrent, Qq 602, 611.

165 Ev 241

166 Q 443

167 Q 378

168 Oral evidence taken before the Justice Committee on 13 October 2009, HC (2008–09) 1016–i, Qq 16–17

169 National Audit Office, *HM Prison Service: Reducing prisoner re-offending*, 2002; National Audit Office, *The National Probation Service: the supervision of community orders in England & Wales*, 31 Jan 2008, p.15

170 A. Smith et al, *Crime Statistics: an independent review*, November 2006; Statistics Commission, *Review of crime statistics*, September 2006

measures of re-offending, to include the volume and severity of offences committed. The baseline indicator of effectiveness now relates to the volume of re-offending.<sup>171</sup>

**Box 4**

*Reducing re-offending statistics*

In 2006 changes were made to the way Government records and reports the re-offending rates of offenders who have completed custodial sentences or community orders:

- figures are published on the frequency of re-offending, i.e. the volume of offences committed by former offenders (rather than simply whether or not an individual has re-offended);
- an indication is now given of the rate of re-offending for serious (sexual and violent) offences;
- the period for calculating the re-offending rate has been reduced to one year, from two.

Other changes to measurement over time were: the actual percentage of offenders that commit at least one further offence which results in a conviction or out-of-court disposal are compared to predict re-offending rates (i.e. the percentage of offenders would have been expected to re-offend based on analysis of their characteristics). This enables trends to be determined from year to year regardless of differences in the mix of offenders going through the system each year. If the predicted re-offending rate is higher than the actual rate, then the Ministry of Justice concludes that there has been a reduction in re-offending.

103. Government targets to reduce re-offending appear to have become less ambitious.<sup>172</sup> Recent reconviction figures suggest that Government efforts show some success in reducing the frequency of re-offending. Thirty-nine per cent. of offenders re-offend within a year, representing a fall of 12 per cent. since 2000; the rate of re-offending increased by 2.3 per cent. in 2007, the last year for which figures are available, but it is not yet clear whether this reversal represents a trend. Persistent offending remains a significant problem: a quarter of sentences are given to offenders with 15 or more previous convictions and nearly half of adults sentenced to custody have already been in prison 3 times.<sup>173</sup>

**104. We welcome indications that reconviction rates following time in prison and on probation have fallen by a considerable margin, although we are concerned at early signs that this trend may be reversing, particularly as this coincides with budgetary**

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171 i.e. how many re-offences are committed per group of re-offenders from a simple measure of the proportion re-offending.

172 In 2002, the Home Office set a target to reduce the absolute rate of re-offending by 5% by April 2004 and again by 5% by April 2006 i.e. 10% over 4 years. However the target decreased to 10% over the period from 2005 to 2011.

173 Ministry of Justice, Sentencing Statistics 2007 England and Wales, Ministry of Justice Statistics bulletin, June 2009



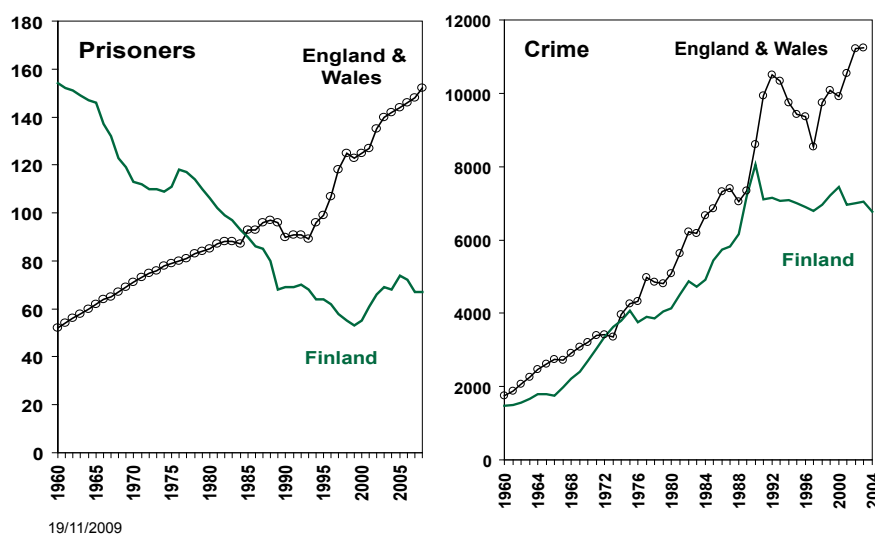
**constraints for prisons and probation. We are worried that, if the prison system further expands and the increases in funding tail off, these resources will be spread too thinly to continue to reduce re-offending.**

### *The impact of sentencing on crime rates*

105. There is significant controversy over what measures are effective in reducing offending, and a contributory factor is the lack of available evidence. The extent to which criminal justice activity has an impact on crime rates has been the subject of extensive academic debate. The Magistrates' Association argued that without better data on re-offending rates, and on the effects of sentences, the reliability of current policy was questionable.<sup>174</sup>

106. The problems of interpretation and establishing causal links can be seen when the US and European situations are compared. The marked fall in the crime rate in the US, which has been attributed by some to the increased use of imprisonment, has been mirrored in Europe, where the opposite policy has tended to be pursued. The graphs below show the relationships between crime rates and use of imprisonment in Finland and England and Wales. Despite the higher rates of imprisonment in England and Wales relative to other EU countries, crime rates have not dropped as steeply here as they have in the rest of Europe.<sup>175</sup>

**Chart 2: Prison Rates and Crime Rates, Finland and England & Wales 1960-2006**



Source: Tapio Lappi-Seppälä, National Research Institute of Legal Policy, Finland, presentation to the International Centre for Prison Studies, April 2009

107. In the USA, the Sentencing Commission in Portland, Oregon identified a point of diminishing return when increased sentence lengths and numbers in custody are

174 Ev 183

175 Gallup Europe for the UN crime prevention agency, *EU Crime and Safety Survey*, funded by the European Commission, February 2007

correlated against re-offending outcomes.<sup>176</sup> David Faulkner and evidence from the International Centre for Prison Studies highlighted the limited effect of sentencing itself on crime in the UK.<sup>177</sup> The Centre for Crime and Justice Studies has even questioned the extent to which reductions in re-offending can be attributed to criminal justice policy at all:

The contribution of criminal justice agencies to the fluctuating levels and patterns of crime [...] are affected by a range of factors—employment, economic growth, relative levels of income inequality, demographic trends and technological developments, for example—making it difficult to account for the particular contribution made by the various criminal justice agencies. Indeed many criminologists argue that the impact of the criminal justice system on overall crime levels is small, even negligible or insignificant.<sup>178</sup>

108. It is at least as likely that other policies have contributed to the reduction in crime rates. In 2003, Patrick (now Lord) Carter estimated that the increased use of prison reduced crime by approximately 5%, compared to an overall reduction in crime of 30% since 1997. He also found that rehabilitation programmes can reduce reconviction rates by between 5-10%. In his 2007 review of prisons he directly attributed reductions in re-offending to increased investment in offender interventions both in prison and in the community<sup>179</sup> and reiterated the need to focus resources on effective practice in the reduction of re-offending.<sup>180</sup> However, these observations were not manifested in his recommendations which focused on the expansion of the use of imprisonment without any linkage to evidence that prison building represents the most effective use of resources compared to investment in other forms of provision which may reduce crime.<sup>181</sup>

109. It is not currently possible to quantify the performance of the criminal justice system in reducing re-offending against the other purposes of sentencing, although Dr Chitty told us that the feasibility of such measures was being explored.<sup>182</sup> Despite this lack of evidence, the Secretary of State asserted his belief that there must be a causal relationship between the increased use of imprisonment and the lower crime rate:

There is some linkage between the fact that crime, as measured by the British Crime Survey, has dropped a third in the last 11 years and the prison population has gone up by a third, and it is not a direct linkage, but I am not in any doubt that it is there and the fact that prison terms have got longer is also a factor.<sup>183</sup>

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176 Oregon Prison Economics presentation, May 2008. If the incarceration rate increases by 10% the violent crime rate is predicted to decrease by 3.4% and the overall crime rate is expected to decrease by 2.6%.

177 Ev 152 [David Faulkner]; 166 [ICPS].

178 Centre for Crime and Justice Studies, *Ten years of criminal justice under Labour: an independent audit*, January 2007, p 23

179 Lord Carter, *Securing the future: proposals for the efficient and sustainable use of custody in England and Wales*, December 2007, p 5

180 *Ibid*, p 28

181 Except for calculating that Titans represented the most cost-effective means of expansion.

182 Q 75

183 Q 35

110. Much of the money being spent on prisons and probation appears to be spent with either little effect, or little known effect, on crime rates. The Government needs to do more to commission, facilitate and encourage research on the contributory factors to the reduction in re-offending and crime rates; not least by ensuring that the right data are collected and disseminated to fuel creative projects and worthwhile debate. For example, the reasons for the reduction in re-offending in recent years—and, equally, the small rise recorded for 2007—are not at all clear. **We recommend that the Ministry of Justice undertake work to identify the key factors influencing changes in the rate of re-offending and crime as a priority.**

### ***Cost-effectiveness and social impact of the current system***

111. There was consensus amongst many of our witnesses that public expenditure on criminal justice is not generally cost-effective. Cost-effectiveness is not simply about using resources efficiently, or doing things more cheaply, it also implies that resources are being directed to the best possible effect. Witnesses argued that there are some groups of prisoners for whom prison is not cost-beneficial and that community sentences are almost always more cost-effective than custody unless imprisonment is required to protect the public from serious harm.<sup>184</sup> For example, the Magistrates' Association agreed that custodial sentences are not cost-effective if you look at them in terms of rehabilitation.<sup>185</sup> Jeremy Beecham, vice-Chair of the Local Government Association, agreed prison is “not a satisfactory way of dealing with the problem and is also hideously expensive.”<sup>186</sup> The Chair and former Chief Executive of the Youth Justice Board agreed that long-term costs of not dealing with young offenders effectively are huge.<sup>187</sup>

112. Research by Matrix Knowledge Group, using the available evidence on the economic case for and against prison, has drawn similar conclusions.<sup>188</sup> For example, the Group has calculated that some community-based interventions, including community service and residential drug treatment, can provide better value-for-money, in terms of the costs of reducing re-offending, than basic prison sentences i.e. without any additional interventions designed to reduce re-offending, for example, drug treatment or an offending behaviour programme. There are also cost-benefits in sentencing low-level, non-violent offenders to community based alternatives to prison. On the other hand, if a custodial sentence is necessary to protect the public, it is generally more cost-effective to enhance the sentence with drug treatment, some behavioural change programmes and educational or vocational training.

113. Witnesses emphasised the wider costs of a policy which concentrates the vast majority of allocated resources around imprisonment. It was argued that these costs were being

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184 Q 144 [Professor McDougall]; Ev 152, [David Faulkner]

185 Ev 182

186 Q 21

187 Qq 189, 200 [Ms Done, Ms Roy]

188 Matrix Knowledge Group, *The economic case for and against prison*, November 2007; Matrix Knowledge Group, *The economic case for and against prison: update*, November 2008; Make Justice Work and Matrix Evidence, *Are short term prison sentences an efficient and effective use of public resources?*, June 2009.

ignored and we received compelling evidence of the price that society was paying as a result. Dr Barbara Barrett, Centre for the Economics of Mental Health, Kings College London outlined the implications of effectively disregarding the possible benefits of using criminal justice resources in other policy areas to prevent burdens falling on the criminal justice system in the first place.<sup>189</sup> Judge Michael Marcus, Circuit Court, Multnomah County, Oregon USA, argued that neither the US nor the UK were considering responsible allocations of prison and programme resources according to real opportunities for reducing criminal behaviour.<sup>190</sup>

114. Andrew Bridges, Chief Inspector of Probation, described the choices that must be made in determining the appropriate balance of resources within the criminal justice system, pointing out the need to assess the quantity of benefit gained, and at what cost. He explained, for example, there are short-term benefits of prison in terms of an incapacitation effect, which eliminates risk to the public in a way that cannot be achieved when managing offenders in the community. On the other hand, the proportion of serious further offences committed by current offenders was “tiny in percentage terms” therefore to achieve the preventative purpose of prison by incapacitation a very large number of people have to be locked up in order to prevent a very small number of very serious offences. He therefore argued that “currently the prison system is achieving a small preventive effect, yes, but at very high financial and human cost to the country. The “rate of return” on “investing in incapacitation is arguably a very poor one—although that is ultimately a value judgement for the taxpayer to make.”<sup>191</sup> In the case of persistent offenders in particular the incapacitation effect is short-lived as they tend to receive short prison sentences and return to committing crime on release. This makes the case not for greater use of imprisonment as a general policy approach, but for the type of concentrated and swift intervention with prolific offenders, which we saw on our visit to the USA, in locations where the cycle of continued imprisonment, release and pursuit has been rejected as unsustainable.

115. Witnesses argued that wider cost-based and social impact assessments of criminal justice policy should be undertaken in order to generate longer-term savings. For instance, Professor Cynthia McDougall, University of York, asserted the need to begin to look at crime as a problem to be managed in a cost-beneficial way.<sup>192</sup> She proposed a “more economic model that is managing offenders appropriately, would be based on research evidence so the things that work are the things that we would put money into.”<sup>193</sup> Professor McGuire agreed that cost-effectiveness should be a driver for criminal justice policy.<sup>194</sup> LGA and Clinks added that the wider social benefit of such policies should be considered.<sup>195</sup>

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189 Q 114

190 Ev 185

191 Ev 161

192 Ev 148

193 Q 131

194 Q 107

195 Ev 179

116. Nacro argued that, when calculating the true cost of imprisonment, it must be recognised that custody causes social damage which may undermine rehabilitation, for example: loss of homes, loss of jobs (and future prospects) and the breakdown of family relationships. Furthermore, Nacro pointed out that the current over-crowding of prisons has resulted in a custodial estate which is less able to provide constructive and rehabilitative regimes.<sup>196</sup>

117. Eilís Lawlor of the New Economics Foundation (NEF), was critical of the short-term perspective taken to planning criminal justice policy. She argued that “[...] we get very focused on what the criminal justice system costs and we do not think about what effects it has, what outcomes it has and what the costs and benefits of those outcomes are.”<sup>197</sup> She warned that there were dangers of passing on the legacy of quick-fix solutions to future generations, because those costs would only escalate in the future. The former Chief Probation Officer for London, David Scott told us: “cost-effectiveness, value and outcome are all crucial and often they are missing from the discussion about what should be done. Too often the rhetoric is just punishment. It seems to me that punishment may be part of it but surely effective outcome, value and benefit are equally if not more important.”<sup>198</sup> The Prison Reform Trust agreed that the return on spending on criminal justice should become an explicit consideration. But NEF also highlighted the difficulty of assessing the costs and benefits of the criminal justice system.<sup>199</sup> Dr Chloë Chitty, Ministry of Justice research analyst, acknowledged that the Ministry of Justice has not paid sufficient attention to the relative cost-effectiveness of sentences and interventions until recently.<sup>200</sup>

118. Paul Kiff, Director of the Cracking Crime Scientific Research Group, cautioned that care must be taken regarding the potential for false assessment of the costs and benefits of different sentencing responses.<sup>201</sup> When comparing effectiveness in terms of reconviction, the starting point for community sentences is the start of the sentence but for custody it is the end. On the other hand, he argued that in making such comparisons the annual costs of prison and community sentences are not “tariff-equivalent” i.e. a 3 month prison sentence may better equate to an 18 month community sentence. It is important that there was fair comparison between the two types of sentence. He suggested, therefore, that cost savings may well be higher, even if the costs of crimes committed during the course of a community sentence and the equivalent length of such a sentence are included. He agreed that the costs of disruption to families and employment arising from custodial sentences should be included in a fair comparison of costs.

119. Nacro suggested to us that the high cost of a prison place should imply a degree of success in reducing offending but highlighted that the cost of re-offending by ex-prisoners has been estimated at £11bn per year.<sup>202</sup> This figure, calculated by the Social Exclusion Unit

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196 *Ibid.* Ev 222

197 Q 166

198 Q 451

199 Ev 245

200 Q 80; See also Ev 207, Ministry of Justice analysts have recently done some research on this in the South West.

201 Ev 252ff

202 Ev 222

in its 2002 report *Reducing Re-offending by ex-prisoners*, included the costs incurred in anticipation of crime (for example insurance), costs as a consequence of crime (for example health services, repairing damage) and the costs of the criminal justice system itself.<sup>203</sup>

120. The Unit's report set out a number of reasons why this figure was likely to underestimate the true costs of re-offending. First, recorded crime accounts for between only a quarter and a tenth of total crime, and ex-prisoners are likely to be prolific offenders. They may, therefore, be responsible for a large proportion of unrecorded crime and its costs as well. Second, there are high financial costs to: the police and the criminal justice system more widely; the victims of the crimes; other public agencies who also have to pick up the pieces; the national economy and employers through loss of income; the communities in which they live; and, of course, prisoners themselves and their families. The social exclusion of prisoners and their families imposes a range of additional costs to society, including the cost of homelessness, drug and alcohol treatment, family poverty, taking children into care, and the benefit and lost tax costs of unemployment.

121. Recent research, much of which has been conducted by the Government and its agencies, supports the Unit's conclusion that the potential dividends of reform are high (see box below). These examples illustrate the complexity of unpicking the costs and benefits of various interventions to deal with offending behaviour and of identifying a place to start to save resources to reinvest: potential benefits are not felt in the same place in the system as the costs.

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203 Social Exclusion Unit, *Reducing re-offending by ex-prisoners*, 2002

## Box 5

*Alcohol treatment*

The Government has estimated that alcohol-related crime costs society an estimated £7.3bn per annum. The strategy also suggests that there are other costs to society including healthcare costs related to alcohol misuse which are estimated at £1.7bn per year. The bulk of these costs are borne by the NHS. There are also costs to the workforce in terms of loss of work productivity.<sup>204</sup> The *Review of the Effectiveness of Treatment for Alcohol Problems* found that treatment can be an effective and cost-effective response to alcohol problems.<sup>205</sup> It has been estimated that for every £1 spent on certain types of alcohol treatment, £5 was saved on costs to the health, social and criminal justice services.<sup>206</sup>

*Drug treatment*

Drug-related crime costs an estimated £13.5 billion in England and Wales.<sup>207</sup> Despite strong evidence of the costs of drug and alcohol misuse and mental health to the criminal justice system there is a mixed picture of evidence concerning the cost-effectiveness of treatment for mental health and substance misuse needs in terms of reduced costs to the criminal justice system. The evidence is strongest in relation to drug treatment. The National Treatment Agency (NTA) for Substance Misuse is part of the NHS, tasked with increasing the number of drug users in effective treatment in England. According to the National Treatment Agency for every £1 spent on drug treatment, there is a saving of £9.50 to society—through better health and less crime.<sup>208</sup>

*Mental health diversion and liaison*

The Revolving Doors Agency proposed that a significant proportion of the £1.6bn criminal justice resources it estimates are spent on people with identified mental health problems should be re-invested to fund preventive measures outside the criminal justice system and describe the current situation as a “staggering and perverse misallocation of resources”.<sup>209</sup> The Sainsbury Centre for Mental Health found that liaison and diversion schemes can save £20,000 in crime-related costs for every person they divert from prison to the community. The Centre estimated that just £10 million a year is spent on diversion in England and calculated that £30 million a year would enable diversion schemes to achieve their potential to divert up to 35,000 people a year from prison, having found that there would be no added public safety risk as a result.<sup>210</sup>

204 Cabinet Office, *Alcohol Harm Reduction Strategy for England*, March 2004

205 National Treatment Agency, *Review of the effectiveness of treatment for alcohol problems*, November 2006

206 UK Alcohol Treatment Trial research team 2005, “Cost effectiveness of treatment for alcohol problems: findings of the randomised UK alcohol treatment trial.” *British Medical Journal* 331: 544.

207 UK Drug Policy Commission, *Reducing Drug Use, Reducing Re-offending*, March 2008

208 National Treatment Agency, *National Treatment Agency Annual Report 07/08*, October 2008

209 Revolving Doors Agency, *Prisons: Britain’s ‘Social Dustbins’*, Autumn 2007

210 Sainsbury Centre for Mental Health, *Diversion*, February 2009



122. The Social Exclusion Unit concluded that directing resources towards the pathways related to offending behaviour would have far-reaching benefits:

“Although the Prison Service and Probation Service have improved their focus on reducing re-offending, the current balance of resources still does not enable them to deliver beneficial programmes such as education, drug and mental health treatment, offending behaviour, and reparation programmes and many others, to anything like the number who need them [...] The benefits of reform would not only be felt by the criminal justice system. There are likely to be multiple returns to services dealing with employment, housing, benefits, families, health and education.”<sup>211</sup>

123. The evidence we have heard suggests that, despite the investment and progress detailed in annex 1, a similar picture remains today, particularly in the community. For this reason Nacro advocated revisiting the conclusions of the Social Exclusion Unit report.<sup>212</sup> The International Centre for Prison Studies agreed that there is the potential to look further at the correlation between social deprivation and imprisonment.<sup>213</sup> The Prison Reform Trust believed that Government must address the causes of the over-crowded prison system by addressing social exclusion factors.<sup>214</sup> In an article in *Safer Society* Julian Corner, co-author of the report, made the following observation of Government activity to implement the recommendations:

If the SEU report taught us anything, it was that many prisoners are drawn from the most disadvantaged and excluded parts of society, and inclusion policies and joined-up delivery are needed to keep them from re-offending. In 2002, this analysis was apparently a consensus view across the Government. The premise was that seven government departments would go on to forge a united front against re-offending, and prison would only be used as a last resort. What actually happened was that they cherry-picked the most politically acceptable and convenient actions, and rubbished the rest—namely, the social inclusion measures.<sup>215</sup>

124. Rt Hon David Hanson MP, then Prisons Minister, agreed that more could be done to address this, stating that “in some parts of the country there are still high levels of social exclusion and those social problems which are the festerers of lower level and subsequently higher level crime.”<sup>216</sup> There remain many gaps, for example, in the national performance framework specifically related to addressing the social exclusion of offenders. The Socially Excluded Adults PSA only applies to offenders who are subject to probation supervision and therefore continues to exclude one of the most socially deprived groups: the most persistent offenders who tend to be sentenced to short-custodial sentences. In addition, the

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211 Social Exclusion Unit, *Reducing re-offending by ex-prisoners*, July 2002, p 10

212 Ev 222ff

213 Ev 166

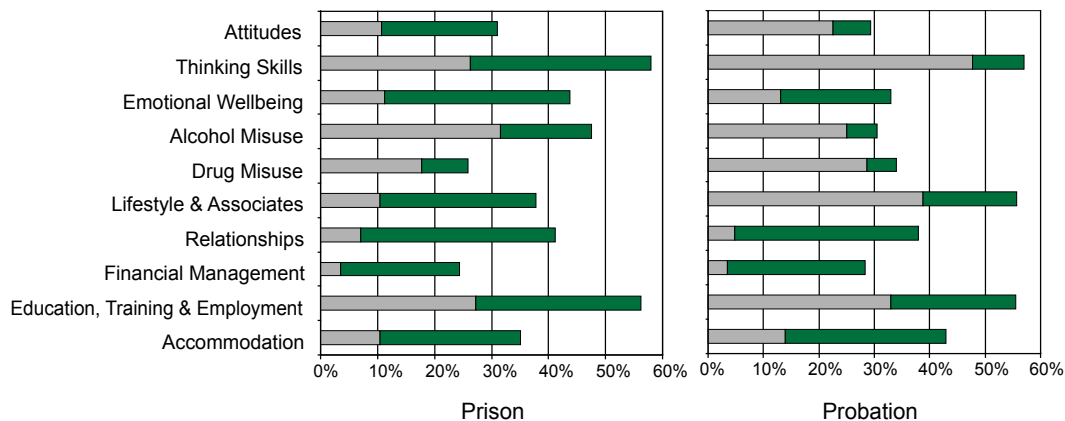
214 Ev 258

215 Julian Corner, Inaction Plan, *Safer Society No 22*, Nacro 2004.

216 Q 593

PSA focuses on only two of the factors which may promote desistance from crime i.e. accommodation and employment. Chart 3 illustrates the level of unmet need among offenders serving sentences longer than 12 months.

**Chart 3: Level of unmet needs related to offending among offenders subject to OASys assessments**



The GREEN bars represent the percentage of offenders with needs. The sections filled in GREY represent the proportion of offenders who have interventions planned to meet these needs.

Source: OASys assessments April 06-March 07

125. The potential cost savings of promoting the desistance of young offenders from crime are equally significant. The Audit Commission has suggested that investing in a greater multi-agency emphasis on improving outcomes for young offenders could result in cost savings. Youth Justice 2004 found that young people are not getting the help they need from schools, health services and other mainstream services and recommended that these services should take more responsibility for preventing offending by young people.<sup>217</sup> The report tracks the life of a young person who has received a custodial sentence and details a series of missed opportunities for investment in supportive interventions which would have saved money further down the line. The costs of these support services were estimated at £42,000, compared with actual costs of £184,000 for those he did receive including an intensive community programme and a sentence to a secure training centre. This does not include the wider costs to the community.

126. The Audit Commission calculated that if similar savings were made for just 1 in 10 of the offenders sentenced to custody each year, more than £100 million could be saved. Research for young people’s charity Rainer found that investing in needs-based resettlement support and service provision for young people aged 15-17 who are leaving custody could save over £80m per year.<sup>218</sup> Mr Scott also spoke of the value of investing in resettlement: “if we invest in meeting people at the prison gate and ensuring that we see them quickly and back their compliance with orders we can save further downstream in

217 Audit Commission, *Youth Justice 2004: a review of the reformed youth justice system*, 2004

218 Ev 272

court appearances, all the expense of recall and so on.”<sup>219</sup> Frances Done, Chair of the Youth Justice Board, agreed that it was important to focus on resettlement for young offenders.<sup>220</sup>

127. Resources are always going to be limited so investing in one area involves a sacrifice in not investing in another; a choice that may have wider costs for society. We believe society is paying a high price for the unnecessary use of imprisonment for some people. Determining the most appropriate allocation of resources should not be limited to the consideration of a balance between prisons and probation. **There is a very strong financial case for investing substantial resources in more preventative work with: former offenders; those with drug and alcohol problems; people with mental ill-health; and young people on the outskirts of the criminal justice system or who have been in custody.**

128. The severe social exclusion of former offenders was plainly illustrated in the evidence amassed by the Social Exclusion Unit for its report on reducing re-offending by ex-prisoners, but the Government’s attempts to deal with it seem half-hearted. The social exclusion of offenders is acknowledged by Ministers, but an apologetic tone seems to accompany any mention of support to offenders. By talking up the punitive elements of the criminal justice system instead, the Government exacerbates the fear of crime; apparent embarrassment at being seen to work with offenders will only prolong their exclusion and hinder their rehabilitation. **We recommend that the Government as a whole makes reducing the social exclusion of former offenders a central part of its social policies.**

129. **We conclude that programmes aimed at rehabilitation—such as tackling offender behaviour, on the one hand, and improving skills and self-confidence, on the other—are worth running in prison, while offenders are inside and in sight. Nonetheless, a more effective investment would be in a substantial programme of ‘prehabilitation’, aimed at potential offenders and targeted on problem communities, with the objective of heading off the drift into crime and custody before it happens.**

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219 Q 438

220 Q 199

## 4 Balance between punishment and reform

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130. Ministers constantly affirm the message that it is possible for the system to both punish and rehabilitate, for example, Rt Hon David Hanson MP, then Prisons Minister, told us: “we need to use both the community sentence and the experience of prison to help support people not to commit further offences and to do so in a way which deprives them of their liberty.”<sup>221</sup> But many of our witnesses have argued that this is problematic in the context of rational policy making. The intense debate among respondents to our e-consultation on the relative importance of the various aims of the criminal justice system highlights the complexity of the balance between the existing purposes of the system and the confusion which characterises public understanding of them (see annex 4).

131. In many policy statements the Government’s use of language is opaque and often contradictory, for example, according to *Justice for All* “a key objective of sentencing is to reduce re-offending through the punishment and rehabilitation of offenders”.<sup>222</sup> The paper further states that “the punishment must be appropriate to the offence and the offender, ensure the safety of the community and help rehabilitate offenders to prevent them re-offending once and for all.”<sup>223</sup> These statements imply that punishment in itself effectively reduces the chance that further offences will be committed.

132. The objective of reducing crime sits within a wider set of considerations which sentencers must balance in their choice of sentence and within the context of expressed Government policy that sentences should be tougher and more appropriate, reflecting public sentiment that sentencers are too lenient. The Sentencing Advisory Panel has described how the various purposes of sentencing could be applied by sentencers:

Sentencers must consider, given the nature and seriousness of the offence committed and the circumstances of the offender, which of these purposes is appropriate and how it (they) might be achieved. Thus, ‘reform and rehabilitation’ may influence the court in deciding what requirements to include in a community order; and ‘reparation’ to the victim may indicate a particular form of community order and/or a compensation order.<sup>224</sup>

In this way different sentences may be used to support different sentencing aims. The 2003 Criminal Justice Act did not accord any particular weight to the purposes of sentencing or suggest that any one purpose is more important than another when deciding on the sentence to impose. The Panel has suggested that the fact that punishment appears at the top of the list in statute could be taken to suggest that this is the primary aim of sentencing, particularly as most sentences will include an element of punishment; the other statutory

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221 Q 574

222 *Justice for All* White Paper, Cm 5563, July 2002, p 103

223 *Ibid*, p 17

224 Sentencing Advisory Panel, *Consultation paper on overarching principles of sentencing*, July 2008, p 12

purposes of sentencing could therefore be seen as subsidiary aims that it may be possible to accommodate through sentence selection, depending on the nature of the offence and the needs of the offender. Thus, attempts to reduce crime through sentencing may not be an explicit factor in all sentencing decisions except “in circumstances where the court concludes that the most effective way to prevent an offender from committing more offences is to address the underlying causes of the offending behaviour, reform and rehabilitation in particular may be primary considerations and can take precedence over punishment.”<sup>225</sup>

133. This appears to be contrary to the aim of the 2001 sentencing framework review in recommending the introduction of a menu of community sentencing options. John Halliday, former senior Home Office official, led the review and concluded that:

The available evidence suggests that greater support for reform and rehabilitation, within the appropriate “punitive envelope” of the sentence, to reduce risks of re-offending, offers the best prospects for improved outcomes.<sup>226</sup>

He suggested that sentencers should tailor the sentence to rehabilitative needs first:

When considering a possible community sentence, if the court finds that the assessment of risks of re-offending, and consequent harm require work to tackle the offending behaviour at its roots, it would look for appropriate programmes, matching the assessed needs. In such cases, the “menu” for a community sentence will be larger. The first decision would be a choice of the programmes needed to tackle the offending behaviour, and an assessment of how punitive compliance with such programmes would be. If the “punitive weight” of complying with the necessary programmes was inadequate, it would be increased by adding any of the more exclusively punitive components.<sup>227</sup>

134. The Sentencing Advisory Panel has classified the primary purpose of each of the requirements that can be attached to community orders under the Criminal Justice Act 2003 as: punishment in the community (i.e. punitive); reparative activities; and those aimed at preventing re-offending (i.e. reformative). Table 3 shows that sentencers have made use of both punitive and reformative requirements in tailoring community-based sentences, and that reformative elements in particular are used more frequently, although the use of several potentially reformative orders appears limited given what is known about the prevalence of alcohol, drug and mental health needs of offenders

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225 *Ibid*, pp 12–13

226 John Halliday, *Making punishments work: a review of the sentencing framework in England and Wales*, July 2001, p ii

227 *Ibid*, p 19

**Table 3: The relative usage of requirements for community-based sentences**

Requirement	Primary purpose	% usage of community order requirements (of all requirements)	% usage of suspended sentence order requirements (of all requirements)
Unpaid work	Punishment Reparation	33	25
Prohibited activity	Punishment	1	1
Curfew	Punishment	7	7
Exclusion	Punishment	0	1
Attendance centre	Punishment	0	0
Specified activity	Reparation Reformation	4	3
Programme requirement	Reformation	11	16
Residence requirement	Punishment Reformation	0	1
Mental health treatment	Reformation	0	0
Drug rehabilitation	Reformation	6	5
Alcohol treatment	Reformation	2	2
Supervision	Reformation	34	39

Sources: *New sentences: Criminal Justice Act 2003, Sentencing Advisory Panel, September 2004; Probation Statistics quarterly brief: July to September 2008, Ministry of Justice, February 2009*

135. However, Napo suggested that the surveillance and enforcement roles of probation usurp rehabilitation and resettlement.<sup>228</sup> When trends in the use of requirements over time are considered it is apparent that sentencers are increasingly dispensing more punitive community-based sentences. Table 4 shows recent reductions in the use of rehabilitative aspects of community orders, in particular supervision and offending behaviour programmes and increases in use of punitive elements like curfew and exclusion.

**Table 4: The relative usage of requirements for community-based sentences 2006-08**

Requirements	Community orders			Suspended sentence orders		
	Q3 2006	Q3 2007	Q3 2008	Q3 2006	Q3 2007	Q3 2008
Supervision	36	35	34	42	40	39
Unpaid Work	32	33	33	22	24	25
Accredited programme	16	13	11	20	17	16
Drug treatment	6	5	6	5	7	7
Curfew	5	6	7	4	5	5
Specified activity	4	4	4	3	3	3
Alcohol treatment	1	2	2	1	2	2
Residential	0	0	0	1	1	1
Mental health	0	0	0	1	1	1
Exclusion	0	0	0	0	1	1
Prohibited activity	0	0	1	0	0	0
Attendance centre	0	0	0	0	0	0

Sources: Probation statistics quarterly brief: July to September 2008 England and Wales, Ministry of Justice statistical bulletin 27 February 2009; Probation statistics quarterly brief: April to June 2007 England and Wales, Ministry of Justice statistical bulletin 31 October 2007

136. Witnesses and respondents to the e-consultation pointed out that the key problem with focusing on punishment, is that punishment does not in itself change behaviour and hence result in better outcomes for victims in terms of the reduction of crime. As Professor Cynthia McDougall pointed out: “people continually want to punish as a means of trying to change behaviour and actually the evidence does not suggest that it is doing it very well [...] People are coming back again and again to prison”.<sup>229</sup> For the same reason it is problematic to neglect the rehabilitative aspects of sentences: more severe sentencing and crime reduction are not the same thing but this is not the message that the public gets. Rod Jarman, of the Metropolitan Police explained that unless the system intervenes and deals effectively with the complexities of many offenders’ lives, punishment, sentences and orders will not make a real difference to communities.<sup>230</sup> There is a stated wish for prison to be used only as a last resort but all the evidence shows that there is an unstoppable

229 Q 131

230 Q 545



administrative conveyor belt from court orders onto custody (via breaches of conditions) for relatively minor offences in the name of punishment.

137. A clear message from our witnesses was that emphasis should be placed on ensuring that sentencing, in addition to prisons and probation, must be more effective in reducing re-offending.<sup>231</sup> For example, Judge Michael Marcus, Oregon USA, argued that there is a need to abandon the “magical thinking” that just deserts, i.e. punishment, is a sufficient objective of sentencing.<sup>232</sup> He explained that the outcome of typical sentencing behaviour is enormous recidivism, but he believed that this is often ignored in efforts which seek to reduce the growth in the prison population, because such efforts tended to focus on ameliorating the symptoms of the punitive approach and did not address the root cause.<sup>233</sup>

**138. We are concerned that an assumption has been created that punishment is the paramount purpose of sentencing. There is an understandable public concern that offenders should suffer serious consequences for the crimes they have committed, but if other purposes, including reform and rehabilitation and reparation to victims, were given higher priority, then we believe sentencing could make a much more significant contribution to reducing re-offending and to improving the safety of communities.** This depends not just on setting out purpose and aspiration, or on statements of intent, but on transforming the culture and ethos of the criminal justice system from a reactive approach to a genuinely scientific and analytic approach. Chasing crime, reacting to crime figures and, responding to public debate, has brought about a remorseless growth in prison numbers, which devours more and more scarce resource. **The starting point—not just for sentencing, but for the work of the police, prison, probation service and the contribution of third sector organisations—must be to analyse how and why criminal activity takes place, the factors that influence the seriousness of offending and “what works” in reducing both the frequency and the seriousness of offending.**

## Weaknesses in the capacity of the system

139. Many witnesses and respondents to the e-consultation questioned whether efforts to reform offenders have gone far enough, arguing that insufficient resources and effort are devoted to achieving rehabilitation and reduced offending.<sup>234</sup> For instance, Rainer proposed that investment must be made in people rather than prison building.<sup>235</sup> The Local Government Association and Clinks called for better investment in addressing the drivers of offending and re-offending.<sup>236</sup> Jonathan Aitken, former Minister and ex-prisoner, similarly described the rehabilitation of offenders as the weakest element of the system but

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231 In our recent report on the role of the prison officer we observed that improving access to education for prison officers would be likely to increase their ability to positively influence prisoners, both in terms of educational uptake and in terms of addressing factors that increase the likelihood of re-offending.

232 Ev 185

233 *Ibid.*

234 Q 141, 513 [Professor McDougall, Lord Dubs]; Ev 292 [Sainsbury Centre for Mental Health]

235 Ev 265ff

236 Ev 180

believed it has “tremendous scope” as a policy. Speaking about those he encountered in prison he said:

I could see ways by which they might not re-offend if they were handled differently from the way they were likely to be handled after they were released from prison or if they had been differently handled or their personal course of life had been different earlier, or in the jargon of professional prison thinkers, if there had been interventions in their lives [...] much earlier.<sup>237</sup>

**140. The Government should go much further in reducing the numbers of entrants and re-entrants to the criminal justice system. More emphasis must be placed on ensuring that the criminal justice system is effective in reducing re-offending, diverting people into appropriate support and embracing wider shared responsibility for reducing re-offending by tackling underlying causes within local communities. Resources must be shifted into targeting the reduction of re-offending on a much broader scale, taking a whole systems approach, which applies the best available research evidence to determine the most appropriate allocation of resources both between prisons and probation and outwith the criminal justice system.**

### **Potentially rehabilitative measures not yet implemented**

141. In our report, *Towards effective sentencing*, we lamented the fact that two of the potentially rehabilitative measures, custody plus and intermittent custody, for which legislative provision was made in the Criminal Justice Act 2003, have not been implemented.<sup>238</sup> We concluded that this had contributed to the Government’s failure to stem the growth in prison numbers. Witnesses have raised concerns about other such initiatives which have either never materialised, or stalled in development, because they have not been sufficiently funded.

### **Implementing the 2003 restorative justice strategy**

142. The Government is of the view that community involvement in the criminal justice system will be enhanced by justice being dispensed through processes that promote and depend on community input.<sup>239</sup> Restorative justice, which seeks to enable offenders to address the harm caused to victims and communities as a result of their offences, is an important example of this.

143. *Restorative justice: the Government’s strategy* was published for consultation in 2003. Respondents to the consultation broadly welcomed the Government’s strategic commitment to an evidence-based approach. Witnesses and respondents to the e-consultation highlighted the potential value of restorative justice schemes as constructive, community-based responses to crime, which have remained largely untapped i.e. they are not widely available. For example, Professor Ian Loader argued that there is now reliable

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237 Q 511

238 HC (2007–08) 184–I, para 117

239 See *Justice for All* White Paper, Cm 5563, July 2002

research evidence on the value of restorative justice.<sup>240</sup> Mr Aitken explained that restorative justice is not very expensive and appears to pay a good dividend, citing figures that for every £1 spent on restorative justice at least £1 is saved by reducing re-offending.<sup>241</sup> The Government is now revisiting its policy on restorative justice with a new “victim focused” strategy for adult offenders, which is currently in development.<sup>242</sup>

**144. We are surprised by the cautious approach that the Government has taken towards restorative justice but we welcome its current commitment to revive the strategic direction in this area. We urge the Justice Secretary to take immediate action to promote the use of restorative justice and to ensure that he puts in place a fully funded strategy which facilitates national access to restorative justice for victims before the end of this Parliament.**

### **Community prisons**

145. *Custody, care and justice: the way ahead for the Prison Service in England and Wales*, published in 1991 and endorsed by all political parties, included a commitment to: “develop community prisons which will involve the gradual realignment of the prison estate into geographically coherent groups serving most prisoners within that area”.<sup>243</sup> This idea was revisited in 2005 by the then Home Secretary, Rt Hon Charles Clarke MP, who identified the benefits of such an approach for both community engagement and better resettlement.<sup>244</sup> The following year the Government proposed the introduction of community prisons for the least serious offenders.<sup>245</sup>

146. Several witnesses spoke of the benefits of community prisons, perhaps in regional clusters, in terms of rehabilitation, maintaining family links and consistency in minimising movement between establishments.<sup>246</sup> For example, Jonathan Aitken believed it is feasible for the prison system to be re-configured to a local model.<sup>247</sup> His report for the Centre for Social Justice made detailed proposals on such a model.<sup>248</sup> Policy Exchange has proposed that building smaller community-based prisons with co-located courts would reduce other systemic inefficiencies, for example, in relation to the effectiveness of resettlement and the costs of prisoner and family transport.<sup>249</sup>

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240 Q 484. For example, the Prison Reform Trust found that the re-offending rate following the use of restorative youth conferencing in Northern Ireland was 37.7%, compared to 52.1% for community sentences and 70.7% for custodial sentences.

241 Q 516. Based on evidence in Ministry of Justice report, *Does restorative justice affect reconviction? The fourth report from the evaluation of three schemes*, June 2008.

242 HC Deb, 17 March 2009: col 1124W [Commons written answer]

243 HL Deb, 26 June 08, cols 1617 [Lords Chamber]

244 Rt Hon Charles Clarke MP, *Speech to Prison Reform Trust*, September 2005

245 National Offender Management Service, *Five year strategy for protecting the public and reducing re-offending*, February 2006

246 Qq 430, 474 [Mr Tidball, General Lord Ramsbotham]; Ev 234 [Nap0]

247 Q 519

248 Policy Exchange, *Locked up potential: a strategy for reforming prisons and rehabilitating prisoners*, March 2009

249 Ev 252

147. There is undoubtedly political support for community prisons yet the expansion in the prison population and the subsequent assessment by Lord Carter that building large prisons is the only way to meet demand for prison places, suggest that this idea has once again been shelved. Lord Ramsbotham was critical that Lord Carter did not calculate the cost of a regional prison model.<sup>250</sup> Mr Paul Tidball, Chair, Prison Governors' Association saw benefits in the concept of such prisons and explained that some prisons do operate in this way, i.e. covering specific local areas, but he argued that it would be prohibitively expensive to reconfigure the estate on a local or even regional basis.<sup>251</sup> According to Ian Porée, Director of Operation Policy and Commissioning, NOMS the prospects of reconfiguring the prison estate are limited in any case. He argued that such provision would be impractical because there is an inherent inability to provide a sufficient variety of provision for the range of offenders.<sup>252</sup> It was for this reason that small local custodial units for women, as proposed by Baroness Corston, were subsequently dismissed by the Ministry of Justice.<sup>253</sup>

148. Plans to close outdated prisons have been reiterated but there is currently limited prospect of this becoming a reality. The realisation of the Government's original plan for community prisons seem to rest on a lower prison population freeing up scarce resources. The Government's proposals for community prisons appear to have succumbed to pressures on the prison estate and a decision to expand the prison estate rapidly. This emergency response has prevented a more considered approach to review the type of prison estate best suited for the criminal justice system we wish to have in future.

**149. We are disappointed that the Government has not implemented its proposals for smaller community-based prisons which would enable prisoners to serve much more of their sentence in a single location, closer to their home community—with consequent benefits for their resettlement. Even if the community prison model is not currently feasible it would be beneficial to apply some of the principles to the existing prison estate so that the estate is not expanded in such a way as to prohibit such an approach in future.** If the number of prisoners were reduced, this would facilitate greater mobility to enable offenders on sentences of 12 months or less to be kept in prison closest to home and those on longer sentences to be moved to a suitable establishment near home when they are approaching the end of their sentence in order to facilitate resettlement.

### ***Reform of the Rehabilitation of Offenders Act 1974***

150. In 2002, the Government made a commitment to legislate to amend the Rehabilitation of Offenders Act 1974, which specifies rehabilitation periods (according to the type and length of sentence) after which most offenders are no longer required to disclose their convictions when applying for a job, at the earliest opportunity. One respondent to the e-consultation explained that the Act is “a huge obstacle to many former offenders who wish to enter into education or work—both of which, if secured, lead to

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250 Q 475

251 Qq 430–433

252 Q 381

253 Ministry of Justice. *Delivering the Government response to the Corston Report*, June 2008

reduction in re-offending.”<sup>254</sup> By the Government’s own admission reform is required: “so that a better balance is achieved between the need to protect the public from those who continue to pose a serious risk of harm on the one hand, and improving the chances that an ex-offender can get a job, and thus reduce his or her chances of re-offending on the other”.<sup>255</sup> However, these reforms have not been included in mass of new legislation on criminal justice since then. **We recommend that the Government implement the reform of the Rehabilitation of Offenders Act 1974, which it has conceded is required, before the end of this Parliament.**

## Slow progress reform for particular groups of offenders

151. We noted in our report, *Towards effective sentencing*, that insufficient provision had been made to deal with particular groups of offenders, including short-sentenced prisoners and those who may be considered vulnerable, particularly women offenders, young offenders and those with mental health problems. On the other hand, we were encouraged by the strong recommendations of Baroness Corston’s review of vulnerable women in the criminal justice system, the majority of which were accepted by the Government; the commencement of a review by Lord Bradley on the treatment of people with mental health problems or learning difficulties in the criminal justice system and; the shift in the Government’s perspective towards the cost-effectiveness of imprisonment for those sentenced to less than 12 months.

## Progress on the Corston and Bradley reports

152. Rt Hon David Hanson MP, then Prisons Minister, drew our attention to the fact that the women’s prison population has reduced since the Government began to implement the recommendations of the Corston report.<sup>256</sup> But Juliet Lyon, director of the Prison Reform Trust, expressed to us her disappointment on the progress with the Corston report and told us of her suspicions that it is due to a lack of money.<sup>257</sup> Baroness Corston’s recommendation for a network of community centres for women offenders was based on the success of several ‘demonstrator’ projects, financed by the Government for three years to March 2009. £15.6 million funding for a handful of such projects was announced in February 2009.<sup>258</sup> It has since become apparent that some of this will be used to overcome financial problems for the initial demonstrator projects which are unable fully to sustain themselves without Government funding.<sup>259 260</sup>

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254 See Annex 4, TH2972

255 HM Government, *Justice for All*, Cm 5563, July 2002

256 Q 566

257 Q 167

258 HC Deb, 3 Feb 2009, col 45WS [Commons written ministerial statement]

259 Ev 213

260 As this report was being prepared for publication the Ministry of Justice announced a new policy initiative to reduce women’s prison places by 400 (around 10%) by March 2012 to free up funding for specialist services in the community aimed at turning vulnerable women away from crime (MoJ press release 181-09, 14 December 2009)

153. In his review of people with mental health problems or learning disabilities in the criminal justice system, Lord Bradley agreed that all courts should have access to liaison and diversion services, but did not address the problem we raised in a previous report of how these would be funded.<sup>261</sup> The Ministry of Justice has promoted the use of such schemes but it explained to us that it had limited influence on the commissioning of them which, it argued, was a matter for local commissioners—funding was the responsibility of primary care trusts. Nevertheless, Lord Bradley found that the majority of existing schemes were solely health service funded, but that jointly funded schemes, for example with probation or the local authority, achieved better performance.<sup>262</sup> The Sainsbury Centre for Mental Health has recently suggested that provision could be mandated in the 2010 NHS Operating Framework.<sup>263</sup>

154. Until Lord Bradley's recommendations are implemented, the Government continues to rely on encouraging diversion through the use of guidance and circulars which, according to our evidence, are limited in effect. Professor Cynthia McDougall told us:

There is a diversion provision, there are circulars instructing people to do that, but the facilities on the ground do not support it. They work in some areas but they do not work in other areas. I can understand why judges or magistrates have not got a lot of confidence in the system if nobody can say what is actually going to happen to this person if they get diverted. You need to have the systems in the community that are there so the person does not become criminalised from the beginning and gets diverted into more of a treatment ethos.<sup>264</sup>

155. The Sainsbury Centre for Mental Health found that each time a person is diverted from a short prison sentence to community mental health care, the taxpayer saves £20,000 in the costs of crime.<sup>265</sup> Lord Bradley's team calculated that an increased use of mental health requirements for offenders with mental health problems that are currently subject to short-term prison sentences could save an estimated 2000 prison places and yield savings of £40m per year against the cost of community sentences.<sup>266</sup> In the context of the planned prison building programme, these savings would be considerably higher as this would negate the need for one of the new prisons. Despite this evidence, Lord Bradley called for a centrally commissioned, more in-depth study to be undertaken to verify these initial findings.

156. Lord Bradley also notes that although there has been a reduction in delays in the transfer of prisoners to hospital for treatment of acute mental illness, many prisoners still have to wait long periods of time. He found this was partly the result of the lack of availability of specialist beds and problems in getting primary care trusts (PCTs) to pay for

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261 Justice Committee, Fifth Report of Session 2007–08, *Towards effective sentencing*, HC 184–I, para 117

262 Lord Bradley's review of people with mental health problems or learning disabilities in the criminal justice system, April 2009

263 Sainsbury Centre for Mental Health, *The Bradley report and the Government's response*, July 2009

264 Q 145

265 Sainsbury Centre for Mental Health, *Diversion: a better way for mental health and criminal justice*, February 2009

266 Bradley Report, p 96



prisoners' treatment. Yet, we heard that there is a surfeit of such beds in the independent sector. Although hospital treatment is more expensive than a prison place, Partnerships in Care, a large independent provider of medium-secure psychiatric care, raised concerns that because the Ministry of Justice funds prison places for those not diverted to hospital, there is little incentive for a PCT to fund hospital placements. Partnerships in Care highlighted the additional costs of managing a prisoner with acute mental health problems and the potential for eventual costs to the NHS to escalate if conditions are not treated as effectively as possible. Furthermore, the re-offending rates for those treated in custody are estimated at only 7% over 2 years.<sup>267</sup> More recent research by Laing and Buisson suggests that the reduced risk of re-offending as a result of hospital treatment could lead to a saving to society of over £600,000 over a prisoner's lifetime for each prisoner transferred out of prison into a secure hospital.<sup>268</sup> This report notes that in 2007, 1,458 offenders were diverted into hospital settings and recommends that this number should be doubled. According to the Ministry of Justice, the greater use of secure mental health facilities would be too challenging to implement and would only yield 200 prison places in the short-term.<sup>269</sup> Nevertheless, the potential medium and long-term benefits indicate that this area warrants further consideration.

**157. We are disappointed with the Government's slow progress in implementing Baroness Corston's recommendations for vulnerable women offenders, which it accepted in December 2007. We are concerned that the limited additional funding that has been committed to implementing the recommendations has been partially diverted to existing projects which have been unable to find sustainable funding. This is symptomatic of fundamental problems in funding initiatives which would reduce the use of prison.**

**158. We welcome Lord Bradley's review of the treatment of people with mental health problems or learning difficulties in the criminal justice system. There is strong evidence that swift action in this area, in particular to broaden access to diversion and liaison schemes and to secure hospital treatment, could yield short, medium and long-term reductions in the prison population and result in cost savings to the public purse, as well as provide more humane approaches to managing offenders with mental ill-health.**

### ***Alternatives for short-sentenced prisoners***

159. Where custodial sentences are given for less serious offences (theft, handling stolen goods, fraud, forgery and criminal damage) they tend to be short, typically 4 to 12 months. However, these offenders tend to be very persistent, with 60% of convicted shoplifters and 38% of burglars having 3 or more previous convictions or cautions for the same offence. Although at any one time only about 13% of sentenced offenders in prison are serving a short-term sentence, these sentences account for nearly 60,000 offenders entering prison

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267 Ev 247

268 Renshaw, J. *Waiting on the Wings: A review of the costs and benefits of secure psychiatric hospital care for people in the criminal justice system with severe mental health problems*, January 2010, Laing and Buisson

269 Ev 229



each year.<sup>270</sup> The Magistrates' Association and representatives from the Probation Chiefs' Association, Prison Reform Trust and the Sainsbury Centre for Mental Health, among others, re-iterated the importance of recognising that those serving short prison sentences are not subject to statutory supervision by probation on release and neither are they in prison long enough to complete courses aimed at rehabilitation.<sup>271</sup> As we noted in our report, *Towards effective sentencing*, this is very wasteful of resources both in terms of the use of custody and costs of re-offending.<sup>272</sup> **We commend the Government's progress in attempting to reduce the use of short prison sentences since our report, *Towards effective sentencing*. We have some concerns that a version of Custody Plus, which was not in itself implemented, is now being introduced 'by the back door' without sufficient funding.**

160. There are also questions over the timeliness of provision. Savas Hadjipavlou, Ministry of Justice, and Metropolitan Police Commander Rod Jarman, both told us that in order to be successful services should be ready at the time the person is assessed as requiring them (e.g. immediately on release from prison or on receipt of the community order).<sup>273</sup> It is important to seize the moment with interventions of this sort and to be put on a waiting list for several weeks or months can hardly be described as seizing the moment. Thus, delays in getting access to treatment or to starting community orders may also undermine the efficacy of sentences in reducing crime.

161. There is a strong case for using very short term periods in custody of only one or two days for the assessment of needs and, where necessary, immediate detoxification, followed by fast track into appropriate housing, and into drugs, alcohol and/or mental health treatment with supervision. If re-offending occurs the process begins again. We were struck by the extent to which these initiatives were led by police officers and/or judges, and the extent to which they commanded cross-agency co-operation, fast intervention and shared resources. For example, in Portland, Oregon local decision makers appeared to have the authority and empowerment to cut through the red tape and act swiftly. Consideration needs to be given to authorising local decisions which override the delays inherent in the management of demand within local agencies. There are parallels with the intentions behind the establishment of crime and disorder partnerships. Despite the introduction of local area agreements the day-to-day priorities of the local police commander and the chief executives of the local authority or health trust still differ. There is a need to refresh and drive the commitment to local crime reduction through a targeted partnership approach.

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270 Ministry of Justice, *Working in partnership to reduce re-offending and make communities safer*, October 2008

271 The Criminal Justice Act 2003 made provision for the introduction of a custody plus order - a new sentence of imprisonment for 12 months or less. Part of the sentence would have been served in the community under statutory supervision. The Government's intention was that this order would replace short prison sentences with effect from November 2006 but implementation was postponed.

272 Q 344, 543 [Ms Greatley, Mr Scott]; Ev 183 [Magistrates' Association]. New research by Matrix has calculated that diverting one offender from custody to residential drug treatment would save £75,000 to the criminal justice system over the lifetime of the offender. There are further savings of £13,000 to the NHS and £112,000 to victims.

273 Qq 321-324 [Mr Hadjipavlou], Q 541 [Commander Jarman]

### *Adults facing chronic exclusion*

162. Witnesses identified the need to recognise a particular group of short-sentenced prisoners with multiple needs, who are over-represented in the criminal justice system.<sup>274</sup> For example, Revolving Doors Agency used the term “revolving door” to refer to “the experiences of people who are caught in a cycle of crisis, crime and mental illness, whereby they are repeatedly in contact with the police and often detained in prison.”<sup>275</sup> Dr Miles Rinaldi vividly described this group:

[...] the toxic mixture of individuals who do not necessarily meet the eligibility criteria for services within the borough - so people who have common mental health problems and may have a low learning disability but are not meeting the threshold for learning disability services, and drug and alcohol issues but not necessarily engaging with the services that are available.<sup>276</sup>

163. Revolving Doors Agency explained that services are reluctant to intervene with such individuals. They hence fall through the gaps in provision; tend to receive short prison sentences because of their histories of non-engagement and the lack of appropriate services in their communities.<sup>277</sup> Angela Greatley, Sainsbury Centre for Mental Health, described the futility of such sentences in addressing offending:

[...] [they are] so short that no health care catches up with them while they were on the short sentence and they are sent up country somewhere else or they are on a very short local sentence—and they come out and no one has seen them, and when they come out of the gate they have the small amount of cash they are given, they might or might not be picked up by an agency, they certainly probably do not have some roof over their head, and they immediately, of course, gravitate back to the kind of company and groups who are their friends and their companions.<sup>278</sup>

164. She added that a mechanism must be found for ensuring that this group of offenders engage with services: “it is clearly unacceptable that any community should have people who come out of prison, for instance, effectively, dumped in communities.”<sup>279</sup> Revolving Doors Agency argued that emphasis should be shifted outside the criminal justice system altogether to prevent this group from falling through the net in the first place.<sup>280</sup> The Cabinet Office Social Exclusion Task Force acknowledged that this group, which it refers to as “adults facing chronic exclusion”, is hard to place and support in existing services.<sup>281</sup> However there has been no systematic attempt to address this except in a few pilot areas which have received cross-departmental funding specifically for this purpose (discussed

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274 Qq 344 [Ms Greatley]; Q 349 [Mr Rinaldi, Ms Hennessey]

275 Ev 286

276 Q 349

277 Ev 287

278 Q 344

279 *Ibid.*

280 Ev 287

281 Social Exclusion Task Force, *Reaching out: an action plan on social exclusion*, 2006

below). We welcome Government emphasis on reducing the use of short-term prison sentences but believe a broader approach is required. This should include increasing the capacity of probation to deal with community sentences, and wider community work with the chronically excluded so as to reduce the waste of probation resources on lower risk offenders. It is more cost-effective to deal with offenders when behaviour starts to become problematic rather than when it is entrenched enough to warrant a custodial sentence.

### **More appropriate provision for young adult offenders**

165. The Government acknowledged that prison and probation provision for young adult offenders (i.e. those aged 18-20) must be improved in its Justice for all white paper in 2001, in recognition of the very high levels of re-offending by this group. While re-offending rates for young adults have since fallen, they remain high<sup>282</sup>, and Rainer (now Catch22) argued that the needs of this group continue to be neglected.<sup>283</sup> The Transition to Adulthood Alliance calls for a “distinct and radical new approach” to be taken to dealing with adult offenders up to the age of 24.<sup>284</sup> While young adults make up only 9.5% cent of the general population, they represent a third of people sentenced to custody each year, take up a third of probation caseloads and commit a third of all crime. The Alliance argues that dealing with this group more effectively could yield considerable savings: it calculated that their crimes cost the taxpayer between £16.8 and 20 billion per year.

**166. It does not make financial sense to continue to ignore the needs of young adult offenders. They will become the adult offenders of tomorrow. Particular effort should be made to keep this group out of custody. A multi-agency approach, akin to that applied to young offenders aged under 18, might bring similar benefits in terms of the reduction of re-offending to those aged 18 to 25.**

### **Coherence of criminal justice policy**

167. Several witnesses noted the importance of overcoming the tension between punishment and reform if criminal justice policy-making is to become more rational, and expressed to us some anxieties about the coherence of criminal justice policy and its sustainability. For instance, Nacro pointed to an apparent reluctance on behalf of the Government to draw together convincing arguments about the importance of rehabilitation and resettlement, as well as punishment, which was necessary if there is to be a real reduction in crime.<sup>285</sup> The Prison Reform Trust said that “employing costly and unplanned stop-gap measures as the system lurches from one crisis to the next—rather than placing the system on a planned, cost-effective and sustainable basis—is a failing strategy.”<sup>286</sup> Napo also criticised the Government’s lack of long-term planning and

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282 The volume of re-offending has fallen by 28% since 2000 but this age group still re-offends at the highest rate (178.8 offences per 100 re-offenders).

283 Ev 269

284 Transition to Adulthood Alliance, *A new start: young adults in the criminal justice system*, July 2009

285 Ev 235

286 Ev 258

suggested that as a result policy tends to be more about crisis management than attempting to implement a long term strategic approach to reducing re-offending.<sup>287</sup>

168. The twin track approaches of punishment and rehabilitation do not fit together into a coherent or rational policy. There are inherent contradictions in what Government is trying to achieve, the messages it is communicating and the subsequent outcomes. The rhetoric of punishment comes through more strongly in Government policy than reform or rehabilitation.

**169. We recognise the importance of society expressing its abhorrence of crime and understand the expectation that punishment will be an element of sentencing, but the over-riding purpose of the offender management system is public safety, therefore the prevention of future crime. Each offender completing their sentence should be less likely to re-offend than before. Yet there is compelling evidence that the Government has missed many opportunities to reduce re-offending by failing to invest in community provision outside the criminal justice system and by not delivering the raft of promising approaches proposed in recent years.**

170. If the system were to be re-focused on this explicit aim the offence would not be viewed as any less serious but the immediate intervention and way of dealing with it might be different. **Even if the Government cannot agree that reducing re-offending should be the over-riding aim, there must be an agreement that it is currently the most neglected, and that this must change if the system is to become more coherent and rational.**

## **Placing victims at the heart of the system means working to reform offenders**

171. Victim Support welcomed the different but overlapping initiatives which are taking place within different Government departments but suggested that a “whole system” joined up approach is needed which is more clearly defined and which explicitly recognises the link between victimisation and offending.<sup>288</sup> The criminal justice system must also strike a balance between meeting the needs of victims and those of offenders. Louise Casey expressed concern that victims feel that the criminal justice system respects the rights of perpetrators of crime more than victims.<sup>289</sup> The perceived need to rebalance the system in favour of victims can therefore make it difficult for the Government to invest more heavily in provision for offenders, even when it is intended to prevent future offending.

172. On the other hand we heard that investing in the prevention of re-offending represents the best means of preventing further victimisation. As Imran Hussain, Head of Policy and Communications at the Prison Reform Trust, reminded us, there is a danger that the balance between victims and perpetrators of crime becomes a zero-sum game.<sup>290</sup> In

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287 Ev 236ff

288 Ev 304ff. For example, at least 50% of women in prison have been victims of childhood abuse and/or domestic violence, see Ev 304

289 Q 235

290 Q 181

our discussions with Gillian Guy, Chief Executive of Victim Support, on sentencing guidelines, she was clear that victims support the reduction of re-offending:

[...] we seem to be [...] leaping to the conclusion and some prescription around what should happen if this does not seem to be working, and we are talking about guidelines which are really saying, in any commonsense way, if something does not work, we start to analyse why not and then think about whether it should be some other kind of penalty or whether it should be a higher sentence because of the individual circumstances of the case, which is what justice, in a sense, is about, and really reflecting on what we absolutely know around victims, and that is that what they want, apart from the impossible, which is to be put back in time to where it did not happen in the first place, is for it not to happen again, and so the emphasis for us on trying to make that happen is really very strong indeed and, also, a reminder that very many of the offenders that we are talking about are themselves victims. They will have been through some form of victimisation themselves, and, if we do not stop that cycle by looking at a whole gamut of solutions other than just potentially custodial sentences, then we probably miss the point and we are caught in that loop.<sup>291</sup>

173. Rt Hon David Hanson MP, then Prisons Minister, acknowledged that offenders are very often victims: “we are dealing very often with some very damaged individuals for whom the problems may well have started in childhood or in early youth”.<sup>292</sup> He suggested that the complexity of these problems explained why it is “very difficult at times” for the system to deal effectively with literacy, numeracy, employability, problems with drugs and alcohol, mental health issues.<sup>293</sup> This is not, however, the consistent message coming from Government as evident in the Secretary of State’s address on punishment and reform in October 2008 where he criticised the ‘offender lobby’:

But what about victims? The government as a whole has worked very hard to give a central voice and priority to victims, but we hear far less often from these lobbies about the needs of the victim. I think that they sometimes forget who the victim is, so lost do they become in a fog of platitudes.<sup>294</sup>

174. We heard that there may be some scope for shifting the strategic direction of policy to reducing the risk of re-victimisation. For example, Professor Jonathan Shepherd suggested that emphasis could be placed on reducing the risk of being a victim of crime through community based work e.g. on alcohol abuse.<sup>295</sup> Professor Ian Loader argued that the emphasis of policy should be placed on preventing the victimisation of those who justifiably have a high fear of crime because they are at high risk of being a victim.<sup>296</sup>

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291 Oral evidence taken before the Justice Committee on 3 June 2008, HC (2007–08), 649–i, Q 15

292 Q 574

293 *Ibid.*

294 Speech by the Lord Chancellor and Secretary of State for Justice, 28 October 2008, Royal Society for the Arts.

295 Q 337

296 Q 484

84 Cutting crime: the case for justice reinvestment

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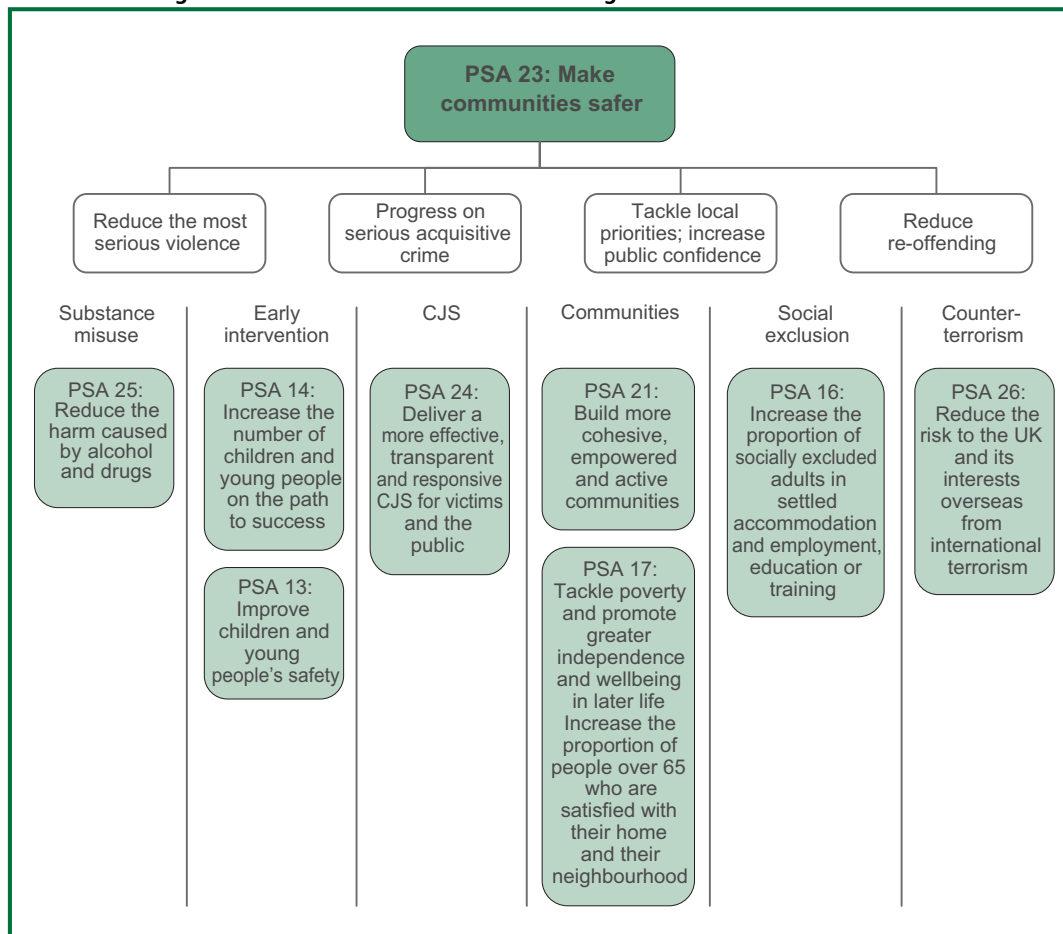
**175. The reduction of re-offending and of the incidence of serious further offences requires an essentially public-focused and victim-based approach which goes beyond the traditional culture of the courts and the criminal justice system more generally.**

## Mainstream provision to reduce crime and re-offending

### Integrated crime reduction and reducing re-offending strategies

176. The most recent proposed *Strategic Plan for Reducing Re-offending 2008–11* included references to better use of resources, in particular asking whether resources should be prioritised on those with the highest likelihood of re-offending, rather than primarily related to the seriousness of the offence.<sup>297</sup> The plan for the first time explicitly integrates reducing re-offending with the wider crime reduction agenda supported by new Public Service Agreement (PSA) targets, placing renewed emphasis on cross-departmental accountability for reducing re-offending.<sup>298</sup> Several PSA priorities, which were implemented on 1 April 2008, relate to crime reduction and reducing re-offending. These are shown in chart 4.

Chart 4: PSA targets that relate to crime and re-offending



Source: HM Government, *National Community Safety Plan 2008-11*, figure 5

297 A revised strategic plan has not materialised and it appears to have been superseded by the broader update on the direction of criminal justice policy entitled *Punishment and Reform*.

298 *Strategic Plan for Reducing Re-offending 2008–11. Working in Partnership to Reduce Re-offending and Make Communities Safer: A Consultation*, Ministry of Justice, 2008



177. The introduction of shared performance indicators through local area agreements marks a shift in emphasis to joining up cross-departmental agendas at local level. This is explained in the *Criminal Justice System Business Plan 2008–09*: “increasingly the centre will work by providing the broad principles and direction, including guidance and best practice examples, within which areas will develop their approach to meet local circumstances and priorities.”<sup>299</sup> The Government is thus stepping back from “what has been perceived as a centrally target-driven approach” to encourage a localised approach to meeting locally agreed targets and hence transferring accountability to local level.<sup>300</sup>

178. The table below shows the number of local areas which have chosen to prioritise national indicators relevant to re-offending.

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299 Office for Criminal Justice Reform, *The Criminal Justice System Business Plan 2008–09*, February 2008, p 6

300 Q 577 [Mr Campbell]

**Table 5: Take-up of relevant national indicators**

National indicator	Number of areas (150 total)
Adult re-offending rates for offenders under probation supervision	24
Rate of proven offending by young offenders	49
Re-offending rates by prolific and priority offenders	83
Young people in the youth justice system sentenced to custody	0
Young offenders' engagement in education, training and employment	20
Young offenders' access to suitable accommodation	0
1st time entrants into the youth justice system	74
Offenders under probation supervision in settled and suitable accommodation at the end of their order or licence	2
Offenders under probation supervision in employment at the end of their order or licence	10

*Source: Improvement and development agency, local area agreement tracker, 2008*

179. **We welcome the move to joint targets and more sophisticated measures of re-offending. The Public Service Agreement performance framework and accompanying Local Area Agreement indicators are much more constructive than the preceding targets.** The previous arrangements permitted relevant organisations to continue to avoid their responsibilities despite the recognition by Government, and by many of the agencies concerned, that interaction between the criminal justice agencies and with other partners are crucial to reducing re-offending. **We are concerned that there has been low take-up of crime-related indicators in local areas and we believe that local strategic partnerships should better reflect the priority given to crime as a matter of public concern both nationally and locally.**

### ***Cross-departmental accountability***

180. The evidence indicates a need for a stronger driver of cross-departmental strategy. For example, Clive Martin, Clinks, argued that the local area agreement process is inaccessible to the voluntary sector which has a strong track record in providing services to offenders.<sup>301</sup> Julian Corner, co-author of the Social Exclusion Unit report on reducing re-offending by ex-prisoners, has suggested that the emphasis of policy in this area should shift more fundamentally:

The primary role of our prisons is to contain and correct dangerousness that imminently threatens society. Soaking up community failure weakens and confuses this function. On the other hand, the role of our community services is to ensure that

vulnerable people can live independent lives and can realise their aspirations. The “free good” or “pressure valve” of the prison system diminishes the accountability of community services to get this right...We should be talking instead about putting in place *firewalls* [original emphasis] not pathways, designed to prevent community failure permeating our prisons.<sup>302</sup>

181. For example, Juliet Lyon set out the obstacles to implementing well-evidenced programmes to shift the balance of the system for women. In response to the Ministerial Statement on the Corston report:

[...] I have scarcely seen anything quite so cautiously framed. We just might do this thing possibly one day, maybe [...] it was terribly disappointing, and it occurred to me that maybe there has been a problem about finding the money and about being able to identify a budget for it, because the Government have indicated in principle that they are prepared to accept 40 of Baroness Corston's 43 recommendations and seemed very clear about wanting to go ahead with a ten-year plan which would, in effect, close women's prisons and establish a large network in the community of supervision and support centres for women. So there is clearly is cash outlay for that element alone of the programme, but in turn, with evidence very firmly on her side, it is quite clear that if Baroness Corston's plan was implemented, it would save a lot of money. What I am driving at [...] is because the money is not available, then there maybe is an argument for having some flexibility in funding so that when people want to do something better and different they can find that extra cost in order to save serious money and to demonstrate they can save serious money in the medium to longer-term.<sup>303</sup>

## Capacity to prioritise resources

182. In March 2007, the Public Administration Committee published a report *Governing the future on strategic thinking in Whitehall*, emphasising the importance of long-term policy planning and the need for transparency in policy development. It stated that:

Governing for the future is difficult. Not only are there notorious uncertainties in forecasting, but governments are also hampered by the short-termism of the electoral cycle [...] Policies agreed now will affect the lives of the next and subsequent generations [...] Government should be as open as possible about the way in which it considers long-term issues, to build public understanding of possible future scenarios. Change in policy in the light of changing knowledge and circumstances is a sign of strength not weakness; and a public which recognises that strategies are made in the light of the best evidence available at the time, with all the uncertainty that this implies, may be better able to understand the need for change.<sup>304</sup>

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302 Julian Corner, *From pathways to firewalls—a more ‘solid’ approach to prison reform* in *Advancing Opportunity: routes in and out of the criminal justice system*, The Smith Institute, 2008, p 116

303 Q 167

304 Public Administration Committee, *Governing the future on strategic thinking in Whitehall*, Second Report of Session 2006–07, HC123–I, p 3

183. We examined the extent to which policy and planning for criminal justice takes such a long-term view. In early 2008 the Ministry of Justice was subject to a baseline capability review by the Cabinet Office to assess how well equipped it was to deliver on its objectives.<sup>305</sup> The ability of the department to ‘plan, resource and prioritise’ was identified as one of three areas in which urgent development was required. Other areas for development included its ability to build capacity and base choices on evidence. The Cabinet Office concluded that:

[...] the [Ministry of Justice] Board is not always able to draw on reliable data when taking prioritisation decisions within a difficult financial environment. It is not currently able to set a reasonable price for a given level of services and drive efficiencies by creating incentives for providers to deliver at or below that price.<sup>306</sup>

184. The National Audit Office’s report on the effectiveness of community orders<sup>307</sup> concluded that the probation service does not know with any certainty how many orders it has the potential or capacity to deliver within its resources, nor has it determined the full cost of delivering community orders. It also found that neither local areas nor NOMS could say whether sentences have been fulfilled because data on the completion of order requirements is not routinely reported. Lord Ramsbotham said that the same was true for imprisonment: nobody knows the cost of imprisonment; nobody knows how much it actually costs to do the things the Government says ought to be done with and for prisoners. He compared this to his experience of planning at the Ministry of Defence which worked out what activity was essential, what it was desirable to have and what must be left out because there were insufficient resources.<sup>308</sup>

185. The Ministry of Justice has recognised the need to improve the data upon which financial decisions about spending on criminal justice are made. In February 2008, NOMS acknowledged in its *Commissioning and Partnerships Framework* that there was insufficient information on the costs of various prison and probation activities to support commissioning decisions, i.e. how much commissioners should expect to pay for the volume of interventions required.<sup>309</sup> It has since embarked on a 3–5 year exercise to examine the capacity of prisons and probation and to support “best value” commissioning known as the specification, benchmarking and costing programme.<sup>310</sup> The first phase of the programme is expected to yield efficiency savings of £50 million in 2009/10.<sup>311</sup> It is

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305 Cabinet Office, *Civil Service Capability Review: Ministry of Justice Baseline Assessment*, April 2008.

306 *Ibid*, p 6

307 National Audit Office, *National Probation Service: The Supervision of Community Orders in England and Wales*, January 2008

308 Q 472

309 National Offender Management Service, *National Commissioning and Partnerships Framework 2008/09*, February 2008, p 17

310 Ev 222

311 Ev 222

expected that fully-costed specifications for all prison and probation services will be completed in time to support business planning for 2010–11.<sup>312</sup>

186. The responsibilities for criminal justice policy, community development and the voluntary sector and volunteering rested with the Home Office as recently as 2001. Now these responsibilities are split between the Home Office, the Ministry of Justice, the Cabinet Office and the Department for Communities and Local Government. While the reorganisation may assist in terms of focus on specific policies it does undermine the idea of a joined-up approach to the optimum management of resources to reduce crime.

**187. There is no coherent strategy between the Home Office, Ministry of Justice and other departments to ensure the most appropriate allocation of resources to reduce crime. A considerable amount of management information about offenders is held locally by prisons, probation areas and other providers which, if captured centrally, would provide a wealth of material to support the case for cross-departmental reform.**

188. We welcome the NOMS benchmarking programme but we are concerned that it is motivated more by a desire to save money than to ensure that resources are allocated rationally to best effect; it is also limited to interventions that have typically been provided by the probation service and does not seek to consider the cost-effective use of resources for reducing crime more widely.

## 5 Drivers of system expansion

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189. Lord Carter's 2007 report identified changes in public attitudes and the political climate, including greater awareness of risk and greater political prominence of public protection as additional key drivers of the prison population. Rather than taking these as a given or regarding them as too difficult to tackle, many of our witnesses argued that these must be addressed if the system is to take the more rational approach required to enable it to become sustainable.

190. Paul Tidball, Chair of the Prison Governors Association, distinguished between what demand dictates and what is actually needed in determining the size of the prison population: "There are a number of drivers of demand which include the popular press, political rhetoric and to some extent the business lobby as private prisons now exist and there is a difference between the demand created in that way and what communities, victims and offenders themselves need".<sup>313</sup> The former Lord Chief Justice, Lord Phillips, gave a lecture entitled *Who decides the sentence?* in which he explained that sentencing can itself be influenced by these factors. He stated that rises in the use of custody and increases in the length of sentences: "may well be attributable in part to media pressure" and related this to the fact that it is "part of a sentencer's job to reflect, at least to a degree, the public's view as to the proper response to crime."<sup>314</sup> He also suggested that as a result of negative media coverage of individual bail and parole decisions, both courts and the Parole Board have become more risk averse in their decision-making. Malcolm Dean, founder of Guardian society, cited a study by the Chair of the Sentencing Advisory Panel, Professor Andrew Ashworth, which found that judges are influenced by political rhetoric.<sup>315</sup>

191. Andrew Bridges, Chief Inspector of Probation, argued that, if in principle public money could be spent in a different way, it is necessary to consider, and if appropriate tackle, each and every one of the factors that have led to the overall increase in prison numbers.<sup>316</sup> This is no easy task. Nacro suggested that barriers to adopting alternative policies arise from "risk aversion at almost every level of the criminal justice system".<sup>317</sup> This is evident in increases in recalls (up 5% on 2006) and reductions in releases on parole and Home Detention Curfew.<sup>318</sup>

**192. Wider factors, such as the media, public opinion and political rhetoric, contribute to risk averse court, probation and parole decisions and hence play a role in unnecessary system expansion. If Ministers wish the system to become sustainable**

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313 Q 425

314 Lord Phillips, *Who decides the sentence*, Prisoners' Education Trust Annual Lecture, 14 October 2008, [www.prisonerseducation.org.uk](http://www.prisonerseducation.org.uk)

315 Q 487

316 Ev 213

317 Ev 231

318 Ministry of Justice, *Offender Management Caseload Statistics 2007*, October 2008. The latest statistics show a further increase in recalls but an increase in releases on Home Detention Curfew. See *Offender Management Caseload Statistics 2008*, July 2009.

**within existing resources, they must recognise the distorting effect which these pressures have on the pursuit of a rational strategy.**

## The 'politics' of criminal justice policy

193. 'Tough on crime. Tough on the causes of crime' was a central plank of 'New Labour's' approach to criminal justice from 1992 onwards, and was consolidated in the 1997 manifesto. It remains one of the most well-known policy statements of the 1997 Labour government reflecting the extent to which crime and justice policies in the UK had become highly politicised by the late 1980s.<sup>319</sup>

194. Professor Ian Loader characterised the effects of this politicisation as follows:

[...] it is often said that we have experienced for some 15 years now what has been described as a political arms race in the field of crime and punishment where the two main parties have decided to try and outdo and outthink, to be, among other things the party that protects victims, that is tough on offenders, that sends more people to prison, that passes more laws, that protects the public from criminals and so on and so forth.<sup>320</sup>

195. He then described the impact this may have on criminal justice policy making: "it has become very difficult to take political risks because the potential benefits seem small and remote and the potential political costs very immediate and potentially large."<sup>321</sup> David Faulkner agreed that this has made it difficult for Ministers and parties to argue for reductions in levels of imprisonment.<sup>322</sup>

196. Professor Nicola Lacey notes that the Government has been unable to resolve the tension between the exclusionary nature on the 'tough on crime' message - which focuses on the stigmatisation of offenders through, for example, high visibility vests for unpaid work, and the inclusionary aspect of the 'tough on the causes of crime' agenda - which aims to prevent offending and re-offending by promoting social inclusion.<sup>323</sup> The tension between these two messages was apparent in the coverage of the Justice Secretary's speech to the Royal Society of the Arts in which he stated he wished to reclaim the language of punishment and rehabilitation:

Opaque language can be as much a barrier to public understanding and confidence as justice going on behind closed doors, and for the same reason - both undermine understanding. In particular I want to consider two words: both of which seem to have grown unfashionable, both of which need to be reclaimed. They are 'punishment' and 'reform'. They are straightforward words. Their meaning is clear. But their significance goes beyond semantics: punishment and reform is the very

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319 Lacey, N. *The Prisoners' Dilemma: Political economy and punishment in contemporary democracies*, Cambridge, 2008

320 Q 484

321 *Ibid.*

322 Ev 152

323 Lacey, N. *The Prisoners' Dilemma: Political economy and punishment in contemporary democracies*, Cambridge, 2008



basis of the criminal justice system. No one in the system should hide behind jargon. We should not shy away from the fact that the sentences of the court are first and foremost for the punishment of those who have broken the law, broken society's rules. The Criminal Justice Act 2003 lists 'punishment of the offender' first. And the word appears in plenty of other statutes as well. And with reform. The word implies an obligation on behalf of the offender to make an effort to make amends. Yes, the criminal justice system needs to give people the chance to turn their lives around but these chances should be balanced by a responsibility on the offender to take them.<sup>324</sup>

197. According to Mr Scott the 'almost outright competition' between the parties, gives the impression that too much of the system is driven by political fancy rather than grounded in real concerns and the realities of what frontline criminal justice staff deal with.<sup>325</sup> He believed that the language used in explaining criminal justice policy plays a part in this: "part of the difficulty is that there is such a gulf between the language and the whole paraphernalia of criminal justice and local experience [...] too often the rhetoric is just about punishment." This too was apparent in the Justice Secretary's speech on punishment and reform when he spoke of a desire to return to "being crystal clear about what the public expect the justice system to do on their behalf—to punish those who have broken the law."<sup>326</sup> Former Conservative MP Jonathan Aitken was critical of the very emotive language which politicians use when making reference to law and order and explained that, whilst he had been guilty of "rent-a-quote" reaction in his time as a Minister, he now viewed it as unhelpful.<sup>327</sup> Mr Dean was unable to see how the current Government's punitive political rhetoric had been beneficial: "at the end of this 15 years of high rhetoric the one thing you can say is that penal populism has not worked because two thirds of people wrongly believe that crime is still going up and they blame the Government; one third rightly believes that crime is going down but do not give any credit to the Government."<sup>328</sup>

198. According to Professor Loader, the Cabinet Office report *Engaging Communities in Fighting Crime* is a prime example of this. Commenting in the *Guardian*, he questioned the fundamental ethos underpinning the report: "[it] is an example of rhetoric that suggests total protection against crime can be a reasonable expectation". He argues that the finding in the report that, despite a series of "initiatives, rhetoric, crackdowns, policies, partnerships, laws, tsars, agencies and reports", the public continue to believe that crime is rising and that the Government is to blame. He suggested to us that the public have been given unrealistic expectations of what the criminal justice system can be expected to achieve: "New Labour has, it seems, been hoist by its own petard, become the victim of its own expectation-raising and criminal justice system-bashing rhetoric."<sup>329</sup> Professor Loader

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324 Rt Hon Jack Straw MP speech to Royal Society of Arts, 27 October 2008

325 Q 446

326 Rt Hon Jack Straw MP speech to Royal Society of Arts, 27 October 2008

327 Q 533

328 Q 487

329 "The great victim of this get-tough hyperactivity is Labour", Comment is Free, *The Guardian*, 19 June 2008

explained to us that as a result of the use of what he termed “decoy rhetoric” existing Government strategy is inherently unstable.<sup>330</sup>

199. Paul McKeever, chairman of the Police Federation, expressed similar views. He has been critical that the police have borne the brunt of the problems in the system and branded the belief that constant modernisation and reshaping of the police will solve crime more effectively as a “big lie”.<sup>331</sup> Describing what he called the “Hokey Cokey” criminal justice system, he explains: “rather than addressing the real problem of ineffective sanctions, ineffective education programmes and ineffective rehabilitation the focus is on us, the police, to detect the same people more often and bring them before the courts again and again.”

200. **We do not contest that crime and responses to it are important political issues but we believe that the extreme politicisation of criminal justice policy is counter-productive, undermines rational policy-making, and conceals the consensus that does exist around the future direction for the criminal justice system.** The Government has found itself in a problematic position on two counts. The need to be seen to be tougher than the opposition has contributed to the massive expansion of the system which has in turn caused the current lack of prison and probation capacity. At the same time it has undermined the pursuit of the Government’s aspiration to be tough on the causes of crime and provide offenders with the real opportunities to reform.

## Public opinion, politics and the media

201. According to Professor Loader the political climate is related to certain assumptions about the punitiveness of the public and the existence of media which “stands ready to highlight serious and violent crime, to expose the failings of the system, to make apparent the foolishness of judges, the folly of penal professionals [...] and is therefore seen to offer a daily reminder that moving in this field is a high risk operation and the stakes are very high.”<sup>332</sup>

### Public demand

202. Some witnesses questioned the relationship between perceived public opinion and policy-making on criminal justice. For example, Oxford academic David Faulkner suggested that perceptions of public demand have a strong influence on policy.<sup>333</sup> Sir Jeremy Beecham, Local Government Association, agreed that “Fear of fear of crime” drives the political agenda.<sup>334</sup> The International Centre for Prison Studies at King’s College noted:

The main reason that the government and its advisers shy away from a more radical approach to the use of prison relates to perceptions of public confidence. Lord Carter

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330 Q 484

331 “Police leader slams ‘hokey cokey’ criminal justice system”, *Daily Telegraph*, 14 May 2009

332 Q 484

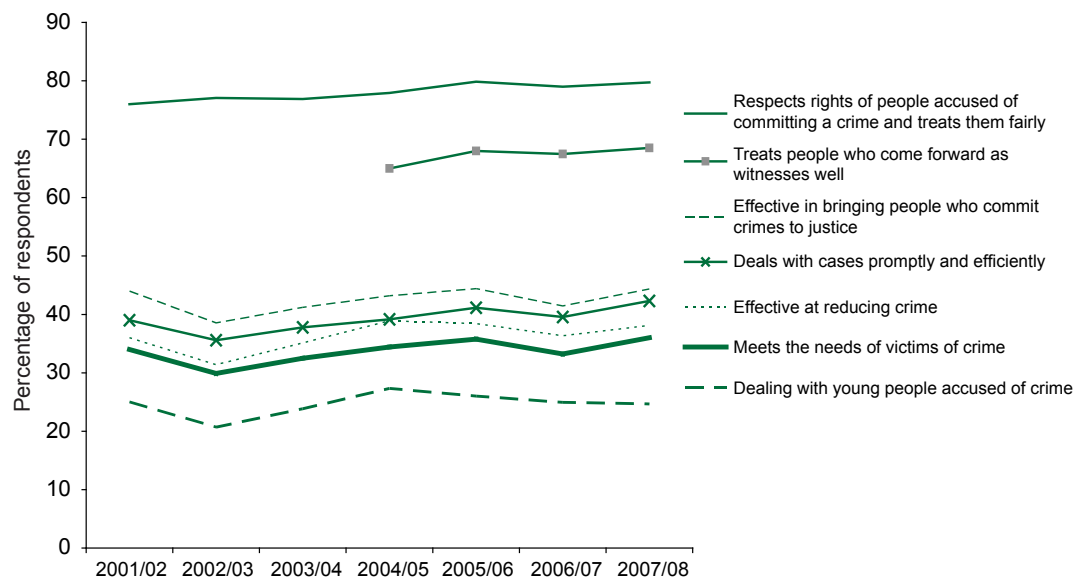
333 Ev 152

334 Q 20

thought in his first report that tougher sentencing had brought it “closer in line with public opinion” and was concerned that the public continue to believe that sentencing is too lenient.<sup>335</sup>

203. Nacro commented that public opinion on crime is “an area of sensitivity which should not be discounted in estimating political will to change the emphasis of the criminal justice process.”<sup>336</sup> This was strikingly apparent in our evidence from representatives from the Cabinet Office, Ministry of Justice and the Home Office. Louise Casey, author of the Cabinet Office report told us that the Government couldn’t afford to ignore the fact that two-thirds of the public do not feel the criminal justice system is on their side and respects the rights of perpetrators more than the rights of the victims (see chart 5).<sup>337</sup> Then Justice Minister Rt Hon David Hanson MP spoke of the importance of getting the ‘tough on crime’ message over to the public: “we have to face our electorate and they have to have confidence that it is a real punishment, but that it is also an effective punishment”<sup>338</sup> According to Alan Campbell MP, Home Office Minister, this belief means that the Government cannot have debate and discussion on a new direction for criminal justice policy unless they take the public with them.<sup>339</sup>

Chart 5: Public confidence in the Criminal Justice System



Source: Table 5b, Crime in England and Wales 2007/08, Home Office

335 Ev 170

336 Ev 231

337 Q 235

338 Q 569

339 Q 577

## **Public priorities for criminal justice**

204. Professor Ian Loader suggested that whilst political rhetoric gives the impression that the electorate is principally punitive and supportive of the current direction of penal policy, research indicates that public sentiment may be more ambivalent than is generally assumed.<sup>340</sup> Studies on public priorities for the criminal justice system are frequently contradictory, with responses differing depending upon the way in which questions are framed. Nevertheless there is a growing body of research which suggests that public confidence is less of a barrier to changing policy than these Government spokespeople and other politicians think. Research for the 2001 Halliday report found that when asked unprompted what the purpose of sentencing should be, very few people spontaneously refer to punishment or incapacitation.<sup>341</sup> The most common response is that it should aim to stop re-offending, reduce crime or create a safer community and the next most frequently mentioned elements were deterrence and rehabilitation. The International Centre for Prison Studies cited a more recent MORI poll which also found that the public is more concerned about preventing crime than punishing perpetrators:

What he [Lord Carter] and the government ignore is the fact that asked a simple question, a majority will always tell pollsters that sentencing is too soft, whatever the objective sentencing levels are. This is largely because the public systematically underestimate the severity of sentencing. When respondents are properly informed about sentencing levels, and given detailed information about cases, a different picture emerges. Work undertaken for Rethinking Crime and Punishment has shown that when given options, the public do not rank prison highly as a way of dealing with crime. Most think that offenders come out of prison worse than they go in, only two percent would choose to spend a notional £10 million on prison places. Over half think residential drug treatment and tougher community punishments are the way forward. This suggests that public punitiveness is largely a myth and public confidence need not stand in the way of a bolder strategy of replacing imprisonment with more constructive alternatives.<sup>342 343</sup>

205. Judge Michael Marcus, who we met in Oregon, USA, agreed, explaining that there is actually “enormously underestimated public consensus that reducing recidivism is the major purpose of criminal law and sentences”. He further argued that the focus of the system on punishment or ‘just deserts’: “has been an enormously destructive, but effective, excuse for not making any responsible effort to meet these public expectations”.<sup>344</sup>

206. In defending the Government’s assertion that punishment must come before rehabilitation, Alan Campbell, then Parliamentary Under-Secretary of State, Home Office cited a 2007 Ministry of Justice survey which asked victims of non-violent crime what they

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340 Q 484

341 Ev 187. See Halliday, J. *Making Punishments Work: Report of a Review of the Sentencing Framework for England and Wales*, Home Office 2001

342 Ev 170 [International Centre for Prison Studies]

343 The poll for Rethinking Crime and Punishment found that five times more people favour better parenting (57%) than more offenders in prison (11%) as the best way to reduce crime, MORI, 2004

344 Ev 187

wanted to see in a sentence—number one was punishment, two was payback and three was rehabilitation.<sup>345</sup> The prevailing public desire for punishment is also a strong message running through Louise Casey's Cabinet Office review:

The public place punishment—a clear set of consequences that are faced by those who choose to break the law (from financial penalties, through loss of personal time working in the community, to complete loss of liberty in time served in prison)—at the heart of the Criminal Justice System. They are more than ready to support preventative and rehabilitative interventions with criminals if they believe these come on top of, rather than instead of, punishment.<sup>346</sup>

207. Indeed, in her evidence to our inquiry she justified the placement of punishment through imprisonment before rehabilitation:

[...] the public want to know that people face consequences for committing crime and, if you do not get that clear and make that clear, then actually their appetite for rehabilitation and all of that stuff gets lower.<sup>347</sup>

She further explained:

[...] we have to get the deal with the public much, much better around respecting their view, which is: break the law, face a consequence. If some of that is punishment in prison, so be it. If that does not rehabilitate them up to a point, the public still want them sent away.<sup>348</sup>

Yet punishment does not appear at all in the summary of key research messages from the review. This stated that 58% of the public thought that better parenting would do most to reduce crime.<sup>349</sup> When we questioned Ms Casey further on whether her above comments meant that people should be put in prison regardless of whether it is the best way to rehabilitate offenders, she clarified that “people need to face the consequences on a range that is proportionate to the offence” and suggested that this can also include a fine, community pay-back or restorative justice.<sup>350</sup> She remained emphatic however that punishment is the paramount concern of the public. Rt Hon David Hanson MP reiterated: “we need to have an element of punishment and a visible element of punishment in order to be able to have the debate with the public and the world at large about reform and rehabilitation”<sup>351</sup>

208. Lord Dubs questioned why British society is apparently in need of more manifest demonstrations of punishment than other societies and concluded it is a political

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345 Q 577

346 Cabinet Office, *Engaging communities in fighting crime: A review by Louise Casey*, June 2008, p 5

347 Q 251

348 Q 253

349 *Op cit.*, p 7

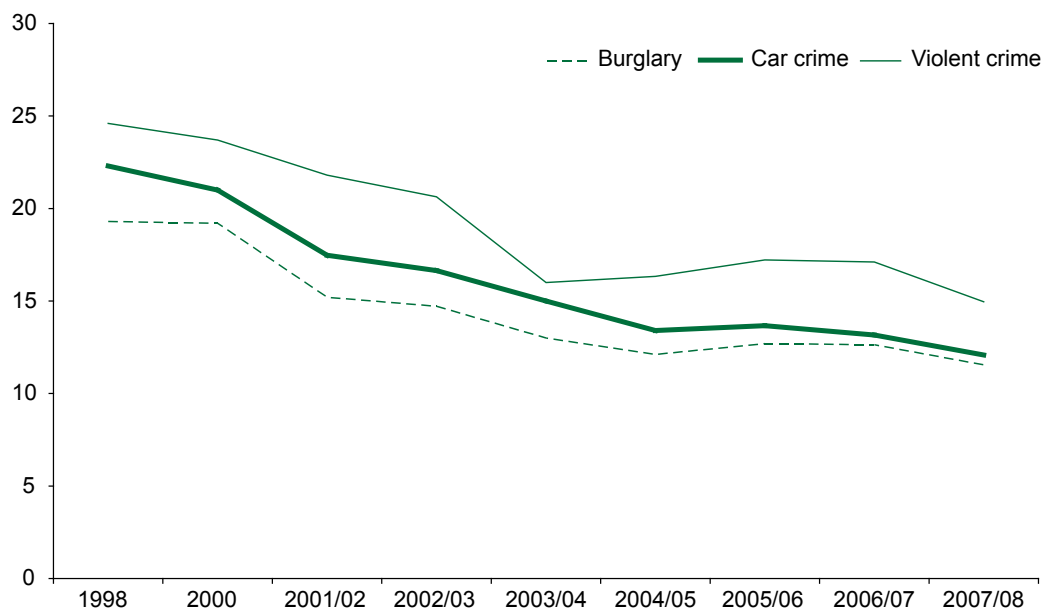
350 Qq 256-257

351 Q 574

problem.<sup>352</sup> On the other hand, Professor Christian Pfeiffer, Criminological Research Institute of Lower Saxony, provided strong arguments for tackling the wider factors which contribute to harsher attitudes towards punishment, including the composition of the judiciary and the prevalence of family violence.<sup>353</sup>

209. Nacro believed that fear of crime may be based on incorrect perceptions of both the level and nature of crime.<sup>354</sup> This view was supported by Professor Loader who cited research evidence based on British Crime Survey data which found that one-fifth of respondents had a high fear of crime despite having a low risk of becoming a victim. Over half (54%) of those surveyed were neither worried about crime nor at high risk of becoming a victim. This indicates that ‘irrational fear’ of crime is not widespread in the population so Government efforts to reassure the public that crime rates are falling and that the system is effective are somewhat misplaced.<sup>355</sup> Chart 6 shows that there has been a fall in the level of worry about crime.

**Chart 6: Percentage of respondents to the British Crime Survey with high level of worry about crimes**



Source: Table 5.05, Crime in England and Wales 2007/08, Home Office

### **The role of the media in shaping public opinion**

210. Several of our witnesses and some respondents to the e-consultation sought to explain the gap between public perception and the reality that crime is falling and that sentences are tougher, and generally agreed that public perception of criminal justice is in part

352 Q 515

353 Q 604; The Ministry of Justice has established an advisory panel, chaired by Baroness Neuberger, to identify barriers to a more diverse judiciary. See Ministry of Justice news release, *Moving faster to a more diverse judiciary*, 28 April 2009

354 Ev 233

355 Q 484

shaped by the media. There were some notable exceptions to this view, in particular from Home Office and Ministry of Justice Ministers perhaps reflecting a concern that the extent of media influence on the population may be exaggerated. Alan Campbell MP believed that the media reflects a public view which really exists, whereas Rt Hon David Hanson MP suggested that the media can both lead and reflect public opinion.<sup>356</sup>

211. On the other hand, David Scott, then Chair of the Probation Chief's Association believed there is a culture of the media too easily criticising what is not working rather than looking at successes in criminal justice at a local level.<sup>357</sup> The Magistrates' Association agreed:

The media has a very strong influence, and every time they talk of someone "walking free" the downgrading of every form of community penalty is reinforced. This is infinitely worse when they are commenting on a suspended sentence! It would be immensely helpful if more informative and supportive press comments were made about the range of penalties available that are non-custodial.<sup>358</sup>

The former Lord Chief Justice, Lord Phillips, supported this view when he addressed the Prisoners' Education Trust: "The public is given the impression that judges are soft on crime, that crime is increasing and that sentences are not sufficiently severe to reflect the crime. All of these are misconceptions."<sup>359</sup> Some examples of the media portrayal of sentencing policy are presented in the box below.

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356 Q 579

357 Q 432

358 Ev 184

359 Lord Phillips, *Who decides the sentence*, Prisoners' Education Trust Annual Lecture, 14 October 2008, [www.prisonerseducation.org.uk](http://www.prisonerseducation.org.uk)



Box 6

*Online newspaper headlines on consultation on sentencing for burglary in a dwelling*

The Sentencing Advisory Panel published consultation on sentencing for domestic burglary on 12th May 2009. The paper makes reference to research evidence on the relationship between burglary and drug misuse and proposes that drug dependency “may properly influence the type of sentence imposed if he or she is making a genuine attempt to break the cycle, or to address its causes.”<sup>360</sup> It then sets out several community based sentences which may be appropriate in such cases.

Newspapers reported this on 13th May 2009 under the following headlines:

The Telegraph “Burglars addicted to drugs or drink to escape prison sentences”<sup>361</sup>

Daily Express “Soft justice for thieving drug addicts”<sup>362</sup>

The Sun “Junkie burglars to dodge prison”<sup>363</sup>

212. Professor Christian Pfeiffer concluded that public misunderstanding of crime rates is influenced by increased media reporting of crime and crime related television shows.<sup>364</sup> Reports about crime in the UK media disproportionately focus on serious and violent crime. Research conclusions vary as to the exact proportions of crime reporting but a 1995 study found that murder and death accounted for 53% of all crime stories on Sky news, 42% on ITN and 38% on BBC1.<sup>365</sup> According to Professor Pfeiffer, pictures of crime stimulate an emotional response and develop fear.<sup>366</sup> His research also indicates that the more people think that crime is rising the more they ask for harsher punishments.<sup>367</sup> Thus the media portrayal of crime can also fuel the public’s mistrust of crime rates and increase their appetite for punishment.

213. Mr Dean justified the critical position taken by the media, explaining that its hostility on crime issues relates to a general feeling that it has a responsibility to hold governments to account.<sup>368</sup> Mr Scott agreed that levelling blame at the media represented a diversion

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360 Sentencing Advisory Panel, *Consultation on sentencing for burglary in a dwelling*, 12 May 2009, p 31

361 “Burglars addicted to drugs or drink to escape prison sentences”, *The Telegraph*, 13 May 2009, <http://www.telegraph.co.uk>, downloaded 17 June 2009

362 “Soft justice for thieving drug addicts”, *The Daily Express*, 13 May 2009, <http://www.dailyexpress.co.uk>, downloaded 17 June 2009

363 “Junkie burglars to dodge prison under new sentencing rules”, *The Daily Express*, 13 May 2009, <http://www.thesun.co.uk>, downloaded 17 June 2009

364 Q 602

365 Cumberbatch et al. 1995, p 25 cited in Reiner, R. “*Media-made criminality: the representation of crime in the mass media*”, *Oxford Handbook of Criminology 4<sup>th</sup> ed*, Oxford University Press, 2007, p 309

366 Q 616

367 Q 602

368 Q 488

from taking wider responsibility, suggesting that criminal justice services must take some responsibility for forging better links with media at national and local level.<sup>369</sup> Several witnesses, including Lord Dubs and the New Economics Foundation referred to an apparent absence of political leadership in challenging media perspectives on crime with equally powerful voices.<sup>370</sup> Concern over an apparent lack of political will was similarly reflected in comments to the e-consultation. One respondent explained “First you have to stop national politicians grovelling to the Daily Mail tendency [...] Then you have to wean them off launching constantly changing ‘eye catching initiatives’ with different names and targets every year”.<sup>371</sup> Another remarked “I would like to see more attention paid by government ministers to the views of the professionals in the field who are, it seems to me, often ignored in favour of more punitive measures seen to be needed to satisfy ‘public opinion’”.<sup>372</sup>

214. The Government’s acquiescence in the belief in the need for a ‘tough’ criminal justice message is clearly evident at times—an ICM survey whose results indicated the complex and context dependent nature of public attitudes to crime, and which found relatively strong support for community sentences, was sent out in a Ministry of Justice press release under the heading ‘Victims of crime want punishment’.<sup>373</sup> Gillian Guy, Chief Executive of Victim Support, commented on the same press release: “If the criminal justice system is to truly serve victims, we need to prioritise effective rehabilitation rather than using victims to justify harsh punishments that don’t actually stop reoffending.”<sup>374</sup> According to Professor Loader, the Government’s stance fans the flames of the media to some extent. He suggested that the media might be less likely to play the crime card “were they persuaded that a government knew what it was trying to do with the penal policy and had a strong and confident story to tell about why certain things go on in prison [which] might not be amenable to certain newspapers but in terms of rehabilitation and assistance and cutting re-offending just happen to be good ideas.”<sup>375</sup> HM Council of Circuit Judges shares this view with respect to sentencing:

[...] irresponsible journalism in certain sections of the press has resulted in misinterpretation or simple mis-statement both as to sentence and sentencing remarks. The position is not helped when senior political figures appear to publicly accept as correct reports that are clearly wrong. Unless both these concerns are addressed there will continue to be room for public misapprehension whatever step is taken to improve clarity [in sentencing].<sup>376</sup>

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369 Q 432

370 Q 530 [Lord Dubs]; Ev 245 [NEF]

371 Lulu, see Annex 4

372 Jan1937, see Annex 4

373 *Victims of crime want punishment*, Ministry of Justice press release, 16 November 2007. The survey found that 81% of victims would prefer an offender to receive an effective sentence than a harsh one, and that 63% of victims disagreed that prison is always the best way to punish someone.

374 *Victims of crime want punishment*, Ministry of Justice press release, 16 November 2007

375 Q 494

376 Her Majesty’s Council of Circuit Judges, *Response to Making Sentencing Clearer consultation*, December 2006, p 5

215. **A good deal of media comment assumes that sentencing is below the level that the public expect, whereas the evidence suggests that the public—when asked to make a judgment—set out expectations that are close to the levels that are actually being set by the courts.** This suggests that there is not a generally ‘punitive attitude’ on the part of the public in England and Wales but that public debate takes place in a generally heightened and punitive atmosphere compared with the rest of Europe. Over the decades this has led to a ‘bidding war’ with politicians egged on by the media on the basis of what the public is believed to want.

216. There is a substantial body of research on public opinion on crime which paints a complex picture. On the one hand the public believe that punishment is the most important function of a sentence, and on the other they recognise that rehabilitative interventions are more effective at reducing crime. The public is also clear that punishment need not imply imprisonment, and when they are given sentencing scenarios, they tend to sentence at a similar level to that of sentencers. The Government’s view of public opinion seems to be based on a selective reading of this research evidence. This is also true of representatives of some opposition parties. **Parliament must listen to the public’s rational perception of what changes are needed and act now to change the direction of the system, replacing expensive custody with community-based sentences and earlier intervention that will reduce re-offending.**

217. Government efforts to increase public confidence do not consider the wider influences on public opinion or seek directly to challenge the media and the public when they are misinformed. **We welcome recent attempts to challenge public perceptions of crime and punishment, for example through case study websites and roadshows, but we consider that something more fundamental is required to challenge the perception that the criminal justice system is not sufficiently tough.**

218. **The Government should lead a public debate on the aims of criminal justice policy, and seek to influence, as well as to be influenced by, the public response. In so doing the Government should assert that there are ways of reducing crime, other than expanding the use of imprisonment, which would better protect communities.**

## Building a political consensus

219. One important element in any solution to the seemingly inexorable rise in prison numbers is the reduction of the heat in political debate and to introduce some more light in this area with the aim of building a party political consensus on the ideal direction of policy. Several of our witnesses commented on the prospects of achieving such a consensus.<sup>377</sup> Professor Loader suggested that the tendency of politicians to continue to try and ‘out-tough’ each other in this area may be abating.<sup>378</sup> Furthermore, Malcolm Dean, founding editor of Society Guardian, said that the power of the media may also be waning, describing it as a “seriously wounded stag”.<sup>379</sup> He also cited research which illustrated that

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377 See Ev 285 [Restorative Justice Consortium]

378 Q 484

379 Q 486

prior to the 1970s, law and order was not a party political issue and it was not until the 1990s that the ‘tough’ rhetoric—in effect a ‘criminal justice arms race’—began in earnest accompanied by the start of marked increases in the prison population.<sup>380</sup>

220. At the outset of the inquiry, Nacro told us that there was little political consensus over a need for an alternative policy. However, there are signs that the political landscape has changed more recently. Both the (current) Liberal Democrat and (former) Conservative spokesmen on justice, David Howarth MP and Nick Herbert MP respectively, thought that such a consensus would be possible if the direction of policy centred on reducing re-offending i.e. preventing re-victimisation. David Howarth said: “There can be disagreement about how, but if there is less disagreement about what we are doing then we can move ahead [...] it is producing enough of a consensus that the debate becomes more rational at a national level”.<sup>381</sup> Lord Dubs and Jonathan Aitken also agreed that a consensus could be formed around the benefits of taking an alternative approach.<sup>382</sup>

221. Rt Hon David Hanson MP, Justice Minister, indicated that such a consensus already existed:

There is an element, and there always will be, of competitiveness between all the parties about being tough on crime and tough on the causes of crime and those issues, but I think underneath it all there is still an element of agreement, having had 18-19 months in this post, where I can say genuinely that on some issues on rehabilitation I share some very similar views to some of the Members of the Opposition Front Bench [...] [and] on the Front Bench of the Liberal Democrats [...] There are common themes that we need to tackle, literacy, numeracy, drugs, employment, and we need to do that not just for people in prison, but we also need to identify issues before people come into the system in an effective way.<sup>383</sup>

There appears to be most potential for consensus around two issues: first “what works” (evidence-based practice) in order to reduce crime and re-offending; and secondly, the most effective use of limited resources to achieve this. We heard that strong political leadership, which is more informed and less party political, is required to take the criminal justice debate forward.<sup>384</sup> Lord Dubs shared this view:

The argument should be that we want our country to be safer, we want people who have been in custody when they come out to be less likely to re-offend and we want people to be diverted from prison because they would be less likely to re-offend [...] I am under no illusion that it is very difficult and that it might not work but the reward is so important that it is worth having a go.<sup>385</sup>

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380 Q 487

381 Q 497

382 Q 531

383 Q 575

384 Q 245

385 Q 533

Jonathan Aitken agreed:

[...] you can convince the public and particularly the local community public that if you are really interested in what works, what prevents crime, what makes communities safer, yes, you can win that argument and one of the reasons you can win that argument is that everyone knows that the present prison system is failing very badly in the area of repeat offending.<sup>386</sup>

222. As we have said, according to Professor Loader, the media might also be less likely to play the crime card if they were persuaded that the Government knew what it is trying to do and that it had a confident story to tell.<sup>387</sup> Lord Dubs and Mr Aitken further suggested that these discussions may work to better effect, with both the media and the public, if they take place at a local level.<sup>388</sup> Mr Aitken said that the political debate about law and order will undoubtedly get more contentious and less consensual in the run-up to an election during which all kinds of things may be said which was likely to amount to an “auction on policies which involve toughness”.<sup>389</sup>

223. Law and order arguments need better data. They rarely, if ever, consider wider social and economic costs of a large prison population<sup>390</sup> nor the real contribution of the criminal justice process to reducing crime or improving public security. Professor Cynthia McDougall argued that if policy decision-making was based on evidence coming out of independent research the public might see it as a sensible use of taxpayers’ money.<sup>391</sup> Judge Marcus, Oregon USA, asserted that ideological differences in the politics of criminal justice policy can be overcome by focusing on the use of resources and moving the argument away from notions of punitive credibility:

[...] there is much room for bridging ideological divides by agreeing that severity vs. leniency is not at stake—that what matters is the rational and efficient distribution of existing resources so as to accomplish most efficiently crime reduction and whatever other public purposes are to be pursued with sentencing. There is, as stated, enormously underestimated public consensus that reducing recidivism is the major purpose of criminal law and sentences, that rehabilitation can serve these goals for some, and that incapacitation is necessary for others. The public, for example, is easily persuaded to divert drug users to treatment in lieu of prison, itself a relatively easy but limited remedy to misuse of prison.<sup>392</sup>

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386 Q 533

387 Q 494

388 Q 525, 529 [Mr Aitken, Lord Dubs]. See also Q 602 [Professor Pfeiffer] and Q 506 [David Howarth MP] who both gave us examples from their own experience which indicate that it is possible to win an election without campaigning on the crime issue.

389 Q 531

390 An example is the financial impact on prisoners’ families, the removal of one salary, or the only salary, has been found to have a lasting effect on a families financial security. See Smith et al, *Poverty and disadvantage among prisoners’ families*, Joseph Rowntree Foundation, 2007.

391 Q 120

392 Ev 187

224. In basing arguments for reform on the best use of taxpayers' money, the political argument could be shifted away from notions about which party is 'harder' or 'softer' on crime and criminals to questions about the most effective use of scarce resources to reduce offending and re-offending. It is time for an objective consideration of what is in the best interests of society.

Box 7

*International examples of political consensus*

During our inquiry we identified examples where this type of consensus had been achieved.

Finland had a very high prison population and has successfully reduced it on two occasions. Finnish criminologist Patrik Törnudd has said that those in charge of planning the reforms "shared an unanimous conviction that Finland's internationally high prisoner rate was a disgrace."<sup>393</sup> On our visit we heard that Finland's political arrangements, with a large number of parties and broad-based coalition governments, mean that crime control is not a central political issue in Finnish election campaigns.

In addition, Finnish media coverage of crime events has been found to be less emotive than UK coverage and tends to put individual events in the context of overall research data. This may be because Finnish newspapers are largely bought on a subscription basis and do not rely on dramatic headlines to encourage individuals to buy a paper on a particular day. The consensus also embraced judicial views, which often altered sentencing practice before legislators had changed the law.<sup>394</sup> Finally, a key driver in achieving the political consensus was the refusal of the Finnish Treasury to fund an escalating prison population. The 11% reduction in the use of custody in Canada, noted in Lord Carter's report, was also Treasury driven, suggesting that a desire to use resources more effectively does have the potential to play a role in achieving a political consensus to reduce the use of imprisonment.

In the early 1990s Germany experienced a similarly rising rate of imprisonment to England and Wales, but since the late 1990s this has stabilised and levelled out at approximately 88 per 100,000.<sup>395</sup> Germany has a similar prison population (in terms of absolute numbers) to England and Wales. We heard that crime policies in Germany tend to be seen as the realm of experts and bureaucrats, not hot election topics, and are therefore less likely to turn in a punitive direction. Only 8% of prison sentences in Germany are for over 2 years and in most German states the aim of re-socialising or reforming offenders takes precedence over other aims, including the protection of the public.

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393 Eley, S et al, A comparative review of alternatives to custody: lessons from Finland, Sweden and Western Australia, 2005, report commissioned by the Scottish Parliament Information Centre for the Justice 1 Committee

394 Lappi-Seppala, T. *Penal Policy and Prison Rates: Long-term experiences from Finland*, October 2004, [www.optula.om.fi](http://www.optula.om.fi)

395 Q 602 [Professor Pfeiffer]

225. The existence of consensus can enable more measured responses, which are not necessarily criminal justice based, to be taken to high profile cases. For example, following a school shooting in Finland in November 2007 the Council of State commissioned a report from the Investigation Commission on measures to reduce the probability of similar events from occurring in the future. Rather than recommending longer sentences for gun crime, the Commission concluded that measures to improve student care, including the prevention of bullying, and access to mental health services were required.<sup>396</sup>

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396 Finnish Ministry of Justice, *Jokela School Shooting on 7 November 2007: Report of the Investigation Commission*, English translation, <http://www.om.fi>



## 6 Blueprint for the future: justice reinvestment

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### Introduction

226. There is a remarkable degree of consensus on what should be done to reduce crime but successive administrations have had difficulty in implementing key elements in the prevailing policy environment. As Professor David Faulker noted: “[...] there is a broad consensus, which I think ministers share, about what should be done to reduce crime, the points at which one should make an effort for prevention — use of community sentences reducing the use of custody—but it is very difficult to translate those intentions into a policy in the context of where we are now politically: the attitude of the media, the resources that are available to Government.”<sup>397</sup>

227. Napo advocated taking a long-term view of crime reduction to tackle the range of factors which are known to contribute to crime levels—including poor housing, unemployment, drugs and alcohol dependencies, low levels of literacy and numeracy—coupled with transparency in sentencing and a sentencing framework which underpins this strategy.<sup>398</sup> As we have discussed above, elements of such a strategy are in place but progress has perhaps been hindered by an over-emphasis on punitiveness at the expense of rehabilitation. David Scott, former head of London Probation, proposed that the starting point for a new direction of policy should be the merits of what can be delivered effectively and safely in the community.<sup>399</sup>

228. If there is to be a new direction for policy, changes should, as far as possible, be made within the context of current legislation. The Commission on English Prisons today alleges years of criminal justice “hyperactivity” citing, since 1997, 23 criminal justice Acts, and 3,000 new criminal offences (nearly half of which can attract a jail sentence).<sup>400</sup> As David Faulkner cautioned, no-one is likely to welcome further legislative change.<sup>401</sup> However, much may be achieved within existing legislative provisions with a change in perspective.

229. Throughout our inquiry we have been challenging our witnesses on whether it is possible to move on from the current state of play within criminal justice, particularly in the context of the situation with the media, politics, public opinion and resource constraints. There appears to be one fundamental question which must be answered in order to do so: how do you achieve reform when you are spending most of the money on punishment and when the rhetoric of the system is geared only for shifts further and further in this direction? The simple answer seems to be that we cannot afford not to. **There is an inescapable need for a longer-term rational approach to policy and the diversion of resources to prevent future expansion in the number of prison places and the size of probation caseloads. The Government must set a clear direction to reduce**

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397 Q 97

398 Ev 236

399 Q 427

400 *Op cit.* para 1.5

401 Ev 153

**the use of custody which must not be diverted by media pressure, even in response to individual difficult cases.**

## Justice reinvestment in England and Wales

230. Our report has identified the challenges facing the criminal justice system in England and Wales and presented our conclusion that the present rate of growth within the system is unsustainable, particularly the strain on the prison system. This chapter will evaluate whether the principles of justice reinvestment could be applied in England and Wales and what benefits (and potential pitfalls) there are in developing a more rationally-determined policy for criminal justice not least to prevent further burdens on public expenditure and therefore the taxpayer. We consider below the partnership structures and funding arrangements which would be necessary to facilitate such approaches; how economic evaluation can be used to compare systematically two different courses of action; and mechanisms to build up an evidence base on what is the best way to use available resources. The final chapter then considers how account can be taken of the most effective and rational use of resources within sentencing and how the public can be engaged in debates about the most appropriate use of resources to reduce crime.

## Support for a more rational use of resources

### *Devolution of funding*

231. In principle, the Magistrates' Association was supportive of an approach that considered value-for-money and provided a broader picture of the effectiveness of sentencing than simply looking at reconviction rates.<sup>402</sup> It was cautious, however, about the extent to which funding should drive penal policy and suggested that there is a danger of this happening if money was simply to be re-directed.<sup>403</sup> The then Minister for Prisons, Rt Hon David Hanson MP, was also supportive of the approach overall: "We need to do more, we need to do it better and we need to make it more effective but I think there is an assessment that that is the way forward if we can pool our resources to tackle these issues jointly."<sup>404</sup> Alan Campbell MP, Home Office Minister for Crime Reduction, spoke of the value of targeting resources on the "bad guys" and where the problems are "worst".<sup>405</sup>

232. Our witnesses were overwhelmingly supportive of justice reinvestment in principle as an approach to reducing offending and re-offending. For instance, the Revolving Doors Agency described justice reinvestment as a "potentially powerful means of approaching the challenges faced by the criminal justice system" suggesting that it could help address prison overcrowding, high re-offending rates and the over-representation of socially excluded people in prison.<sup>406</sup>

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402 Ev 183

403 Ev 184

404 Q 601

405 Q 589

406 Ev 288

233. Although evidence was strongly in favour of justice reinvestment in principle, we also heard some concerns about its application to existing strategic and operational structures in England and Wales. There was disagreement about how justice reinvestment could operate in practice, partly due to the complexity of existing arrangements to reduce re-offending at national and local level and also due to the disconnect within, and between, national and local structures in terms of the distribution of the potential financial gains from reinvestment. In the US decisions are taken to adopt such approaches on a state-by-state basis. There is, however, less scope for this in the current system in England and Wales because the dividends from reducing spending on custody would not be received automatically by those agencies responsible for the spending to reduce, or enable the reduction of, its use. This issue is discussed below.

234. Despite such concerns, a number of potential levers for justice reinvestment have been identified at national, regional and local level. Some of these would require minimal change to existing structures and processes, although others would require more radical reform. Paul Kiff of the Cracking Crime Scientific Research Group, University of East London, commented that much could be achieved at no cost by re-thinking current social policy.<sup>407</sup> On the other hand, Lord Dubs believed that breaking down financial barriers between departments could allow the creation of an overarching policy which would help divert people from prison and which would be almost certain to reduce the offending rate, although this “would require more sophisticated thinking on the part of the Government than has been applied to this area up to now”.<sup>408</sup> When asked what should be done with the various budgets across departmental silos for reducing offending and re-offending, Jon Gamble, Director for Adults and Lifelong Learning, National Learning and Skills Council, told us “I would put it all in one big bag and give it to the local authority and say, ‘sort it out’.”<sup>409</sup>

235. Revolving Doors Agency expressed the need for clarity about what justice reinvestment could achieve in a UK context and which challenges it could realistically overcome.<sup>410</sup> The Howard League for Penal Reform drew our attention to barriers to justice reinvestment in a report by the International Centre for Prison Studies.<sup>411</sup> These chiefly relate to the potential pitfalls of localism; the national structure of provision of, and payment for, prison places; and the interaction between courts and local authorities.

236. We heard some concerns that further devolution of responsibility and resources might result in “postcode justice”. While it is important to guard against exacerbating this problem, such issues already exist, being apparent in local disparities in sentencing which are not related to patterns of offending. Any system which allows local discretion and benefits from local innovation will involve some differences in outcome. Improvement is much more likely to occur if there is genuine local discretion and, once it has occurred, demand will grow for other areas to reap the same benefits.

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407 Ev 252

408 Q 518

409 Q 412

410 Ev 288

411 Ev 164

### **Localised approaches which benefit victims and communities**

237. One focal point of justice reinvestment is the local communities in which disproportionately high numbers of people in the criminal justice system live. It therefore attracts a great deal of support from those who favour a more localised system of spending to reduce crime and re-offending, including many of our witnesses.<sup>412</sup> For instance Mr Scott argued it is “self-evident” that solutions to unlocking and tackling crime will often be located at very local level in communities.<sup>413</sup> Professor Cynthia McDougall agreed that spending more money on schemes to reduce crime at this level will have most impact on local communities.<sup>414</sup> Localised models are more responsive to local needs.

### **Geographically-based investment**

238. Evidence suggested that England and Wales could benefit from this kind of focus on the local community. However, the emphasis of strategic planning here has not usually addressed information about where offenders live or how best to reduce the local deprivation which may give rise to their offending. This lack of focus is surprising given the evidence about the impact of crime on local communities described in the White Paper *Justice for all*:

Tackling crime is a social justice priority. Crime impacts hardest on the poorest members of our society, thousands of whom are repeatedly victimised throughout their lives. Sustained regeneration of our most disadvantaged communities is simply not possible without tackling crime. Criminal activity, drug abuse and social disorder prevent businesses investing with confidence, and deprive local people of much of the benefit of increased public expenditure.<sup>415</sup>

239. Where public expenditure on communities with the highest levels of deprivation has been increased, the community may not see the full benefits because it continues to be disrupted by crime. Geographically-based principles have been applied to crime reduction, for example in the Safer Communities Initiative of 2002-03, but less so to efforts to reduce re-offending by existing offenders. Strategic assessment which was undertaken on such a basis in Gateshead identified for the first time the needs of prisoners and offenders as a social justice priority.<sup>416</sup>

240. We have found very few examples of interventions to reduce re-offending which are specifically targeted in the most deprived neighbourhoods. This is particularly true for such projects which are funded from outside the criminal justice system, such as mental health treatment. **Organisation and funding should explicitly recognise the correlation between offending and social exclusion in the places where crime most occurs.**

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412 Ev 163ff, 166ff, Ev 178ff [Howard League for Penal Reform, ICPS, LGA/Clinks]; Q 99, 103, 165 [Mr Faulkner, Professor McGuire, Ms Barrett]

413 Q 433

414 Q 140

415 *Justice for All*, Cm 5563, July 2002, p 27

416 Q 10 [Ms Gaul]

*Balancing the needs of victims, communities and offenders*

241. We heard concerns that, under the current system, services are too heavily centred on responding to offenders and that offenders in effect ‘benefit’ disproportionately from the justice system especially when compared to victims.<sup>417</sup> Juliet Lyon of the Prison Reform Trust spoke of a need also to recognise the impact of crime, and responses to it, on offenders’ families and the communities in which they live.<sup>418</sup> Justice reinvestment benefits the wider community through reducing crime, and supports both victims and offenders’ families by investing in the communities where they are also more likely to live. We were struck by the observation of the review of crime and communities, led by Louise Casey, that: “it is the most deprived communities that suffer most [...] we owe it to those who do not enjoy the advantages of the majority to respond forcefully to these concerns in the poorest neighbourhoods”.<sup>419</sup> Despite this, Louise Casey noted the public appetite for rehabilitation, expressed even in “challenging and difficult” areas: “60-70% of them [residents] said, once people have done their punishment, we should accept them back into the community”.<sup>420</sup>

242. As we noted above recent research on public attitudes to the principles of sentencing has confirmed that the public support rehabilitating offenders - even those convicted of serious crimes of violence - yet policymakers appear to be afraid of appearing “soft on crime” by supporting measures designed specifically to help offenders. However, a more integrated local approach which locates rehabilitative measures within a prospectus of services concentrated on the most deprived areas may be more politically palatable. The relevant client groups for such initiatives would be young, and young adult, offenders, women, those with mental ill-health, substance misusers and short-sentenced prisoners.<sup>421</sup>

243. Targeting spending in particular areas may also make it easier to reach ex-offenders, and those at risk of offending, who are not in contact with the criminal justice system. Frances Crook believed that local authorities should not deliver specialist services to people just because they have committed a crime. She argued that offenders in the community should have access to mental health services, drugs services and housing anyway, as members of their communities.<sup>422</sup> However, we heard that those at risk of offending frequently do not use mainstream services even though they may benefit from them. Community-based agencies, like the Learning and Skills Council, which have attempted to provide targeted support to offenders have often encountered difficulties in identifying offenders in the community unless it is directly through the criminal justice system. It is very difficult for such agencies to ascertain whether offenders, who have completed their period of supervision by probation services, are engaging with the services they may require to maintain any reduction in their offending.<sup>423</sup> There are of course arguments for

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417 Q 235 [Ms Casey]

418 Q 182

419 *Engaging Communities in Fighting Crime*, Cabinet Office, June 2008, p.3

420 Q 251

421 Qq 145, 173, 186, 210, 216, 318-322, 329 [Professor McDougall, Ms Lawlor, Ms Done, Ms Roy, Mr Thomas, Mr Hadjipavlou, Ms Greatley]; Ev 232ff, 234, 259ff, 269,288ff [Nacro, Napo, Prison Reform Trust, Rainer, Revolving Doors Agency, ]

422 Q 460

423 Q 397 [Mr Gamble]

directing specialist services to offenders who have been in custody to counter the effects of prison and to those for whom mainstream services are not appropriate.<sup>424</sup>

244. In principle, the savings made by adopting justice reinvestment approaches should be invested in local communities in a non-targeted manner so that whole communities benefit, not only offenders. The Making Every Adult Matter coalition emphasises the overlap between issues such as homelessness, crime, drug misuse and mental illness among adults who fall through the ‘gaps’ in services.<sup>425</sup> Justice reinvestment could also enable some direct targeting of resources in a more flexible manner than is currently possible. For instance, by making it easier for funding to follow the individual person when they fall through these gaps. Richard Kramer, of the Centre of Excellence for Connected Care, explained that such “personalisation” of support, is less advanced in criminal justice than in social care.<sup>426</sup> Others agreed that there was scope for targeting resources on particular individuals, in contact with the criminal justice system, in this way.<sup>427</sup><sup>428</sup>

**245. Being tough on reducing re-offending is not being soft on offenders. Local strategies must take a more integrated and comprehensive approach which recognises that many of those who commit offences are also victims. Justice reinvestment would enable the most victimised communities, as well as offenders and their families, to benefit from additional targeted support.** It could therefore provide a means to ensure that ‘firewalls’ are put in place to address the social exclusion factors that may lead to involvement with the criminal justice system.

### ***Regional and local structures to facilitate reinvestment***

246. Regional relationships and partnerships for reducing re-offending are fairly strong following the creation of regional reducing re-offending partnership boards and new directors of offender management should strengthen these. However, the mechanisms for linking regional partnerships and plans to local partnerships and local reducing re-offending plans are unclear. Jeremy Beecham drew our attention to the potential for justice reinvestment of multi-area agreements (MAAs), which bring several local area agreements together.<sup>429</sup> According to the Improvement and Development Agency (IDeA), MAAs are well placed to tackle issues that are best addressed in partnership at a regional and sub-regional level. The examples of integrated offender management, discussed below, illustrate the possibilities for sub-regional collaboration to address joint priorities.

247. Local structures are beginning to emerge which could provide a mechanism for justice reinvestment, including clearer local performance frameworks and integrated priorities

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424 See for example Qq 400, 460 [Mr Stewart, Ms Crook]

425 Clinks press release, *New coalition urges politicians to act for the most vulnerable*, 29 September 2009

426 Q 357

427 Ev 288 [The Revolving Doors Agency]; Q 460 [Mr Martin]

428 We heard an example of this approach from the New Directions Team, South West London and St. Georges Mental Health NHS Trust, which used flexible budgets to purchase the right mix of services to meet individual needs (e.g. accommodation) for very small numbers of people identified as falling through the gaps in mainstream provision  
Ev 243

429 Q 19



through the local area agreement, and reforms which clarify the accountability of crime and disorder reduction partnerships in England and community safety partnerships in Wales (CDRPs/CSPs) and local criminal justice boards (LCJBs) to reduce re-offending (see Annex 2).<sup>430</sup>

248. In 2006 the Government's *Strong and Prosperous Communities White Paper* described the relationships between local agencies in relation to crime reduction:

“Performance of local partners on community safety is still too varied. [...] This is partly because local authorities do not always see it as their job to tackle anti-social behaviour or to improve community safety. But there is also the problem of a large number of different partnerships, performance frameworks and funding streams at the local level meaning that different bodies are often pulled in different directions, rather than working together to meet shared priorities.”<sup>431</sup>

We heard that, since 2006, the coordination between these partnerships has been strengthened considerably by reforms to CDRPs and LCJBs, and by the advent of the local area agreement. There are, however, still a large number of different partnerships and funding streams; the relationships between agencies and partnerships remain complex and are still developing. Witnesses discussed the relative merits of performance-based incentives such as the local area agreement and financial incentives to reallocate resources at local level (discussed below).

### *Local area agreements*

249. Performance frameworks such as the local area agreement are important in embedding shared priorities and can influence the way in which limited resources for meeting criminal justice objectives are directed at local level. The Local Government Association (LGA) report *Going Straight* proposed piloting justice reinvestment in England, suggesting that its principles are consistent with the current development of local public service agreements and local area agreements in English local government.<sup>432</sup> Structures in Wales are not prohibitively different.<sup>433</sup> Jeremy Beecham, vice-chair of the LGA, explained that the local area agreement could be used to move money around so as to deliver locally agreed targets under a justice reinvestment model.<sup>434</sup> Zoë Billingham from the Audit Commission agreed that some reinvestment could be achieved within current local structures:

I think that there is tremendous scope within the existing arrangements that we have to better pool budgets, to base spending decisions better on evidence, and if it is evidence of preventing something from happening, that ought to be a key factor in

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430 The roles and responsibilities of the key partnerships and agencies which have some accountability for crime reduction at national, regional and local level have been set out in several different strategies including for example *Working in Partnership to Make Communities Safer* and the *National Community Safety Plan 2008–11*.

431 Department for Communities and Local Government, *Strong and prosperous communities*, vol 2, Cm 6939-II, October 2006, p 6

432 Local Government Association, *Going straight: reducing re-offending in local communities*, 2005, p.11

433 Local strategic partnerships operate in over 100 of the most deprived wards in Wales. These manage funding under the Communities First programme to tackle deprivation and build community capacity. Community Safety Partnerships are required to undertake annual strategic assessments and devise three year partnership plans.

434 Q 24



decision-making in terms of where resources are deployed, and there are all sorts of examples of the public sector cross-fertilising, in terms of finances, other outcomes.<sup>435</sup>

250. Frances Done, Chair of the Youth Justice Board, agreed that, for the first time, priorities across key partners, particularly the police and local authorities, are now aligned. This creates an incentive for better performance.<sup>436</sup> She suggested, however, that these new arrangements would underline the inadequacy of existing local provision for reducing re-offending, and argued that more explicit duties needed to be placed on local authorities and their partners.<sup>437</sup> Ruth Gaul, Strategy Safety Manager at Gateshead Council, noted variations in the strength of relationships between crime and disorder reduction partnerships and criminal justice agencies.<sup>438</sup> It must be made clear that because multiple factors contribute to criminality, those organisations and agencies whose task it is to tackle such specific issues, must contribute to reducing crime and anti-social behaviour. We heard that clearer accountability to reduce re-offending should be provided by the new duty placed by the *Policing and Crime Act* on the constituent agencies of CDRPs.<sup>439</sup>

251. We heard of examples of very promising results from integrated planning between LCJBs and CDRPs/CSPs, but it was clear that these practices are not yet widespread. David Scott, then chair of the Probation Chiefs' Association, argued that LCJBs were already forging links with CDRPs and local authorities, and that some were working together to reinvest resources at the frontline without having to wait for resources to be freed up by reducing the prison population. For this reason he did not believe that the system needed to be re-configured to enable rational decision-making about the direction of resources at local level.<sup>440</sup> He explained that when LCJBs were first established, they concentrated on the front-line of the justice system, but now they had an incentive to shift their focus to what happens once offenders are sentenced.<sup>441</sup>

### ***Integrated Offender Management***

252. The Ministry of Justice has funded three pilot projects which build on existing partnership approaches. These projects, two of which are described in the box below, prioritise offenders who pose the greatest risk to the community (e.g. prolific and priority offenders), developing what the Ministry calls 'Integrated Offender Management' (IOM).<sup>442</sup> The Ministry of Justice has coined the phrases 'diamond districts' or 'neighbourhood pathways' to describe some of these projects. In particular, one of the projects, led by the London criminal justice board, has used the analytical component of the American model

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435 Q 278

436 Q 203

437 Q 199

438 Q 15

439 Q 580 [Mr Campbell]

440 Qq 432, 544

441 Q 537

442 Ev 196-7

to devise a devolved, locally focused approach to reducing re-offending and improving compliance in areas with a high resident offender population.<sup>443</sup>

**Box 8***Case study: Integrated offender management (IOM) pilots*

One example of integrated offender management is the London criminal justice board's Diamond Initiative. This has used justice mapping techniques with the explicit purpose of developing a potential model for justice reinvestment. The project seeks to align national and local priorities, in particular in relation to the delivery of PSA targets, and to test whether it is possible to deliver better criminal justice and community outcomes based on the data from justice mapping. It consists of a combination of targeting resettlement resources on areas with high volumes of resident offenders and deploying these resources through several agencies working together, centred on the police and the probation service. The initiative has sought to strengthen the relationship between research and practice, and was designed with the support of academics from Cambridge University.

NOMS Yorkshire and Humberside, working with the local criminal justice board, five crime and disorder reduction partnerships, health, local authorities and the police, has established a multi-agency senior management team, which oversees operational hubs at district level which support the intensive management of offenders. The hubs link existing arrangements for the drugs intervention programme and prolific and priority offender schemes with neighbourhood policing teams, third sector, local authorities, health and other partners. The project works with prisons in the region to identify prisoners serving sentences of less than 12 months returning to West Yorkshire. The number of offenders in multi-agency intensive management has more than doubled to almost 900, and additional resources have been secured for both case management and interventions to support reduced re-offending. Ambitious targets have been set to reduce re-offending and emerging findings support the positive effects and cost-benefits of such an approach.<sup>444</sup>

Mr Scott, former Chief Probation Officer for London, spoke of the benefits of the London 'Diamond Initiative' project:

We have seen in London that co-locating police and probation, very much a joint business, brings tremendous benefits over working in the individual silos, as they used to be called; similarly with the multi-agency public protection arrangements [...] For us the Diamond initiative takes this on a step forward [...] we are beginning to see prison governors becoming more involved with local authority chief executives, crime development reduction partnerships and so on. You begin to start unlocking some of the potential and for me it means that for all of our agencies we

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443 See *London Criminal Justice Board Neighbourhood Pathways Project: Review of Data Analysis*.  
[www.lcjb.cjsonline.gov.uk/London/home.html](http://www.lcjb.cjsonline.gov.uk/London/home.html)

444 Ev 147

have to stop being precious about what it is we do and we have to look to see where, if we can work together more effectively, we can find some real benefits.<sup>445</sup>

253. Clinks director, Clive Martin, pointed out that local criminal justice boards (LCJBs) may only facilitate the reinvestment of resources between criminal justice agencies.<sup>446</sup> Whilst the experience of the integrated offender management pilots suggests that LCJBs can perform a useful linkage role between crime and disorder reduction partnerships and NOMS, it is important to note that these were established with central funding.

**254. The implementation of Integrated Offender Management, and the London pilot in particular, shows that some of the principles of justice reinvestment can be applied successfully to England and Wales, although the framework for longer-term funding and national roll-out of such initiatives is, as so often is the case, uncertain.** We have some concerns that justice reinvestment projects which are heavily criminal-justice driven, for example by local criminal justice boards or by the police, may result in external agencies believing that it is the responsibility of criminal justice agencies to drive reductions in crime. **We urge the Government to think more widely in any application of justice reinvestment principles at a local level; in particular engaging local government, the health service and non-governmental sectors.**

**255. A regional or sub-regional model of reinvestment may be possible in the future if the national custody budget for the majority of the prison estate could be fully devolved to directors of offender management. Resources could then be moved from prisons to probation and crime and disorder reduction partnerships (CDRPs). In the meantime local criminal justice boards should be encouraged to provide a linkage role between regional and local reducing re-offending plans and between NOMS and CDRPs, in addition to probation, to ensure that prisons are included, where possible, in local partnership plans.**

### ***Building on existing initiatives***

256. Witnesses repeatedly suggested that a justice reinvestment approach could result in improvements in mental health, substance misuse and education and training provision which offenders can access at various points in the criminal justice process and the promotion of better access to employment for ex-offenders.<sup>447</sup> The Ministry of Justice argued that its thematic work on addressing the underlying causes of offending was consistent with the principles of justice reinvestment.<sup>448</sup> However, this does not amount to a clear commitment by the Government to focus efforts on reducing crime by shifting spending away from the criminal justice system to other services.<sup>449</sup> We heard that spending on criminal justice has in fact increased since the Inter-Ministerial Group on

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445 Q 549

446 Q 543

447 See for example Ev 232ff, 259ff, 288ff, 295ff [NACRO, Prison Reform Trust, Revolving Doors Agency, Sainsbury Centre for Mental Health]

448 Ev 193-200

449 For example, the Government's proposals outlined in *Improving Health, Supporting Justice* to tackle offender health and mental health were not "subject to a full cost and benefit assessment".

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0001 am on Thursday 14 January 2010

Reducing Re-offending was established. We found only limited evidence of genuine reinvestment of resources in the community (see Annex 1).

257. On the other hand, measures set out in the Ministry of Justice consultation document ‘*Working in partnership to reduce re-offending and make communities safer*’ suggest that Government policy is moving in a direction which is more aligned to some of the principles of justice reinvestment. It includes reference to:

- identification of a need to make a strong economic and social case for partners to be increasingly involved in work to reduce re-offending
- research into the cost of re-offending and the comparative cost of interventions and activities to reduce re-offending to build up an understanding of the social benefits of reducing re-offending in terms of the cost of crime avoided, and
- emphasis on developing links between crime and disorder reduction partnerships and local criminal justice boards which are locally determined rather than centrally proscribed

In addition, the NOMS Strategic Plan consultation document notes the need to examine how performance is measured across the “reducing re-offending pathways” and to develop improved means of assessing costs and value for money.<sup>450451</sup>

**258. We do not consider that the Government’s existing programme of work to reduce re-offending pays sufficient attention to the opportunities suggested by a justice reinvestment approach. Although there are welcome signs of an interest in costs and benefits, and some movement of resources between departments, this policy has not been backed by a demonstrable strategy to reduce the use of imprisonment and shift resources from within the criminal justice system; predominantly from prisons.**

## The four stages of justice reinvestment

259. We now consider how justice reinvestment approaches could be applied in the context of the structures and systems which plan, commission and deliver services in England and Wales. We have identified a series of key requisites for justice reinvestment based on the methodology underpinning the four stages of the justice reinvestment model. We discuss these in turn below.

### Stage 1: Justice mapping

260. In its purest form, justice reinvestment seeks to change the way public expenditure is allocated, using data to map where local offenders live, how this relates to deprivation and how resources are currently allocated to crime reduction in the identified areas. Such mapping—using a computerised system known as Geographic Information Systems (GIS)—has been used in the US to examine how criminal justice, social welfare and

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450 Ministry of Justice, *Strategic Plan for Reducing Re-offending 2008–11, Working in Partnership to Reduce Re-offending and Make Communities Safer: A Consultation*, 2008

451 While this report was being prepared for publication, the Ministry of Justice announced a new policy initiative to reduce women’s prison places by 400 (around 10%) by March 2012 to free up funding for specialist services in the community aimed at turning vulnerable women away from crime (MoJ press release 181-09, 14 December 2009)

economic development policies are related to particular neighbourhoods. In this context, GIS generates maps which present statistical data on:

- adults and young people going in and out of prison, people on community sentences and those under the supervision of probation after leaving prison
- administrative, political, social, educational, and other boundaries, such as school catchments, council jurisdictions, neighbourhoods, or police areas
- socio-demographics, such as single parent households, unemployment, home ownership rates, poverty, and income
- health and welfare services, child welfare and benefit claimants
- prison expenditures
- probation caseload distributions, and
- geographical, and neighbourhood, overlaps between criminal justice and other agencies providing local services.

261. These data are used to examine the economic costs of communities with high rates of prison admissions and releases, and the effectiveness of custodial policy in terms of rehabilitation and reform. Eric Cadora, a founder of the Justice Mapping Center in New York, argues that such an approach can determine the impact of criminal justice policies in particular neighbourhoods:

[...] high incarceration rates hinder government efforts to turn around troubled neighbourhoods by taking people out of the work force, compelling families to rely on government assistance and scaring away investment.<sup>452</sup>

262. In the UK, a similar approach to reducing benefit claims based on the results of geo-mapping has led to significant cost savings. For example, the Kent Supporting Independence Programme delivered targeted support in areas which were found to have the highest concentration of benefits claimants. Those living in a targeted ward were 29 per cent. likely to stop claiming benefits than those from similar areas.<sup>453</sup> This suggests that there is potential for geographically targeted local initiatives to reduce national expenditure.

263. The first stage of the justice reinvestment process thus relies on:

- the expertise and capacity to undertake justice mapping and interpret the analysis
- the availability of data to input into the mapping process, and
- the existence of costs data on current service provision to offenders in a particular locality both within, and external to, the criminal justice system.

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452 "Texas seeks to break prison recidivism rates", *The New York Times*, 23 November 2007, [www.nytimes.com](http://www.nytimes.com)

453 New Local Government Network, *The Local Journey to Work*, February 2008

### *Strengthening the methodology for local strategic planning*

264. There is emerging evidence that justice mapping is viable at local level in England and Wales. Each crime and disorder reduction partnership and local criminal justice board follows an annual process of review, assessment and planning which reflects both national and local priorities.<sup>454</sup> Under provisions in the Policing and Crime Act 2009, crime and disorder reduction partnerships will also be expected to publish a specific strategy for reducing re-offending. Geographical mapping has been used in police planning models for some time to identify areas with high concentrations of crime ('hotspots') for example, but some local partnerships are now using these sophisticated mapping techniques more broadly to audit needs and thereby determine their priorities, in particular in relation to crime and disorder reduction strategies. Such techniques have proved valuable in prioritising resources in Manchester and, to a lesser extent, in Birmingham and Gateshead.

### *Guidance and expertise*

265. The Government has attempted to promote a more systematic use of data to develop local priorities through its guidance to crime and disorder reduction partnerships (CDRPs), which states that each partnership's analysis should include:

[...] an overview of the partnership area including relevant geographic, demographic, socio-economic factors and unique issues that might impact on this strategy such as population change, housing growth, large scale planned events, regional or cross-border issues.<sup>455</sup>

266. The extent to which this guidance is used in practice has been questioned and does not appear to have been the subject of monitoring. The use of mapping techniques to indicate priority neighbourhoods where offenders are concentrated, or which examine, at neighbourhood level, the factors which may contribute to offending, are not common. Some of our witnesses sought to explain why these techniques have not been used to determine priorities for crime reduction in England and Wales. For instance, Zoë Billingham, from the Audit Commission, told us that the Commission found that the use by crime and disorder reduction partnerships (CDRPs) of police intelligence models to identify priorities is limited.<sup>456</sup> Ellie Roy, former chief executive of YJB, agreed that CDRPs do not have a single methodology for auditing but identified that some do use geo-mapping to inform tasks.<sup>457</sup> Greater Manchester Against Crime (GMAC), which works with all 10 CDRPs in Greater Manchester to support local partnership planning, explained that the use of justice mapping is not currently championed or subject to specific government guidance.<sup>458</sup>

267. Another reason for the under-use of justice mapping is that it requires specialist expertise. Jonathan Shepherd CBE, Professor of Oral and Maxillofacial Surgery at Cardiff

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454 HM Government, *National Community Safety Plan, 2008-2011*, 2008

455 Home Office, *Developing a strategic assessment: an effective practice toolkit for crime and disorder reduction partnerships and community safety partnerships*, October 2007, p 18

456 Q 283

457 Q 197

458 Ev 155



University, explained that more imaginative use could be made of existing local data without extra cost, if it is collated by the partner agency electronically, anonymised and passed on to someone with the capacity to analyse it.<sup>459</sup> However, David Ottiwell of GMAC explained that the use of geo-mapping requires professional skills that are now bedded-in for the police and some local authorities, but not for other criminal justice agencies.<sup>460</sup> Greater Manchester is the most advanced area in the use of mapping to develop ‘business’ priorities and GMAC has developed a “data hub” to make use of data from all partners, serviced by a team of analysts.<sup>461</sup> A clinical approach, in Cardiff to tackling violence has led to a 40% reduction in the number of victims presenting themselves for treatment at an accident and emergency unit following an incident of violence.<sup>462</sup>

**Box 9**

*Cardiff Violence Reduction Group*

Professor Shepherd sought to apply similar scientific analysis to that which had been used to reduce injuries from, for example, car accidents to incidents of violence.<sup>463</sup> In taking such an approach the clinical analysis of data has gone beyond that normally used to inform criminal justice strategies. Anonymised electronic data on attendances at emergency departments are shared with the CDRP analyst on a monthly basis. These data are then combined with police data to provide a summary of violence times, locations, weapons and assailants. The CDRP violence task group uses this information to implement and update a local violence reduction plan. The outcomes of this approach are tracked to examine overall trends and trends in violence hotspots. These data, and the contributions of consultants in CDRP meetings, have enhanced the effectiveness of targeted policing significantly, reduced licenses premises and street violence, and reduced overall A&E violence-related attendance in Cardiff, by 40% since 2002.

**268. The under-use of geographical analysis is partly the result of a lack of available expertise in mapping techniques and a lack of resources to conduct the necessary analysis. Where local leadership by local authorities and the police has driven the development of effective, analytical and innovative crime reduction techniques within proactive partnerships this has been extremely successful. The Government should undertake audits of the capacity of crime and disorder reduction partnerships, local criminal justice boards and local authorities to use geographical mapping. The combined results should determine whether additional resources must be employed to increase such capacity, for example, by providing hubs for technical support or by developing local expertise through training. Whatever form this capacity building takes**

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459 Q 335

460 Ev 155

461 <http://www.gmac.org.uk/>

462 Shepherd, S. *Effective NHS contributions to violence prevention: the Cardiff model*, October 2007. A similar approach was used to reduce incidents of criminal damage, see Q 290.

463 Analysis of the causes of injuries in car accidents was used to inform engineering and legal interventions e.g. better brakes, better tyres, speed controls, seat belts (and enforcement of their use) and airbags.



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**it should be targeted in the first instance on improving areas which are failing against relevant public service agreement targets.**

### *The quality and accessibility of data*

269. Justice mapping is dependent on good quality and accessible local data on the concentration of crime, the neighbourhoods where offenders tend to live and the needs of offenders in those localities. We heard that there may be difficulties in accessing sufficient data to develop a picture of local needs. In partnership with the International Centre for Prison Studies, Gateshead Council employed justice mapping techniques to identify local needs. It encountered difficulties, however, with the quality of data available, in particular information from prisons about where offenders live; these data are not collated centrally.<sup>464</sup> Professor James McGuire suggested that localised data would better inform local decision-makers about the factors that influence patterns of offending in different places at different times and how this contributed to the ‘amount’ of intervention needed.<sup>465</sup> Dr Chloë Chitty told us that good information on re-offending rates was now available at local authority level, but difficulties remained in obtaining this information at district level,<sup>466</sup> which would better support justice mapping and the estimation of costs. NOMS plans to expand needs assessment to all offenders<sup>467</sup> but there is not currently a mechanism for these data to be made available to local authorities, LCJBs or CDRPs (in an aggregated, anonymised form) to inform local priority-setting.

270. Our witnesses raised questions about the capacity of some agencies to collate data that could offer a valuable contribution to more robust analysis of local priorities. For example, West Yorkshire police commented on the lack of a comprehensive offender health and social care needs assessment to drive service commissioning, resulting in an inability to provide evidence for and meet such needs within its Integrated Offender Management pilot.<sup>468</sup>

**271. Priority-setting to concentrate effort on existing offenders in particular areas is hampered by both the poor quality of data available locally and lack of accessibility to data that is available. We find it remarkable that there are still problems with information sharing when it is over 10 years since the Crime and Disorder Act 1998 made it quite clear that information can be shared for the purposes of preventing offending.** Justice mapping may also be hindered by the way in which some data is held. For example, the prison service does not collate information centrally about where offenders live and records kept by individual prisons are limited.

### *The value of justice mapping*

272. Dr Kadhém Jallab, who conducted justice mapping in Newcastle, said that the results generated by justice mapping may not be surprising. For instance, probation caseload

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464 Qq 3–5

465 Q 103

466 Qq 71–2

467 Q 363 [Mr Porée]. The Offender Assessment System (OASys) is only completed where offenders are held in custody for longer than 12 months

468 Ev 307

maps of needs showed the same pattern as the needs of the wider community—i.e. offenders are concentrated in particular wards and these show a very strong correlation with indices of deprivation.<sup>469</sup> This also holds true in rural areas.<sup>470</sup> Despite this, locally aggregated information on offending-related needs can be used to build up the case for investment with local partners and consequently provide a potential lever for resources from outside the criminal justice system.<sup>471</sup> David Ottiwell of GMAC spoke of the effectiveness of mapping in demonstrating to the various component agencies comprising local strategic partnerships that the challenges they are seeking to overcome are concentrated in the same geographical areas, and that this coincides with the areas where offenders tend to live.<sup>472</sup> He emphasised the distinction between the use of justice mapping to drive activity and its use simply to record a problem.<sup>473</sup>

273. Attempts to use justice mapping to drive activity appear to have had mixed results. Birmingham CDRP has used justice mapping techniques to provide a clear assessment of need. Neighbourhoods were classified into three groups, "priority", "at risk" and "stable", which allowed the CDRP to target resources more effectively into priority areas. Subsequently, not only has crime reduced in these neighbourhoods but the gap between them and less deprived neighbourhoods has narrowed.<sup>474</sup> The experience of Gateshead community safety partnership indicates, however, that whilst justice mapping can be a catalyst to the mobilisation of partnership activity to reduce re-offending, it cannot in itself change the way that activity is targeted and prioritised at a local level. Ruth Gaul, Strategy Safety Manager at Gateshead Council, explained that the mapping project in Gateshead had led to further funding for prolific and priority offenders (PPOs), but had not yet resulted in more fundamental changes in the direction of resources.<sup>475</sup>

274. Rainer Communities that Care has used geographical mapping to make recommendations to commissioners both to prevent youth offending and to promote better long-term outcomes for young people, based on evidence of effective practice. Its projects have encountered some difficulties in encouraging these commissioners to change their practices, including a lack of commitment of long-term funding, partner "buy-in", competing agendas and the evidence base to identify and meet mapped needs.<sup>476</sup> David Ottiwell of GMAC explained that there had initially been similar resistance in Greater Manchester. He put this resistance down to a lack of buy-in among project leaders to the concept of using technology and spatial evidence to make spending decisions and suggested that this could be overcome through appropriate training.<sup>477</sup>

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469 Q 29

470 Q 5

471 Q 216 [Mr Thomas]

472 Ev 154

473 Ev 155

474 Q 285 [Mr James]. See also Gardner, S. *Creating cross-cutting opportunities in Birmingham's neighbourhoods*, Birmingham Community Safety Partnership, presentation at the National Crime Mapping Conference 2008. <http://www.cscs.ucl.ac.uk>

475 Q 11

476 Ev 276

477 Ev 155

275. One practical aspect of the justice reinvestment approach is for agencies such as probation to deliver their services at a more local “patch-based” level.<sup>478</sup> The expansion of neighbourhood-based policing offers a model for multi-agency teams to work together at a very local level to ‘manage’ known offenders, like the ‘hubs’ established in the West Yorkshire Integrated Offender Management pilot discussed in box 8. This is counter to some efficiency practices that seek to reduce costs, for example, by merging smaller probation offices into “super probation centres”.<sup>479</sup> There are proposals for the co-location and virtual co-location of agencies attached to courts in the Government green paper *Engaging Communities in Criminal Justice* discussed below.

276. Justice mapping may confirm the concentrations of deprivation and identify the communities where offenders tend to live but it can also provide a strong case for locally determined and locally targeted intervention to tackle social exclusion as a means of reducing crime. **Justice mapping should be used as a catalyst for stronger local authority and partnership strategies which prioritise the reduction of crime and re-offending in particular areas through, for example, local area agreements and crime reduction plans.** Such plans and agreements should all include a specific justice reinvestment element. Existing guidance on the methodology for the strategic analysis of priorities does not appear to be sufficient to encourage these partnerships to use geographical analysis, undertake robust clinical analysis of crime problems, or to ensure that a consistent methodology is used. In particular, Government guidance to crime and disorder reduction partnerships (CDRPs) on the new reducing re-offending plans should encourage a much longer-term view on achieving desired outcomes and an explicit focus on justice reinvestment.

277. **The co-ordination of justice mapping activity at local level must be locally determined.** Crime and disorder partnerships appear to be best placed to perform this function, but it will rely on information sharing between partnerships, with local criminal justice boards facilitating access to data from prisons and the courts and local authorities facilitating access to data through members of local strategic partnerships. Mapping can also suggest where agencies should deploy their staff, for example the ‘multi-agency hubs’ established in West Yorkshire and the community courts.

278. Justice mapping would also be beneficial in informing reducing re-offending plans at a regional level and in enabling Directors of Offender Management (DOMS) to determine the allocation of resources. **The Ministry of Justice, the Home Office and the Department for Communities and Local Government should devise guidance and a mechanism whereby DOMS and Government Offices can work with regional “reducing re-offending” partnership boards to use justice mapping to inform their plans. The aggregated mapping information generated by local partnerships would similarly provide valuable data to inform national policy.**

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478 Ev 169

479 “Probation ‘super centre’ review”, *BBC News online*, 14 May 2009

### *Calculation of cost-effectiveness*

279. A key part of justice mapping is the calculation of existing spending on the geographical areas identified as high priority. These costs can then be used to develop a business case for community agencies, and local authorities in particular, to strengthen provision for reducing re-offending with a view to making cost savings. Mike Thomas, chair of the Association of Youth Offending Team Managers, spoke of a need to demonstrate the wider costs of youth offending and the benefits of joint working; that is, what costs can be saved to the community as a whole and to each component agency which makes up the partnership.<sup>480</sup>

280. The Home Office produced guidance on calculating the costs of crime to local areas that has been revised and promoted by the NOMS Reducing Re-offending Civic Society Alliance, which works with local authorities, other partners and local people to improve support to offenders, and ensure that they have equality of access to services. The London Borough of Tower Hamlets and Leicestershire, among other councils, have demonstrated that it is possible for local authorities to make a financial case to elected members to finance activity to reduce re-offending.<sup>481</sup>

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480 Q 215

481 Q 416 [Mr Rickard]; Q 275 [Mr Hill]; Ev 173–178 [Leicester City Council]

### *Case studies:*

#### *Leicester, Leicestershire and Rutland*

Leicestershire Beacon Partnership used the NOMS/Home Office methodology to calculate the cost of re-offending to Leicester, Leicestershire and Rutland. The total cost was estimated as over £146 million per year. In Leicester City the annual cost was £74 million, equivalent to the annual running costs of 86 primary schools or 20 secondary schools, or 270 libraries; or the provision of nearly 3.4 million hours of home care or the provision of nearly 16 million mobile meals. These figures helped build up a business case for the establishment of a sub-regional reducing re-offending board was subsequently set up for Leicester City, Leicestershire County and their partners to facilitate a strategic partnership approach in delivering an agenda aimed at reducing re-offending. Its membership includes senior level staff from local authorities, the local primary care trust and agencies within the criminal justice system. The board produced a plan to develop the reducing re-offending agenda, join the work of member agencies and strengthen provision of work with offenders including offender management, employment and resettlement.<sup>482</sup> Reducing re-offending indicators are included in all three local area agreements.

#### *London Borough of Tower Hamlets*

The London Borough of Tower Hamlets has a dedicated resettlement development officer to lead a co-ordinated approach to reducing re-offending across the borough. This post was funded by the authority after calculating the cost to the area of re-offending, which was estimated at £65,000 per offender, totalling £45 million per year. The authority now aims to 'ensure that every ex-offender in or returning to the borough gets the right services' by closing gaps in service provision to offenders, particularly those leaving custody without supervision by probation. The authority has promoted widespread strategic commitment to reducing re-offending, linked to plans to tackle social exclusion and deprivation. It also seeks to understand the reasons that ex-offenders do not access existing services. New bespoke services have been developed, some in partnership with other agencies, based on robust needs analysis within the borough, for example specific provision for women offenders and Bangladeshi offenders. The co-ordinator has calculated that only relatively small reductions in re-offending are required to justify the costs of new services.

281. One of the problems in applying justice reinvestment principles is that existing calculations of the costs of re-offending to local areas include neither the costs of the use of custody (which are not borne directly by the local area) nor the wider social costs of crime. The *Youth Crime Action Plan* includes proposals to make local authorities aware of the cost of custodial places and raises the possibility of local authorities paying for custodial places for young offenders (discussed below). Frances Done, chair of the Youth Justice Board explained that such financial considerations are explicit in other fields, such as special

education, where decision makers are very conscious of the cost of placements in institutions.<sup>483</sup> The Youth Justice Board has since written to each local authority illustrating the cost of the use of custody in the area and an indication of how this relates to average rates of custody.<sup>484</sup>

**282. Bringing together justice mapping with information on the costs of re-offending to local partners may provide a sufficient incentive for the reallocation of partnership resources in some areas. We welcome the evidence that local authorities have successfully used NOMS/Home Office methodology to help mobilise resources to reduce re-offending. The NOMS Civic Society Alliance should promote the principles of justice reinvestment among local authorities as part of its ongoing strategy to build capacity to reduce re-offending. All local strategic partnerships should use the NOMS framework to illustrate the costs of re-offending to local authorities and health care trusts.**

283. Exposing the costs of re-offending is not, however, the whole answer to promoting justice reinvestment because it does not take into account the costs to the national criminal justice system. The costs of custody at local level are currently hidden. **We welcome the work of the Youth Justice Board in exposing the costs of the use of custody for young people at local level and recommend that the same is done for adults.**

## Stage 2: Devising options for policy makers

284. We have noted above the work of the US Council of State Governments' Justice Center, which uses the results of justice mapping in an individual State to generate tailored options for policymakers to manage the growth in the prison population and increase public safety by reducing crime. There are several key pre-requisites underpinning this stage of the process:

- agreement on which departments, agencies or partnerships constitute the policymakers;
- the existence of an organisation or other mechanism to generate options for policymakers to manage the growth in the prison population and probation caseloads
- the existence of a robust, high quality, evidence base of the cost-effectiveness of alternative approaches to manage the growth in the prison population;
- the willingness and capacity of policymakers to adopt the policies identified.

## Identifying the policymakers

285. The policy options for managing the growth in the prison population generated in the US typically include changing sentencing, bail and enforcement policy within the criminal

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483 Q 205

484 "The YJB and Frances Done one year on", *Children and Young People Now*, 29 January 2009. See also Ev 321–322

justice system, (for example, by reducing or increasing the lengths of sentences for certain offences, reducing remands or increasing compliance with court orders), and changing policy outside it, (for example, the provision of mental health support or residential drug treatment). Mr Bridges described the types of decisions which could be taken to release resources:

Hypothetically, if every current sentenced prisoner served five weeks less than currently planned there would be a tiny increase in the amount of crime prevented, and if every current sentenced prisoner served five weeks less than currently planned there would be a tiny decrease. But in the latter instance there would be a major financial saving, some of it available almost immediately, that could be available for [j]ustice [r]einvestment.<sup>485</sup>

In 2003 and 2004 the Home Office modelled the relative contributions which planned measures to reduce crime were expected to make to targets to reduce crime, assuming that sufficient rehabilitations can be and are provided.<sup>486</sup> This indicated that while the toughening up of enforcement practices can make only minimal contributions to reductions in re-offending, expanding the provision of drug treatment and offending behaviour programmes can make a more significant contribution.

286. As we noted above, radical shifts in policy decision-making to reduce the prison population have taken place in Finland, Canada and Germany, driven by central Government, with no detrimental impact on crime rates. Similar initiatives are now being implemented in Scotland. In June 2007 the Scottish Parliament established an independent commission to consider the current state of the criminal justice system in Scotland. The Scottish cabinet secretary for justice, Kenny MacAskill, commented:

It is simple to say that we will build more prisons, but resources are not infinite and each new prison means one fewer new hospital, school or community investment that would benefit the people of Scotland.<sup>487</sup>

After an extensive investigation and consultation amongst a wide variety of criminal justice stakeholders and the public, the Commission's recommendations comprised a cohesive approach to reform across the entire system. These included the creation of a general duty to enhance public understanding; a duty on judges to impose community sentences in cases where they would give a sentence of six months imprisonment or less unless there were exceptional circumstances; and, most radically, that the Government aim to reduce the prison population by two-thirds. The Government accepted these proposals but, according to Mr MacAskill, they are being introduced in the absence of political consensus.

287. In of England and Wales, sentencing and enforcement policy is determined nationally and applied locally by sentencers, police and probation services to various degrees of consistency. Realising the resources required for reinvestment would require a willingness by policy-makers at national level, including the Ministry of Justice, cross-departmental

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485 Ev 161

486 See, Home Office RDS Directorate, *Modelling crime reduction for the Home Office's strategic plan: economic and resource analysis*, 2004 and Home Office RDS Directorate, *Investigating links between probation enforcement and reconviction*, 2003

487 SP OR 20 September 2007, col 2002



Ministers and HM Treasury, to change the pattern of spending at national level to facilitate new approaches to manage the growth in the prison population and probation caseloads, for example, by considering the non-implemented measures examined above. The proposed Sentencing Council would have a specific role in promoting a more sustainable sentencing framework, for example, by reviewing the feasibility of some of the red and amber measures considered and rejected by Lord Carter (see chapter 2).

288. Although much of the decision-making about the commissioning and delivery of local services or interventions which would reduce crime and re-offending are now devolved to local policy-makers, many of the partnership arrangements that determine relationships between the agencies that commission and deliver them are prescribed at national level. The locus of proposed policy changes is therefore complex and would require national, regional and local approaches to be co-ordinated.

### **A mechanism for generating options for policy-makers**

289. Justice reinvestment relies on both good quality research to provide the basis for policy options and the existence of a hub of expertise, possibly at national level. A co-ordinated programme of justice reinvestment approaches would require the development of a series of alternative policies which could be adopted by national, regional and local policymakers, a function which is performed in the US by the Council of State Governments' Justice Center (see box 11).

#### **Box 11**

##### *The Council of State Governments' Justice Center*

The Center is a national non-profit organisation that serves policymakers at the local, state, and federal levels from all branches of government. It provides practical, non-partisan advice and consensus-driven strategies, informed by available evidence, to increase public safety and strengthen communities. It is funded by a combination of federal resources, including various agencies of the US Departments of Justice, Labor and Health and Human Services, as well as charitable trusts and foundations, and local state funds. The Center is staffed by expert statisticians and research and policy analysts who work with the data presented by states to devise appropriate options for managing the growth in correctional resources.<sup>488</sup>

290. Witnesses proposed that the Government should examine models adopted by other disciplines and other jurisdictions to devise a balanced, evidence-based, crime reduction policy which makes optimum use of resources.

### **Healthcare experience of linking policy and resources**

291. Professor Cynthia McDougall, a criminologist from the University of York, pointed to the healthcare system as a possible model for considering how criminal justice policy could

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be linked to analyses of resources.<sup>489</sup> She said: “It has long been accepted in the National Health Service that there is a finite amount of money to spend on the nation’s health, and it is fairer to base spending on what is most effective for the majority of people, based on the ratio of costs to benefits”. She posed the question of whether there are “similar opportunities” in the criminal justice system.<sup>490</sup>

292. Some witnesses proposed that a criminal justice equivalent of the National Institute for Health and Clinical Excellence (NICE), or other national centres of excellence, might provide a means of developing a more rational approach to the use of resources for crime reduction.<sup>491</sup> Health economist Barbara Barrett from King’s College London explained that NICE reviews the available evidence about clinical and cost-effectiveness of medical interventions and on the basis of that review, makes guidance which has to be followed by medical practitioners.<sup>492</sup> The aim of NICE is to reduce expenditure on treatments or therapies that are not effective.<sup>493</sup> The same should be the case when it comes to promoting public safety. As we noted above there is a need to find a method of assessing the relative cost-effectiveness of approaches both within and outside the criminal justice system.

293. However, Mr Faulkner interjected a note of caution, pointing out that criminal behaviour was ‘inherently unpredictable’ and that it may therefore be difficult to use the same economic models as used in other areas of policy.<sup>494</sup> Professor Cynthia McDougall agreed that economic research is more difficult in the field of criminal justice but added that this does not mean it is not possible.<sup>495</sup> The Chief Inspector of Probation, Andrew Bridges, believed that important differences meant that the analogy with health should not be taken too far.<sup>496</sup> Others argued there were sufficient similarities to do something akin to it. Professor Shepherd cited the example of the Cardiff Violence Reduction Programme in highlighting the value of taking a wider clinical approach to assess the crime problem, what is causing it and developing a targeted approach to overcoming it e.g. by using accident and emergency data about violent incidents in addition to reported crime figures.<sup>497</sup>

### *The quality of research evidence on cost-effectiveness*

294. Making decisions about the optimum use of resources to prevent further escalation of criminal justice costs relies on the use of good quality data about the needs of offenders and the existing costs of criminal justice, and external activities to determine the appropriate level of resources and priorities i.e. which services to invest in and which to disinvest in.

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489 Ev 148ff

490 Ev 148

491 Q 150, 334, 555 [Ms Barrett, Professor Shepherd, Mr Scott]

492 Q 150

493 NICE is tasked with looking at particular drugs and devices when the availability of the drug or device varies across the country (because of different local prescribing or funding policies or confusion or uncertainty over their value). NICE uses clinical evidence to assess how well the medicine or treatment works and economic evidence to assess how well the medicine or treatment work in relation to how much it costs and whether it represents value-for-money. NICE guidance aims to end uncertainty and standardise access to healthcare across the country. The NHS is legally obliged to fund and resource medicines and treatments recommended by NICE.

494 Qq 95-6

495 Qq 119-121

496 Ev 162

497 Q 335

One concern raised about the possibilities of practically applying cost-benefit analysis to the area of criminal justice is the availability and quality of data on which to base decisions about criminal justice policy and measure its effectiveness. There was disagreement amongst our witnesses about whether the existing evidence-base was sufficient.

295. Several witnesses argued that there is a growing body of evidence on how best to reduce re-offending.<sup>498</sup> Mr Faulkner agreed that external research is providing pointers for policy but is not being brought into the Government's approach.<sup>499</sup> Professor McGuire explained that there is potential for very large returns on investment through good interventions based on US evidence.<sup>500</sup> Professor Cynthia McDougall agreed that there could be a greater emphasis on targeting individual offenders with the knowledge we have of what works for them.<sup>501</sup>

296. Others disagreed that existing research is sufficient. Justice Secretary, Jack Straw MP, told us that the impact that evidence-based policy can make on reducing re-offending in practice is still not clear:

There is a wealth of evidence in the "what works" framework of research which suggests that certain things work better than others, and some things do work better than others, but the differences in re-offending rates are quite slight.<sup>502</sup>

He also explained that there is a lack of evidence on the cost-effectiveness of policies in the UK:

[...] so far I have seen no evidence that says, "If you spend this amount of money, then we can guarantee that there will be this fewer crimes committed, this fewer victims and, therefore, the demand for prison places will drop correspondingly". That is the difficulty.<sup>503</sup>

297. On the other hand, Professor Cynthia McDougall suggested rather that a whole system approach which looks at cost-effectiveness has not been properly considered: "nobody pulls research altogether into a strategic approach to what kind of research we need in order to have a cost-effective model of dealing with crime."<sup>504</sup> She added that lots of research of this nature is being conducted in the US, for example to measure the optimum length of sentence required to reduce recidivism. This may be partly because, as we noted above, resources have not been shifted into targeting re-offending on a scale which would provide sufficient evidence of effectiveness, but Frances Crook believed there is indicative evidence on a smaller scale.<sup>505</sup>

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498 For example, see Q 466 [Mr Martin]; Ev 269-270 [Rainer]

499 Q 110

500 Q 107

501 Q 137

502 Q 36

503 *Ibid.*

504 Q 134. See also Q 121.

505 Q 465

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298. It is possible to conclude from our evidence that the volume and quality of research must be driven up in this area to both increase the number and quality of offender interventions and so that informed decisions can be taken to disinvest in things that do not work. Dr Chitty identified some gaps in the Ministry of Justice's data, and acknowledged that the quality of costing and cost-benefit analysis could be increased, but assured us that analysts are continuously working at improving the data and it is getting better as a result.<sup>506</sup> She explained that better evidence exists on some interventions; for example, offending behaviour programmes, drug treatment and good family ties.<sup>507</sup> The Government's response to our report *Sentencing guidelines and Parliament: building a bridge* sets out the Ministry's current programme of research.<sup>508</sup>

### **Applying the evidence to reduce the expansion of the criminal justice system**

299. Notwithstanding limitations in international research evidence,<sup>509</sup> some other jurisdictions have devised rational approaches to the use of resources based on an analysis of the available evidence; indeed we heard that many European countries turn to UK research as a basis for policy-making. In Seattle we heard about the application of a cost-benefit approach to developing financially sustainable long-term policy by the Washington State Institute for Public Policy (WSIPP) which carries out practical, non-partisan, research for the Washington State Legislature.

#### **Box 12**

##### ***Washington State Institute for Public Policy (WSIPP)***

WSIPP has published a series of papers which calculate the costs of the state's criminal justice system to the taxpayer and the costs and benefits of a policy of incarceration. In its paper entitled '*Evidence-based public policy options to reduce future prison construction, criminal justice costs, and crime rates*' the Institute detailed the cost-benefits of various options for the State and argued that taking a more aggressive approach to the implementation of programmes that are proven to be effective could lead to significant reductions in spending on prisons. The benefits accrued to the taxpayer would take a few years to realise but would then increase significantly year on year, amounting to estimated savings of about \$2 billion.<sup>510</sup> The State Legislature has consequently committed itself to invest in a mixture of prevention programmes and interventions for existing adult and young offenders. WSIPP also has a role in tracking implementation, ensuring that targeting is appropriate and amending forecasts for the prison population.

506 Qq 66, 69

507 Q 66

508 Ministry of Justice, *Government response to the Justice Select Committee's Report: "Sentencing guidelines and Parliament: building a bridge"*, Cm 7716, September 2009

509 Oral evidence taken before the Committee of Public Accounts on 23 April 2008, HC (2007–08) 508–i, Q 7 [Sir Suma Chakrabarti]

510 Washington State Institute for Public Policy, *Evidence-based public policy options to reduce future prison construction, criminal justice costs and crime rates*, October 2006, p 16

The Matrix Knowledge Group has conducted the first stage of such research in the UK, focused on the effectiveness of prison compared to its alternatives but this has not been tied to a broader evaluation of the most effective use of resources to reduce the cost of correctional services (see chapter 3).

300. Multnomah County Sheriffs Corrections Division, which we visited in Oregon, undertook analysis to correlate the number of available prison beds and their attached costs, to the number of offenders in prison according to their offence type and seriousness of the offence. This was used to provide a visual illustration to policy-makers of the choices that must be made between purchasing decisions on the appropriate use of custody when resources are constrained. Similar calculations were made to cost the use of courts and drug and alcohol treatment programmes.

**301. The Government has not demonstrated the cost-effectiveness of its policies to reduce crime or re-offending. Neither has it produced any evidence that the prison building programme and the establishment of the Sentencing Council together represent a sustainable long-term policy.** Other jurisdictions have been able to make transparent strategic decisions to change the direction of policy within available resources based on the evidence which is available. We are disappointed that despite the quality of much of UK research this has not happened here. We welcome the work of the Ministry of Justice on the cost-effectiveness of sentencing and other criminal justice interventions, and note the high regard in which this research is held internationally, but this is of limited value on its own. Internal researchers have neither the capacity nor the remit to develop an overarching cross-Government model for a system which is financially sustainable. **While Government can do more to identify those interventions which are successful by investing in high quality evaluation, a policy which promotes the most effective use of resources to reduce crime and manage offenders would benefit from the existence of an independent cross-disciplinary centre of excellence. Government could then identify the level of resources that should be invested in what is already known to be effective on a scale which would reduce medium and long-term costs to the criminal justice system.**

**302. The Government should establish a national justice reinvestment working group at Cabinet Office level, for example, as a sub-group of the National Crime Reduction Board. As a starting point the Government should analyse the existing flow of resources at national level including total spending across central departments, for example on health, education, social welfare and criminal justice for key groups of offenders, including women, young people, young adults and persistent offenders. This, coupled with robust economic modelling of what is effective in reducing crime and re-offending, can be used to inform the development of a national justice reinvestment plan.**

**303. Effective crime reduction policies should lead to reduced spending on the prison system and better return on investment in efforts to reduce crime and re-offending over several spending cycles. The Government must therefore develop incentives for longer-term planning nationally, regionally and locally.** Understanding how central resources could flow more easily at local level between the constituent members of crime and disorder reduction partnerships, local strategic partnerships and local criminal justice boards is also vital in to developing justice reinvestment approaches.

***Strengthening the evidence base***

304. Many of our witnesses identified weaknesses in the relationship between research, policy and practice which hinders the application of effective practice to efforts to reduce crime and re-offending. Professor McGuire told us that there is underinvestment in research in this area, admitting that such a statement was to be expected from an academic, but he emphasised that the paucity of resources is “quite major if you compare it with some of the other areas of inquiry that inform government policy”.<sup>511</sup>

***Stronger relationships between research and policy***

305. Dr Chloë Chitty, Ministry of Justice researcher, outlined for us the ways that internal research feeds into policy development, for example in scoping prospective new policies and monitoring and evaluating existing initiatives.<sup>512</sup> Professor McGuire explained that the research functions of the Home Office and Ministry of Justice are held in extremely high regard all over the world.<sup>513</sup> Yet, as we noted above, the capacity of the Ministry of Justice to apply the evidence base to strategic planning has been assessed as poor. Witnesses, including Professor McGuire, also raised questions about the effectiveness of relationships between internal (departmental) and external (independent academic and other) research.

306. The Scottish Government takes a different approach to the use of external research which is unique in the UK. It works closely with the Scottish Centre for Crime and Justice Research (SCCJR), which brings together cross-university consortia, comprising multi-disciplinary academics, to inform policy.

**Box 13**

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511 Q 102

512 Qq 65, 76

513 Q 113

### *The Scottish Centre for Crime and Justice Research*

The SCCJR is jointly funded for four years (until 2010) by the Scottish Higher Education Funding Council and the Scottish Executive, supported by commitments from the partner universities - Glasgow, Stirling, Edinburgh, and Glasgow Caledonian Universities. The Centre also works in alliance with a wider consortium of individuals and groups in Strathclyde, Aberdeen, Dundee and St Andrew's Universities and has worked in partnership with a range of higher education institutions and research centres. Such an approach was made possible after the Funding Council took the decision to pool resources for particular disciplines, including criminology.

The SCCJR has three inter-related aims:

- to improve the criminal justice research infrastructure and expand research capacity in Scottish Higher Education Institutions
- to carry out an integrated programme of high quality criminal justice research which is relevant to Scotland's criminal justice needs.
- to make informed conceptual, methodological, and analytical contributions to theoretical thinking and policy development in criminal justice in Scotland and internationally, in order to achieve international recognition for Scottish research.

Kenny MacAskill MSP, Justice Minister, Scottish Government, and Michelle Burman, co-director of the Centre, told us that these arrangements were beneficial to both the Scottish Government and the universities in developing a better correlation between what the policy-makers need to know and what the academics are researching. The Scottish Government and the Centre have developed a sustainable and constructive relationship, for example, the SCCJR provided independent academic support to the Scottish Prisons Commission team. The Centre has also made use of repositories of national data which were not previously exploited. Dr Chitty highlighted the value of closer relationships between external researchers and policy-makers in England and Wales which she agreed was mutually beneficial.<sup>514</sup>

307. We heard other examples of the value of closer relationships between academics and policy-makers on criminal justice. In Germany, at the Criminological Research institute of Lower Saxony, Professor Christian Pfeiffer, a prominent criminal justice figure, wrote to politicians, media editors and church leaders that explained what research and statistics had to say on the factors which contributed to the need for further prison building in Germany. As a result of the ensuing policy debate the legislature stopped its prison building programme shortly thereafter.<sup>515</sup> This example also highlights the value of having an 'independent voice' to inform both the media and politicians of the relative merits of

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514 Q 84

515 Q 602



various policies, which could dilute calls for constant legislative change. The weight of independent research evidence has similarly driven reform in Canada. A report commissioned by the Solicitor General in Canada on the relationship between lengths of prison sentences and the likelihood of recidivism contributed to a change in policy which led to a significant reduction in the Canadian prison in recent years, reversing massive growth, as we noted above.<sup>516</sup>

**308. We recommend that the Government gives consideration to the most appropriate means of drawing together existing research with a view to devising a transparent and coherent model for directing resources more effectively to prevent further expansion of the criminal justice system and increases in costs.** While our preference would be to establish an independent national crime reduction centre of excellence, we acknowledge that this may not be immediately feasible in the current economic climate. Alternative shorter-term mechanisms could include: establishing a multi-disciplinary team of internal researchers from across Government; drawing on the expertise of a consortium, or regional consortia, of external academics similar to the Scottish Centre for Crime and Justice Research; or, an enhanced role for the correctional services panel which currently advises NOMS.

### *Stronger relationships between research and practice*

309. Professor Jonathan Shepherd advocated offender management schools and institutes in research intensive universities, similar to the police school model, and argued that such institutions can be cost-neutral.<sup>517</sup> Mr Scott supported the need for a much better fit between the concerns of frontline practice and academic inquiry and more active research into what is effective.<sup>518</sup> Closer relationships may increase the number and quality of interventions to reduce crime. Professor Cynthia McDougall drew our attention to the joint work of probation and magistrates in Durham and the University of York to test the application of cost-beneficial community sentencing options.<sup>519</sup> The cost-effectiveness of diversion from the criminal justice system provided by community, rather than criminal justice, agencies is also being explored.

310. We consider that regional and local partnerships would benefit from closer relationships with local academic institutions in designing appropriate programmes to meet locally identified needs.

### *Building capacity for policy-makers to use evidence*

311. In England and Wales decisions about the allocation of resources are made at local level based on locally determined plans. Local partnerships therefore also need to understand how evidence of effective practice could be used to devise appropriate products to address local priorities. There are mechanisms for central support to be provided to local

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516 Q 101

517 Q 334 See also Shepherd, J. "The production and management of evidence for public service reform", *Evidence and Policy* vol. 3, no.2, 2007, pp231–251.

518 Q 446

519 Ev 150. For example, Durham probation has developed shorter but more streamlined interventions and a citizenship programme, which encourages more integration with community support agencies.

strategic partnerships, crime and disorder reduction partnerships and local criminal justice boards. However, while these support bodies share best practice they neither work together coherently nor provide the level of expertise necessary to advise local areas on options for justice reinvestment. Although the Home Office has established an Effective Practice Database for CDRPs,<sup>520</sup> allowing officials to search for effective practice to assist them in improving the actions taken to reduce crime and disorder, this is not supported by a wider infrastructure. Initiatives taken by other Government departments, like the Narrowing the Gap programme described in box 14, can support this.

**Box 14**

*Narrowing the Gap for young people*

The Department for Children, Schools and Families has funded the 'Narrowing the Gap' programme, hosted by the Local Government Association, with a small core team of experts in the field supported by a reference group of stakeholders, including the Social Care Institute for Excellence. This aims to use an evidence-based approach to understand what action, if applied universally and pursued rigorously, would make a significant impact on the outcomes of vulnerable groups of children and young people, including young offenders. The planned outcome is the production of a digest of emerging practices.<sup>521</sup> The department also launched a Centre of Excellence and Outcomes in Children's and Young People's Services in July 2008 to examine what needs to be done nationally, regionally and locally to create sustainable links between agencies that support changes in outcomes, and how evidence can inform this.<sup>522</sup>

**312. If local efforts to reallocate resources are to be effective in reducing the national costs of custody, local plans must be linked to a national strategy and subject to a quality assurance process to couple the results of mapping with the use of research on effective practice to determine the most cost-effective ways of meeting priorities.** We are encouraged that the Home Office has established an Effective Practice Database for crime and disorder reduction partnerships (CDRPs) and we trust that this will include robust assessments of costs and benefits to enable sound investment decisions to reduce re-offending as well as prevent crime and disorder more broadly. A justice reinvestment approach requires a broader perspective to be taken to ensure that the planning processes of the various local partnerships are consistent with each other. A 'checks and balances' mechanism should be found similar to the Narrowing the Gap programme to enable the national centre of excellence or other hub of expertise to provide assistance to local partnerships in developing their plans. **The national centre should undertake monitoring to: ensure that local plans are based on robust evidence of effective and cost-beneficial practice; determine whether progress is being made in delivering results; and advise partnerships on adapting their plans if the desired outcomes are not being achieved.**

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520 <http://www.crimereduction.homeoffice.gov.uk/>

521 Department for Children, Schools and Families, *Better Outcomes for Children and Young People—From Talk to Action*, 2008

522 *Ibid.*

### Stage 3: Quantify savings and reinvest in select high-stakes communities

313. In the US, policy analysts at the Council of State Government's Justice Center work with state policymakers to determine the level of costs which could be saved or avoided by adopting some or all of the options identified for reducing the use of imprisonment. Plans are then developed to reallocate a portion of the calculated savings in improving the coordination of services in the areas where the majority of people released from custody return to. This step relies on:

- an understanding of how resources are directed at national and local level to calculate where savings can be made, and
- a mechanism for reallocating the potential cost savings to those responsible for commissioning and delivering services at local level.

#### *Shifting resources to facilitate reinvestment at national level*

314. While it makes sense to develop a rational, coherent policy it may be difficult to move to a new longer-term strategy when resources are being absorbed by the current overcrowding and new provision for the predicted expansion of the system. Many of our witnesses were sceptical of the potential for re-allocating resources and in this sense it appears that criminal justice policy may be caught in a catch-22 situation.

315. Both Lord Dubs and Mr Aitken believed that the Government's current financial commitment to the prison building programme almost certainly rules out significant investment in alternatives.<sup>523</sup> Their message was echoed in our e-consultation, where one comment began: "Of course it is better to spend money on prevention and rehabilitation than more punishment. The trouble is that we seem pretty powerless in the face of growing prison numbers to do much by way of starting to reduce the demand for prison places, so the question seems rather redundant."<sup>524</sup> The Justice Secretary explained that while there is evidence on what works, differences in re-offending rates are slight, and his imperative was: "for all sorts of reasons, not least a tougher climate against crime, a desire by Parliament and the public and sentencers to ensure that more and more serious and violent offenders were sent to jail and sent to jail for longer, which made it almost a certainty that we would have to increase the prison population".<sup>525</sup> We discuss the quality of the evidence for alternative policies above.

316. There was agreement from our witnesses that it does make sense to shift resources, however gradually, to invest in preventative programmes and alternative sentences, rather than expanding the use of custody, unless it is genuinely needed for public protection. The then Director of Probation, Roger Hill suggested that there would need to be a policy direction to reduce the prison population and it would then be possible to reinvest the money saved by creating this headroom.<sup>526</sup> Ms Lyon reminded us that former Lord Chief

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523 Q 517

524 Matt K, see Annex 4.

525 Q 36

526 Q 278; See also Qq 211, 429 [Mr Thomas, Mr Tidball]

Justice Lord Woolf recommended that the prison population could be safely capped at 40,000.<sup>527</sup> Legislatures in Finland, Germany, Canada and some US states have made deliberate decisions to reduce the prison population and the ensuing costs of penal expansion by introducing alternative policies and to move away from taking criminal justice policy decisions in response to high profile cases. We see no reason why the same is not possible in England and Wales, thus averting the need for the scale of the prison building programme which is currently proposed. Justice reinvestment approaches typically calculate these cost savings and allocate a proportion of the savings to initiatives to reduce the prison population. This may require a longer-term perspective to be taken to savings. As we noted above, while there are considerable immediate costs for the earlier parts of the prison capacity programme, much of the new estate expansion is being financed by PFI so the costs to the Government are spread over several decades.

317. Assuming it were possible to reduce the prison population, it would also take some time to release additional funds for reinvestment from the existing prison estate. Policy Exchange raised the possibility of releasing funding to modernise (and expand) the prison estate by selling prison sites to property developers.<sup>528</sup> However, The Justice Secretary told us that simply closing a prison could be done very rapidly if there was a surfeit of accommodation but realising the assets would take longer. He cautioned that the amount of capital which could be released may in any case be limited: restrictive covenants exist on some land grants which give former owners the right to buy land back at very low cost.<sup>529</sup> Ms Roy made similar observations about the scale of reductions in youth custody that would be required to release funds by closing youth custodial establishments.<sup>530</sup>

318. However, even if it were possible to release funds from the prison estate, there is a systemic weakness in obstacles to moving money between Government departments to develop a more coherent approach to reducing re-offending. Some witnesses argued for a radical shift in resources, especially at local level but also at national level.<sup>531</sup> Lord Dubs lamented the structural barriers which currently prevent Government from saying that spending on prisons will be cut and the money put into other departments' budgets to provide support for people who would go into prison.<sup>532</sup> Alan Campbell MP, Parliamentary Under-Secretary of State, Home Office, argued that there were already mechanisms to move resources between central departments where appropriate.<sup>533</sup> For this reason he did not accept that a 'seismic shift' in resources was required.<sup>534</sup> However the weight of evidence we heard suggested that this shift has not happened sufficiently either to reduce the costs of the criminal justice system or ensure that other departments meet their obligations towards reducing re-offending (see annex 2).

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527 Q 166. At the time of the Woolf report, achieving a prison population of 40,000 would have required reducing the population by one-third.

528 Ev 253

529 Q 37

530 Q 210

531 Q 199, [Ms Done], Ev 288ff [Revolving Doors Agency]

532 Q 517

533 Qq 587-588

534 Q 600

319. The Revolving Doors Agency proposed that departments should have powers to invest in other areas via a new commissioning model.<sup>535</sup> For example, as the Ministry of Justice has overall responsibility for reducing re-offending, under a long-term strategy its resources (for prison and probation) would be shifted to fund initiatives to reduce re-offending external to the department. When we challenged the Secretary of State on whether money being spent on prison places could be spent on measures to reduce offending instead he responded that “we need more prison places, on any realistic analysis of demand, over the next ten years.”<sup>536</sup> However, he acknowledged that there is a point when it is no longer possible to release additional resources through efficiency savings and it becomes necessary to put more money into the system: “I say to each part of the public services for which I am responsible, the more you show me you are both efficient and effective and doing better, the stronger my case when it comes to getting money out of the Treasury.”<sup>537</sup> He also conceded that it makes sense to build into the system an acknowledgement that resources are restrained.<sup>538</sup>

320. Former Treasury minister and ex-prisoner, Jonathan Aitken, accepted that the Treasury is capable of being responsive to “solidly based new ideas” which show costs of measures to deal with prisoners and ex-prisoners and reiterated that there are convincing arguments that rehabilitation is cost-effective.<sup>539</sup> Professor Loader highlighted the potential value of “playing the Treasury card” in shifting the direction of policy i.e. identifying that the use of prison is expensive, wasteful, counter-productive, and fundamentally unsustainable especially in times of recession.<sup>540</sup>

**321. The prison population could be safely capped at current levels and then reduced over a specified period to a safe and manageable level likely to be about two thirds of the current population (taking Lord Woolf’s 1991 proposal as a model and bearing in mind comparable figures from other Western European countries).**

322. There is potential for moving resources from a significant part of the prison building programme if the numbers entering the system could be reduced by a sufficient amount before the new places are completed in 2014. Community programmes are much faster to implement than prison construction. There is therefore approximately 5 years to make a serious effort to genuinely reducing re-offending by reforming offenders rather than simply containing them and to find more effective ways of preventing people from entering the criminal justice system in the first place. Washington State Institute for Public Policy created a model which would break even in its costs within 5 years and yield considerable cost savings thereafter.<sup>541</sup> Justice reinvestment approaches implemented in Kansas since 2004 have produced savings over a similar period. The state has closed three small prisons, and a cell block in a fourth, generating annual savings of \$4 million and avoiding \$500 million of expenditure which would have been required to finance a new

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535 Ev 288

536 Q 34

537 Q 46

538 Q 57

539 Q 516

540 Q 484

541 Aos, S. et al, *Evidence-based public policy options to reduce future prison construction, criminal justice costs, and crime rates*, Washington State, June 2006.

prison had the prison population continued to grow at the rate it had been before the programme began.<sup>542</sup>

**323. It will take time to realise both the assets from the custodial estate and savings from the prison expansion programme, the payments for some of which are spread over 30 years. Initial investment is therefore required as part of an explicit attempt to reduce prison population. The Ministry of Justice cannot take forward such a policy on its own. It requires a higher level Government commitment and a combination of short-term and long-term strategies. We recommend that a business case is made to the Treasury for spending a significant part of resources which are currently earmarked for the new prison building programme on a programme of justice reinvestment.**

## Existing mechanisms for reallocating resources at local level

### *Performance incentives*

#### *The alignment and pooling of budgets*

324. A growing proportion of government funding streams, including the crime and disorder reduction budget, are now combined into a single area-based grant to support the improvement targets agreed by local strategic partners.<sup>543</sup> However, local strategic partnerships do not have money of their own; decisions about spending are still made by their component agencies, each with its own separate commissioning process. Furthermore, although funding is no longer ring-fenced for particular purposes these grants comprise pre-existing funds that are already committed to existing service provision,<sup>544</sup> and, as we noted above, agencies still tend to work in their own silos to some extent.

325. Many witnesses argued that the movement of resources through existing performance frameworks, and the local area agreement in particular, would require further development to facilitate justice reinvestment approaches. Jeremy Beecham, vice-chair of the Local Government Association, explained that existing budgets would need to be pooled to bring existing financial structures for different organisations such as local government and criminal justice closer together.<sup>545</sup> Amelia Cookson, of the Local Government Information Unit, told us: “we are on the cusp of a fundamental shift to move resources into local area agreements that could suddenly start to make dramatic decisions about moving resources in a much more open-ended way than we have seen before.”<sup>546</sup> She proposed that a single pot of money be introduced to benefit the entire community by funding a range of

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542 Statement by Secretary Roger Werholtz, Kansas Department of Corrections to the Commerce, Justice, Science, and Related Agencies Appropriations Subcommittee, U.S. House of Representatives, April 1, 2009. The prison population shrank by 2.5%; breach of parole fell by 48%; and, post-release reconviction rates reduced by 35%.

543 Department for Communities and Local Government, *Strong and Prosperous Communities*, Vol II, Cm 6939-II, 2006

544 For example the Home Office funding for the Stronger Safer Communities and Young People’s Substance Misuse programmes are now directed through the area-based grant <http://www.communities.gov.uk>

545 Q 22

546 Q 454



interventions to reduce crime which are targeted on addressing exclusion in particular areas.<sup>547</sup>

### *Better integrated commissioning arrangements*

326. Alan Campbell MP, Home Office Minister, emphasised the role of local level partnerships in enabling the joint commissioning of services to achieve joint outcomes.<sup>548</sup> Mr Hadjipavlou, Ministry of Justice, suggested that achieving better outcomes in commissioning was about the integration and connection of services to meet the needs of individuals.<sup>549</sup> He conceded that this required more thought on the part of Government departments:

[...] one of the major challenges which we do face is joining up services, and if there is a frustration between services at the moment it is linked to the way that partnerships work and the weaker governance arrangements generally [...] I would agree that one of the emphases that we have got to look at is the extent to which we can join up services and certainly pooling the budgets of one sort or another are a way of gaining engagement.<sup>550</sup>

327. However, as we noted above, there is a lack of strategic activity aimed at addressing the longer-term reduction of crime or re-offending at local level. One of the drivers for better integrated commissioning between health and social care is the Local Government and Public Involvement in Health Act 2007. This Act places a duty on primary care trusts and local authorities to develop a joint strategic needs assessment using data on inequalities experienced by specific groups in the local population and assessments of their future health, care and well-being needs. This assessment informs the long-term strategic direction of service delivery to meet identified needs.<sup>551</sup> Sustainable communities strategies should also take a much longer-term approach to planning for local needs, based on evidence and forecasts of economic, social and environmental trends. The Howard League for Penal Reform believed that there was a potential opportunity to link crime and disorder reduction partnerships with healthy city partnerships.<sup>552</sup> These are promoted by the NHS and bring together representatives from city council, neighbourhoods, community and voluntary sector, health, business and academic sectors.

**328. There is an urgent need to develop mechanisms for a longer-term approach to planning for crime reduction, including reducing re-offending, at the local level. We consider that a joint strategic needs assessment approach, similar to that required of primary care trusts and local authorities, should be applied to crime reduction and the reduction of re-offending. Justice mapping could support this.**

329. Richard Kramer, of the Centre for Excellence in Connected Care, agreed that existing commissioning arrangements would provide sufficient incentive for joining up services to

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547 Q 464

548 Q 580

549 Qq 320–321

550 Q 313

551 Local Government and Public Involvement in Health Act 2007, section 116

552 Ev 164



reduce re-offending if they were better connected with health and social care than at present. He explained, however, that there needed to be greater flexibility of funding arrangements between community and criminal justice interventions.<sup>553</sup> The Centre for Excellence in Connected Care works with commissioners to chart the flow of resources in health, housing and social care and model the consequences of existing commissioning decisions, which tend to be taken in silos, and the potential cost-benefits of integrating services together.<sup>554</sup> However, because of the way the system is currently funded, this model could only be extended to include the police and probation.

330. Probation areas and trusts are an anomaly in local structures: unlike most local commissioners they must work with regional commissioners (Directors of Offender Management) to determine the mix of services which they will deliver at local level.<sup>555</sup> The Integrated Offender Management pilots suggest that it is possible for probation to be involved in the creative use of resources within local partnerships but as we noted above these are criminal justice based projects. It may be more difficult for probation to contribute to budgets which may be spent outside the criminal justice system.

331. Witnesses discussed the need for probation to have flexibility in their funding to contribute to local solutions for local problems. The Probation Boards' Association suggested that trusts need the freedom to be entrepreneurial and innovative.<sup>556</sup> Rt Hon David Hanson MP, Home Office, spoke of a need for probation trusts to work better at district level. He explained that the trust status "gives much more local flexibility, much more local responsiveness and freedom from the centre while still working in a framework that we are setting as ministers to undertake much more flexibly things at a local level and to determine their resources in a much more local way."<sup>557</sup> However, few probation areas have met the criteria to become trusts in anticipation of full roll-out by March 2010. It will therefore be some time before they are able to contribute fully to integrated commissioning arrangements.

**332. It is worrying that so few probation areas have become trusts in anticipation of the Government's aspiration for all areas to have done so by March 2010. We are concerned that the capacity of probation areas to make the transition to trusts is being undermined by the severe scarcity of resources for them to perform even their most basic functions. We envisage that these trusts will take some time to embed and we expect the Government to take this into account in movement towards opening probation to competition.**

**333. We do not believe that performance incentives alone will result in the reallocation of resources at a scale and pace sufficient to prevent further prison building.** Although there is undoubtedly considerable scope for reinvestment between agencies, there are significant variations in the extent to which local partners have aligned or pooled their

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553 Qq 357-358

554 See Q 351 and Ev 300-304

555 National Offender Management Service, *The National Commissioning and Partnerships Framework 2008-09*, February 2008

556 Ev 263

557 Q 594

budgets to facilitate integrated commissioning. This is complicated by the fact that prisons do not fit neatly into devolved local commissioning structures. It is relatively early days in the embedding of local area agreements before they can become the mechanism to direct real resources. **If the Government is to realise its aim of integrated local commissioning in sufficient time to prevent the further escalation of criminal justice costs, there is an urgent need for further national direction.** The Government should clarify roles and the methodology for determining and meeting partnership priorities, including the expected flow of resources between their constituent agencies. **The relevant agencies and partnerships would benefit from their responsibilities and shared concerns being collated and published together in a single guidance document. This should be published as soon as possible after probation becomes a responsible authority in crime and disorder reduction partnerships following the passage of the Policing and Crime Bill.**

### *Lack of financial incentives at local level*

334. Configuring local structures to facilitate justice reinvestment approaches relies on more than building stronger relationships between agencies and better integration of priorities through reforms to CDRPs and LCJBs and the introduction of local area agreements. A Local Government Association survey of 176 local authorities, conducted in 2007, looked at the barriers to effectively reduce re-offending at local level. Although approximately half of local authorities identified both a lack of clear responsibilities and a lack of communication between agencies, the most common barrier to reducing re-offending, noted by over three-quarters of local authorities, was funding deficiencies.<sup>558</sup>

335. Although there is now a stronger performance incentive to move money, there is no financial incentive for local agencies to begin to shift resources to reduce the financial burden on the criminal justice system. Discussing the difficulties of funding sustainable projects, Catherine Hennessy, of the Revolving Doors Agency, quoted a local councillor who told her “if we succeed in keeping people out of prison we don’t get that money; the prison saves the money”.<sup>559</sup> Local agencies will find themselves with an additional costs outlay if they meet their responsibilities to reduce re-offending or devise schemes to divert local people from the criminal justice system.

336. There was considerable consensus from our witnesses, that the national funding of prison places for both adults and young people mean that prison essentially operates as a ‘free good’.<sup>560</sup> As a result there is little financial, or other, incentive either for national departments or local agencies, in particular health and local government, to make provision available to address the needs of offenders; prison hence becomes a substitute for community provision, with significant cost implications. Ms Frances Done, of the Youth Justice Board, told us that engagement with the Department for Communities and Local Government and Department of Health represented the “biggest challenge” but was

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558 Ev 181

559 Q 350

560 See for example Ev165–166, 180, 251, 261–262, 290, 308ff [Howard League for Penal Reform, LGA/Clinks, Partnerships in Care, Prison Reform Trust, Revolving Doors Agency, Youth Justice Board] Q 528 Jonathan Aitken

supportive of the value of the new performance framework in making this easier to evidence.<sup>561</sup>

337. The question of where the costs and benefits are realised, and the incentives or otherwise this creates, goes right to the heart of the justice reinvestment argument. While the current disincentive may be partly offset by a better understanding of the current costs of re-offending to local agencies, and the new performance frameworks, it is not the whole answer. Even those witnesses who were most positive about the potential of local reforms to deliver justice reinvestment believed that the movement of resources represented the biggest obstacle to success. They raised questions over whether the scale of reinvestment which must take place to avert further growth in prison and probation expenditure could be achieved given the current state of progress with the alignment and pooling of budgets.

338. There is potential for both re-prioritising money from the criminal justice system to mainstream community agencies and vice versa, but these resources would not be released at the same time. The costs and benefits of reducing imprisonment are not borne in the same place. **There needs to be a direct financial incentive for local agencies to spend money in ways which will reduce prison numbers.** In order for the public to have confidence in such a re-directing of resources, it will be essential for the benefit of reducing prison places to be experienced by local communities or local community agencies. There is no clear model for commissioning joint services to reduce crime and re-offending, or for changing the flow of resources inside and outside the criminal justice system, which would enable savings to be realised quickly and transparently. It has therefore been difficult for us to identify an obvious model for justice reinvestment which shows how options for investment can be agreed, how they would be funded and how savings will be generated by reallocating resources through existing mechanisms unless significant changes are made.

### *Devolution of funding to local authorities*

339. Some witnesses argued for the devolution of criminal justice resources through local authorities. Jon Gamble, of the Learning and Skills Council, and Jonathan Aitken believed that giving budgetary control of the prison budget to local authorities would help achieve better outcomes by providing a direct financial incentive to reduce the use of custody.<sup>562</sup> The LGA and Clinks agreed that justice reinvestment could address local concerns by giving local authorities the budget and management responsibility for criminal justice.<sup>563</sup> More radically, the International Centre for Prison Studies proposed that prison and criminal justice costs could be met from local taxes and the revenue from fines.<sup>564</sup>

340. The Youth Justice Board expressed interest in means of exploring financial as well as performance-related rewards for reducing the use of custody.<sup>565</sup> John Coughlan, former president of the Association of Directors of Children's Services, agreed that additional

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561 Q 210

562 Qq 412, 530 [Mr Gamble, Mr Aitken]

563 Ev 180

564 Ev 169

565 Ev 309–310

levers were required to make mainstream agencies spend money on young offenders more quickly and more systematically. He did not, however, support the full devolution of the custody budget.<sup>566</sup>

341. Juliet Lyon, from the Prison Reform Trust, highlighted disparities in the use of youth custody by area which cannot be explained by differences in patterns of offending.<sup>567</sup> This was illustrated by the Policy Exchange. In the London borough of Lambeth 1 in 367 young people were in custody during 2008, costing the Youth Justice Board £5.2m. By contrast 1 in 1894 young people were in custody in the borough of Enfield at a lesser cost of £1.4m. Newcastle had the same proportion of young people in custody as Enfield, whereas 1 in 550 young people were sentenced to custody in Manchester, equating to a cost of £7.8m.<sup>568</sup> Similar disparities exist in relation to the use of custody for adults.

342. If effort is concentrated on reducing the use of custody in those areas where current use is disproportionately high, there is scope for reducing costs quite considerably. For example, if the custody budget was devolved and local authorities were required to meet some or all of the cost of juveniles sentenced to custody, they might work harder to develop preventive programmes or to improve the availability of community-based alternatives to custody for sentencers. Children's Trusts or youth offending teams could be given a sum based on the costs of average use of custody over the last three years. They would then be charged for using custody in the following year but could keep any savings. This form of justice reinvestment has proved successful in reducing juvenile incarceration in Oregon USA.

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566 Q 223

567 Q 180

568 Policy Exchange, *Less Crime, Lower Costs: : Implementing effective early crime reduction programmes in England and Wales*, May 2009

## Box 15

*Justice reinvestment in Oregon*

The Deschutes County Community Youth Investment programme in Oregon is well documented as an excellent example of justice reinvestment. In 1997 the legislature authorised the six-year demonstration project so that Deschutes county could assume local management responsibility for some young offenders to reduce its reliance on the state's custody system. In exchange, at the end of each fiscal year the state agreed to provide resources equal to the daily cost of incarceration in the state system for each young person moved from state custody into a local secure residential centre which also housed most of the county's youth justice services. Any savings could then be reinvested in community youth programmes and early intervention programmes. While the programme was intended to reduce the county's reliance on the state's custody system, juveniles convicted of certain violent offences were deemed ineligible to participate. A 2002 audit found that while average daily costs to provide services to the young people were higher for the county, they spent less time in detention and aftercare, so the average cost per case was 26 per cent less than the state's average cost. The county also achieved a 75% reduction in its use of state custody. Neither the county nor the state system demonstrated a clear advantage over the other in terms of preventing young people from re-offending.<sup>569</sup> The project continued to be state funded until 2003 and was then funded by local government but has now ceased operation.

343. We heard that similar proposals have been developed for some elements of policing. Both the Local Government Information Unit (LGIU) and New Local Government Network have called for greater devolution in criminal justice by enabling councils to commission police services.<sup>570</sup> A workable model for doing something similar with the prison budget is less straightforward, although several organisations have recently undertaken work on this. The possibility of devolving the custody budget to 'clusters' of local authorities was mooted by Policy Exchange.<sup>571</sup> The LGIU has developed a commissioning framework which could deliver justice reinvestment by diverting the cost of imprisonment to local authorities as part of local strategic partnerships. Amelia Cookson, of the Local Government Information Unit, advised us that this could be put in place relatively easily.<sup>572</sup>

344. The Youth Justice Board has been considering the potential for developing a local authority purchasing system for custodial places, but we heard that there were several practical difficulties in devolving youth custody budgets.<sup>573</sup> We heard that the Board

569 Oregon Secretary of State, "Deschutes County Delinquent Youth Demonstration Project", *Secretary of State Audit Report No. 2002-29* 29 June 2002

570 See Local Government Information Unit, *Getting to the Heart of Local Accountability*, 2008; New Local Government Network, *Your police or mine? Delivering local police leadership*, November 2007

571 Policy Exchange, *Less Crime, Lower Costs: Implementing effective early crime reduction programmes in England and Wales*, May 2009, p 12

572 Q 454ff; See also All Party Parliamentary Local Government Group report *Primary Justice: an inquiry into justice in local communities*, July 2009

573 Q 204

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believes that these difficulties can be overcome and it has written to Ministers requesting an informal consultation on the possibility.<sup>574</sup> The pros and cons of such an approach have been the subject of several recent reports,<sup>575</sup> all have concluded that it warrants further exploration, although the Howard League raised concerns that it may cost more, drive down quality and standards and impact adversely on child welfare budgets.

345. Local authorities have understandable concerns about costs being transferred to them in this way. The LGIU cautioned us that local authorities would not want devolved custody budgets unless there was some initial pump-priming of money to enable them to invest substantially in a range of alternatives to custody.<sup>576</sup> John Coughlan, former president of the Association of Directors of Children's Services, identified a further barrier, namely that local authorities do not have control over the sentencing, which is a matter for the courts.<sup>577</sup> We consider this barrier in the following chapter. Mike Thomas was supportive of the pump-priming approach, but suggested that, as an alternative youth offending teams, as statutory partnerships, could be given this money to reduce the use of custody for young people.<sup>578</sup>

346. We discussed the dilemma of the devolution of budgets with The Justice Secretary who agreed that it would be difficult to achieve, although he felt that elements of police budgets could potentially be devolved to local authorities at a district level for community safety.<sup>579</sup> Rt Hon David Hanson MP, the then Prisons Minister, believed that the direction of cross-departmental resources warranted consideration: "we probably need to improve our co-ordination [...] and improve our silos because we are dealing with people at different stages of their life and through different parts of government without necessarily looking at the whole justice reinvestment argument".<sup>580</sup>

### ***Creating financial incentives for reinvestment***

347. Several witnesses, including Nacro argued that there must be financial as well as performance incentives to reduce the use of custody.<sup>581</sup> David Scott, then chair of the Probation Chiefs' Association, believed that there had to be more investment to make local networks operate and to pay more attention to enablers centrally so that they deliver effectively.<sup>582</sup> Catherine Hennessey, Director of Operations, Revolving Doors Agency, advocated a "mechanism whereby local areas which respond to address the needs of

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574 Ev 319

575 Howard League for Penal Reform, *To devolve or not to devolve?*, London, 2009; Policy Exchange, *Arrested Development: reducing the number of young people in custody while reducing crime*, July 2009; Standing Committee for Youth Justice, *Funding of custody for children: devolving the budget*, July 2009; Ev 310 [YJB]

576 Q 465

577 Q 218

578 Q 217

579 Q 49

580 Q 596

581 Ev 233; See also Qq 206, 230 [Ms Done, Mr Reitemeir]

582 Q 432

offenders or particular groups of offenders can be rewarded for their effort by leveraging resources from the criminal justice system”.<sup>583</sup>

348. Chris Leslie, of the New Local Government Network, also advocated local rewards for reducing re-offending:

It also requires, in my view, a lot of agencies that are currently accountable in their little vertical silos to stop being so territorial about things, to join together and to actually trust some local leaders to say, “If you manage to reduce that re-offending, we will not only be able to credit you with that success in having led that reduction, but we will reward you and incentivise you to do it further with a specific amount of money.” That requires a lot of trust with the public sector that does not often exist.<sup>584</sup>

He proposed establishing pilots of various different mechanisms for the reallocation of resources.<sup>585</sup> Jonathan Aitken also proposed testing reinvestment through pilot schemes and called for a national model which could be rolled out locally.<sup>586</sup>

349. The Local Government Association and Clinks advocated giving savings in the penal budget to local authorities or enabling costs to be ‘reclaimed’ after use of custody reduced to create additional encouragement for local communities to improve local levels of re-offending and to prevent the unnecessary use of custody.<sup>587</sup> They provided an explanation of how this could be achieved in their report *Going Straight*:

Any initiatives to restore confidence in the effectiveness of fines as an alternative to prison should also consider payment of fines to a local ‘community chest’ in the area (rather than to HM Treasury) where the crime has been committed. This would demonstrate immediate reparation to the community and the chest could be a fund administered by the CDRP [Crime and Disorder reduction Partnership] in conjunction with local people for crime reduction measures.<sup>588</sup>

350. The Young Foundation has proposed an alternative idea, suggesting that a “justice dividend” could be created for local communities to share the savings from reducing the use of custody.<sup>589</sup> Rushanara Ali, from the Young Foundation, explained this could empower communities to change their local circumstances.<sup>590</sup> Frances Crook, of the Howard League, agreed that local communities should benefit directly from any reinvestment dividend:

If you are to reorganise and restructure, release money and get public support for quite a radical idea local people have to see that they will get something out of it too.

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583 Q 356

584 Q 277

585 Q 278

586 Qq 527–529 [Mr Aitken]

587 Ev 180

588 Local Government Association, *Going Straight*, 2006

589 Young Foundation, *Escape from the Titanic*, 2007

590 Q 273



Whilst it is absolutely right that you should point services at particular people who are likely to be or are being troublesome you must also benefit the whole community because at the moment there is no public confidence in the criminal justice system. Nobody sees it; it is all being retracted and taken away from local communities. You have to give justice and resources back to local communities.<sup>591</sup>

351. The Young Foundation and Social Finance have further developed the idea of justice dividends. Social impact bonds would allow social investment to be made (by commercial investors, foundations, local authorities or other commissioners) to finance a programme to address a clearly defined need in a specified geographic area on the basis that government will make payments to the investors linked to outcomes achieved.<sup>592</sup>

**352. There is a strong case for exploring greater devolution of custodial budgets, and we are encouraged that this is currently being given serious consideration with respect to youth justice. We are not convinced that simply making local authorities pay for custodial places represents the most constructive means of redistributing resources. We do not believe that this will be either possible or acceptable unless some money is invested up-front to enable local authorities to reduce the use of custody in their area. There is support for local partners to share money and invest in jointly funded services if there is some initial pump-priming. Devolution of custodial budgets must therefore be viewed as a longer-term goal. Such a model would also require much greater engagement between local authorities and the courts but this may be possible if the community justice court model were to be adopted universally.**

**353. We believe that the movement of resources could be achieved much more quickly, bringing down spending on imprisonment more dramatically, if local partnerships were given an added financial incentive to reduce the use of custody as a proportion of the 'expected' rate, based on the characteristics of local offenders and the sentencing trends of the local courts. We consider that the use of social impact bonds— as a means of reducing crime and re-offending in particular areas by particular groups, including women, young adults, persistent offenders and those with substance misuse or mental health problems—warrants serious consideration by Government.**

### *A national justice reinvestment fund*

354. There are precedents for pooling resources for crime reduction at the national level which show that it is possible to use national funds as an incentive for the constituent agencies of local partnerships to take joint ownership of local problems. For example, when crime and disorder reduction partnerships were established in 1998, a central fund was created to kick-start their work, with shared ownership across the Home Office, the Lord Chancellor's Department, the Department of Health and, the Department for Education and Skills and Communities.

355. Similar funds have been used to develop a neighbourhood approach to reducing problems in areas of high deprivation. Targeted approaches to addressing deprivation by

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591 Q 468

592 Social Finance, *Social Impact Bonds: Rethinking finance for social outcomes*, August 2009; Murray, R. et al, *Social Venturing*, July 2009

injecting significant levels of funding have been shown to result in reductions in crime. For example, 39 New Deal for Communities Partnerships received a total of £2bn over 10 years to cut crime, improve educational achievement and boost job opportunities in deprived communities. A recent study looked at the impact of these partnerships on their local areas over their first six years. It found that local areas have benefited from both reduced crime and reduced fear of crime.<sup>593</sup> The European Social Fund has also focused resources geographically to tackle re-offending. These initiatives indicate the potential for reductions in crime from approaches which specifically aim to reduce crime.<sup>594</sup>

356. We also heard criticisms of these initiatives. The Policy Exchange, in its report *Less Crime, Lower Costs*, concluded that the Crime Reduction Programme funding did not produce the desired results because it was linked to nationally prioritised initiatives which may not have reflected local priorities. Furthermore, such initiatives were not implemented in line with effective practice and they faced the additional problem of competing partner priorities.<sup>595</sup> There is persuasive evidence that local partnerships are now more willing to pool resources to meet shared local priorities by devising more flexible services. The local area agreement partnership arrangements may therefore provide a better framework for implementing a new crime reduction programme in targeted areas. We noted above the promising examples of integrated offender management for offenders in contact with the criminal justice system. However, such approaches have been initiated by national pilot funding. We also heard several examples of the benefits of wider cross-departmental initiatives outside the criminal justice system through the Adults Facing Chronic Exclusion (ACE) projects described in the box below.<sup>596</sup>

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593 *Minister confirms new deal for communities funding*, Communities and Neighbourhoods Press Release, 1 July 2008

594 Qq 409, 410 [Mr Stewart, Mr Gamble]

595 Policy Exchange, *Less Crime, Lower Costs: implementing effective early crime reduction programmes in England and Wales*, May 2009

596 Qq 347-358 [Mr Kramer, Mr Rinaldi, Ms Hennessy]. See also [http://www.cabinetoffice.gov.uk/social\\_exclusion\\_task\\_force/adults.aspx](http://www.cabinetoffice.gov.uk/social_exclusion_task_force/adults.aspx)

Box 16

*Case studies: Adults Facing Chronic Exclusion Pathfinders*

The Adults Facing Chronic Exclusion (ACE) programme was established by the Cabinet Office in 2006. It shows how a strategic focus on long-term outcomes could lead to a redistribution of resources if a cross-departmental approach were taken to tackling the chronic social exclusion experienced by some adults, many of whom are offenders. The £6m, three-year programme, jointly funded by the Home Office, the Department for Communities and Local Government, Department of Health and the Department for Work and Pensions, consists of 12 pilots in which several statutory agencies work together to offer coordinated support to socially excluded adults. Evaluation is ongoing, but initial findings suggest that they provide an indication of the types of interventions needed to meet the complex needs of some offenders.

*Milton Keynes Link Worker Plus*

The Milton Keynes Link Worker Plus Scheme is a joint venture between Milton Keynes Community Safety Partnership, the charity P3 and the Revolving Doors Agency. The scheme focuses on people living in Milton Keynes who are in crisis because of a combination of mental health needs, unstable accommodation, substance misuse, repeat presentation at crisis services and, offending and anti-social behaviour. The scheme employs two link workers and a volunteer coordinator, and is administered by a multi-agency steering group including local criminal justice and health and social care commissioners. The link workers support chronically excluded adults who have traditionally struggled to engage with support agencies to access services appropriately. The aim of the scheme is to engage clients in a relationship based on trust which helps to develop an understanding of individuals and a better idea of the right services to use to support them in the long term. The scheme also offers practical help and support with issues that may be problematic to clients. The link workers have access to a 'devolved budget' which is used to overcome obstacles in providing an immediate response, or longer term support, such as a deposit for accommodation, basic hygiene or clothing needs or access to vocational and educational programmes.

*New Directions Team*

The New Directions Team is the result of a partnership between agencies in the London Borough of Merton, including social services, children and families, housing, education, police, primary care trust, prison healthcare, Jobcentre Plus, Drug and Alcohol Action Team, Learning and Skills Council and the mental health NHS trust. The Team aims to target Merton residents, aged 16+, who are not engaging with services, resulting in multiple exclusion, chaotic lifestyles, and negative outcomes for themselves, families and communities. The team works with the person to establish a safe and trustful relationship and a client-centred assessment of needs, and within a system co-ordinating support across agencies. The composition of the project steering group can facilitate agency change, enabling them to be more flexible and adapt to peoples' multiple needs and difficulties.

357. Catherine Hennessy, of the Revolving Doors Agency, explained that central initiatives such as ACE can help to overcome individual agencies' reluctance at sharing money for a jointly-funded service.<sup>597</sup> They tend, however, to have limited lifetimes, funding several series of pilots which prove successful but are not sustainable when the funding for such initiatives ends. The failure to find mainstream funding for the Together Women centres for women offenders discussed above is a prime example of this. The Government has not yet found an effective way to mainstream the concept of pooled national funds.

**358. We recommend that the Government provide financial support at the local level to kick-start the process of reallocating resources to reduce crime. The Adults facing Chronic Exclusion pilots show the benefits of cross-departmental investment, but pilots such as this are not self-sustaining. A national justice reinvestment fund should be created, based on a business case for the long-term movement of resources from the criminal justice system to local areas. Funds previously allocated to building the three planned large accommodation prisons, and a significant proportion of the money which must be found annually to support the cost of the resulting new prison places, should be included in the new fund. Other government departments must also be encouraged to allocate resources to the fund. This fund should be used to provide central match funding to encourage partnerships develop plans to pool and align budgets and reduce the use of custody. It could also be used to support the use of social impact bonds. The fund could eventually become fully devolved as part of the local area grant once the pooling of resources for reducing re-offending is common practice.**

### ***New local structures***

359. There are some possible mechanisms to reduce the use of custody and free up resources with almost immediate effect. One example would be targeting those who are currently expensively—and unnecessarily—supervised by Youth Offending Teams and the Probation Service. Mike Thomas, Association of Youth Offending Team Managers, proposed the creation of teams to deal with cases on the cusp of the criminal justice system, questioning the need to criminalise individual young persons when their behaviour causes them to become known to the police or other agencies.<sup>598</sup> One of the initiatives established under the Howard League for Penal Reform and Local Government Association's 'Children in Trouble' project performs a similar function to this for young people entering custody for the first time. The 'custody panel', formed in Wessex in 2007, comprises representatives of the young offending team, children's services and the voluntary sector. It reviews each case in which young people receive a custodial sentence to see what action could have been taken to avoid the use of custody and uses the lessons to improve partnership practice. This approach has demonstrated success in reducing the use of custody in this area, which has fallen by 42%.<sup>599</sup> **The value of multi-agency panels to review the cases of young people and adults on the threshold of the criminal justice**

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597 Q 353

598 Q 224

599 Howard League for Penal Reform, *Custody panels: Impact of a pilot scheme on juvenile sentencing rates*, 2009

**system and at risk of custody should be highlighted in guidance issued to crime and disorder reduction partnerships.**

360. A justice reinvestment approach could eventually pave the way for a two-tier system of managing offenders, including the transfer of responsibility for managing lower level offenders to local authorities. General Lord Ramsbotham noted:

[...] one of the great successes particularly of the youth justice board is the youth offender teams run by local government. Having talked to local government I would like to see that extended. The ones I have talked to are quite happy that there should be regional offender teams for adults, male and female, in each area alongside the youth offender teams. They would be responsible for the supervision of the lower grade offender in criminal terms, releasing the trained probation officers to concentrate on the higher end. At the moment the problem is that probation is so overwhelmed that it is not sure exactly what it is doing and is not able to do enough with either group. Its expertise is needed to guide the offender teams who could be part of the same structure.<sup>600</sup>

361. It is now 10 years since youth offending teams were established as a means of bringing together individuals from a variety of agencies with the appropriate professional expertise and resources that had failed to work together effectively despite a manifest need to deal with young offenders better. The evidence to this inquiry suggests that youth offending teams are now seen to some extent as ‘other’ and ‘external’ to those local agencies, and that there may be a need for action to refresh the concept of such teams as an interagency lead for effective intervention with young offenders. This approach has worked, and it is therefore important not to “reinvent the wheel” but to make sure it is in good repair and to ask whether a similar approach to offenders in the 18 to 25 age group might bring equal benefits and reductions in re-offending.

**362. Local agencies must also work much harder to develop effective ways to deal with low level young and adult offenders outside the criminal justice system altogether rather than them unnecessarily absorbing the resources of Youth Offending Teams (YOTs) and the Probation Service. Lower risk offenders should ultimately become the responsibility of local authority and other mainstream agencies, enabling probation trusts and YOTs to concentrate on the core business of supervising serious, high risk and dangerous offenders.**

#### **Stage 4: Measuring the impact of justice reinvestment approaches**

363. The final stage of the justice reinvestment process seeks to ensure that the new approaches have been implemented effectively, resulting in the desired savings and outcomes. Monitoring the effectiveness of these approaches therefore relies on:

- appropriate performance measures including, for example, the amount of criminal justice expenditure saved or avoided, recidivism rates and the benefits to local communities;

- appropriate monitoring systems to collate data across agencies on outcomes and the capacity of agencies to collect, record and monitor the data required;
- the expertise to review how closely the actual impact corresponds to projections; and
- commissioning arrangements to enable changes to be made to the delivery of services in the event that the policies are not having the desired effect.

### *Existing performance measures*

364. The effectiveness of local partnerships in working together to deliver priorities in England will be assessed by the new Comprehensive Area Assessment (CAA).<sup>601</sup> Zoë Billingham, of the Audit Commission, was confident that the CAA would support ‘seamless delivery of outcomes’ as partnerships would be assessed against all national indicators regardless of whether they had been adopted as local priorities.<sup>602</sup> In the context of youth justice, Frances Done, of the Youth Justice Board, agreed that there was capacity under the CAA to improve areas or partnerships which were under-performing.<sup>603</sup> An indicator for the proportionate use of custodial sentences for young people is included in the National Indicator Set for England. However, as we noted in chapter 4, no local strategic partnership has chosen to include this in its 35 improvement targets. Despite the intention that partnerships’ progress will be measured against all indicators under the CAA, there is no central driver to ensure that the reduction of custody will be afforded the attention required to support justice reinvestment approaches.<sup>604</sup> There is no equivalent indicator for adults.

365. The lack of a national indicator to reduce the use of custody for adults, and the fact that the indicator for young people is not being used, represents a barrier to the reallocation of resources which underpins justice reinvestment. Local partnership work should have the reduction of the use of custody as its key goal, rather than simply crime reduction or the reduction of re-offending. Resources should be prioritised with that explicit aim in mind. **We urge the Government to consider introducing an explicit indicator for adults related to reducing the use of custody in the next National Indicator Set. Areas which have been found to over-use custody in relation to the characteristics of those sentenced should then be encouraged to take up these indicators in the next negotiation of local area agreements.**

366. The experiences of the West Yorkshire integrated offender management project suggested that it is difficult to evidence the effectiveness of complex partnership projects through a simple partnership performance framework. Nevertheless, developing appropriate performance frameworks are important for justice reinvestment to enable

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601 The Assessment was developed, and is being delivered, jointly by the main public sector inspectorates: the Audit Commission, the Care Quality Commission, HM Inspectorates of Constabulary, Prisons and Probation and Ofsted.

602 Q 266

603 Q 203

604 For example, the focus of targets in the Children’s Plan is on reducing the number of young people entering the youth justice system and getting convictions, rather than reducing the use of custody. Furthermore the Youth Justice Board has now dropped its target for reducing the number of entrants to custody.



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partnerships to share processes and tools for monitoring, and to highlight the outcomes of their investments; this information is a key factor in securing ongoing financial commitment from contributing partners.<sup>605</sup>

367. The Public Accounts Committee, in its report on crime and disorder reduction partnerships, examined their existing evaluation processes and noted that effective self-assessment depends on reliable data about the outcomes of projects run by each partnership. The Committee recommended that the Home Office should develop a simple evaluation methodology to be adopted for all larger projects and funding applications for larger schemes should demonstrate how that methodology would be used.<sup>606</sup>

### ***More sophisticated measures to assess outcomes***

368. We heard that more sophisticated monitoring may be required to understand the full benefits of justice reinvestment. Some witnesses argued that the current system for measuring outcomes does not take into account the true effects of the use of imprisonment on offenders, their families and communities. For example, New Economics Foundation (NEF) told us that measures for assessing policy interventions should take a longer-term view.<sup>607</sup> It further argued that considering the ‘social return on investment’ provided sentencers and policy-makers with “a more comprehensive and transparent framework for decision-making” and was consistent with the principles of justice reinvestment.

369. Witnesses were critical of the limitations of existing targets and monitored outcomes as measures to indicate the true effectiveness of the system and hence to determine the best allocation of resources. Eilís Lawlor, researcher at NEF, emphasised the importance of examining wider outcomes, explaining that the things that are measured are the things that are prioritised.<sup>608</sup> According to David Faulkner measures of the effectiveness of the system currently concentrate on efficiency, public confidence and public safety, not outcomes.<sup>609</sup> Napo agreed that existing targets do not concentrate enough on outcomes.<sup>610</sup> This is evident in the monitoring of starts and completions of offending behaviour programmes, educational courses or drug treatments rather than longer-term outcomes which would evidence a change in cognitive skills, securing employment or abstaining from drug use (see annex 1). On the other hand, there are obvious difficulties in measuring some outcomes once an offender is no longer in prison or on a community order, for example, the Learning and Skills Council cannot collect data on employment status once someone has left the criminal justice system.<sup>611</sup>

370. We were persuaded by the view of some of our witnesses that criminal justice-centred outcomes like reconviction are too narrow as a true measure of the effectiveness of the system. According to Ms Lawlor, the problem with relying on reducing re-offending as a

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605 Ev 306

606 Public Accounts Committee, Twenty-third report of Session 2004-05, *Reducing crime: the Home Office working with Crime and Disorder Reduction Partnerships*, HC 147.

607 Ev 246

608 Q 168

609 Ev 151

610 Ev 236–239

611 Q 388



measure is that it assumes people offend in isolation from the rest of the circumstances in their lives, and other outcomes must therefore also be measured.<sup>612</sup> She described some examples of these from nef research:

The offenders that we have been concerned with in our research are non-violent offenders, and we are looking specifically at women, and they tend to be drug users, have mental health problems, have debts, live in poverty, and all of those things contribute to their offending behaviour. If we do not measure and value those things as they change, then we will not understand why people are succeeding and why they are improving their lives.<sup>613</sup>

371. The Sainsbury Centre for Mental Health also observed that effectiveness in rehabilitation means improved health, housing and employment outcomes.<sup>614</sup> Assessments of the cost-benefits of approaches to reduce crime do not typically take into account the wider benefits which may accrue outside the criminal justice system, for example the reduction in benefit claims by unemployed offenders or costs in terms of unpaid tax contributions as a result of an income from crime.<sup>615</sup> The Government has acknowledged the need to examine how performance is measured across reducing re-offending pathways and to develop improved means of assessing costs and value for money.<sup>616</sup> Lessons could be learned from the National Treatment Agency which has introduced a more sophisticated approach to measuring the effectiveness of various drug treatment options in four key areas: drug and alcohol use, health, social functioning and offending.

372. Professor Cynthia McDougall proposed a cost-related outcome measure like the Quality Adjusted Life Year (QALY)<sup>617</sup>, which is used for health economics, but focused on public safety<sup>618</sup> i.e. the quality of life for communities. She explained how this could be achieved for criminal justice:

One of the measures we should be looking at is the cost of offences saved, and if what you do saves offending, then you have a prediction, and we have got some very robust predictive measures of what the offending rate would be of those individuals, but if we then look at the offences we have saved and look at what it has cost to the community, what it has cost to victims as well as the criminal justice system, then

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612 Qq 172–174

613 Q 173

614 Ev 295

615 For example, the King's Fund commissioned a review to estimate mental health expenditure in England to 2026 and found that many people with mental disorders are either not in contact with services or are in contact but not receiving any treatment. The review suggested that net savings are likely to occur if treatment is given to those currently not receiving treatment as reductions in lost employment costs (estimated to be £26.1bn) should outweigh treatment costs. See The King's Fund, *Paying the Price: the cost of mental health care in England to 2026*, May 2008

616 Ministry of Justice. *Strategic Plan for Reducing Re-offending 2008–11. Working in partnership to reduce re-offending and make communities safer: a consultation*, 2008

617 QALY is a year of life adjusted for its value to provide an indication of the benefits gained from a variety of medical procedures. This enables the relative benefits of spending choices to be made explicit.

618 Q 155

you can work out in an objective fashion how much you are saving by this particular intervention.<sup>619</sup>

**Developing something akin to a QALY to measure the relative cost-effectiveness of measures to reduce crime could take into account the quantity and frequency of re-offending and the associated costs, plus wider costs to society, victims and offenders' families.**

373. Our attention was also drawn to the potential for calculating benefits which do not generate a direct financial return. NEF contended that criminal justice policy could benefit from a 'social return on investment' (SROI) perspective which looks at the costs and benefits of interventions more systematically i.e. to a range of stakeholders (not just the criminal justice system and victims) and over a longer-term.<sup>620</sup>

**Box 17**

*Measuring the social return on investment*

*Measuring What Matters* is a research programme which is investigating how government policy making could be improved by measuring and valuing what matters most to people, communities, the environment and local communities. NEF used the concept of social return on investment as a method of understanding and managing the trade offs between outcomes sought by different stakeholders for women offenders. Potential beneficiaries included women, their children, the state and victims. Using this methodology NEF and the Prison Reform Trust have demonstrated that the use of local women's centres could yield significant lifetime cost savings and crime reduction.<sup>621</sup> The study looked at 40% of the female offender population, and found that even if only 6% of them stopped re-offending as a result of being placed in alternatives to prison, the state makes back in one year what it invests in those alternatives. If longer-term benefits are considered the savings are in excess of £100 million or £14 worth of social value for every pound invested.<sup>622</sup>

374. **As the Government has acknowledged, there is a need for better mechanisms to monitor and evaluate the effectiveness of partnership interventions at a local level. This would enable areas to build up a picture of what policies are most effective.**

375. **A broader set of outcomes—including the wider social costs of imprisonment to individual offenders and their families, and costs to communities—needs to be captured as a complement to existing measures, perhaps based on social return on investment methodologies. We are encouraged that the Office of the Third Sector has introduced such methodologies but we would like to see them being adopted more widely by Government. We owe it to victims and communities to recognise the wider social costs of crime and those of our responses to crime.**

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619 Q 148

620 Q 166

621 Ev 246, 258 [New Economics Foundation, Prison Reform Trust]

622 Q 166

### *Financing alternative schemes*

376. Eilís Lawlor, researcher at NEF, told us that “Our view is that the true costs of crime are incredibly prohibitive and that we have to find alternatives.”<sup>623</sup> Ms Done suggested that even if only the costs of custody itself could be released a great deal of money could be reinvested.<sup>624</sup> Policy Exchange research supports the view that only small reductions in re-offending would be required to fund many effective schemes.<sup>625</sup>

377. If costs and benefits are measured systematically even small reductions in re-offending can have huge cost savings from community interventions. **It would only be necessary to reduce re-offending by a fairly small margin to cover the costs of many community interventions.** The ‘risk’ of investing in interventions for which there is less robust evidence, but strong indicative evidence, may therefore be less of a barrier to shifting resources than it seems.

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623 *Ibid.*

624 Q 199

625 Policy Exchange, *Arrested Development: reducing the number of young people in custody while reducing crime*, July 2009. The report cites figures from the National Audit Office which has estimated that if one in ten young offenders could be prevented from going to prison £100 million would be saved in terms of reduced crime. This is four times the annual central budget provided to youth offending teams for crime prevention.

## 7 Other components of a more sustainable justice system

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### Engagement with the public

#### *A national debate on spending on criminal justice*

378. As we noted above, witnesses identified a need for stronger political voices and better public understanding about the criminal justice system and its costs. Professor Loader stated that political inaction on the public's misunderstanding of the nations' crime problem gives the impression that it is the job of politicians to simply translate popular sentiment into action rather than arguing about it or tempering it.<sup>626</sup> Mr Aitken felt that this had not been given sufficient consideration by the Government: "The thoughtful view of what the public will be interested in is one well worth exploring and on the whole it has been to a certain extent a neglected argument by the prison and Ministry of Justice professionals".<sup>627</sup>

379. In England and Wales the prospect of a national debate around resources and publicly desirable levels of imprisonment seems limited, despite the Justice Secretary's acceptance of Lord Carter's conclusions in the review of prisons that his proposals "will allow for a rational debate on sentencing that recognises that, as with any other public service, resources are finite".<sup>628</sup>

380. Lord Carter specifically advocated:

A focused and informed public debate about penal policy. It will be important to consider whether to continue to have one of the largest prison populations per capita in the world and to devote increasing sums of public expenditure to building and running prisons and responding to fluctuating pressures as they emerge. Not only is it costly, inefficient and a demand on scarce land, but the sporadic way in which the pressures emerge and are responded to inhibits the delivery of effective offender management and rehabilitation.<sup>629</sup>

381. We heard that the public lack knowledge of the implications, or potential implications, of spending on different approaches to criminal justice. The New Economics Foundation specifically called for a debate on the public's willingness to pay for criminal justice policy.<sup>630</sup> The complexity of such a debate was illustrated in the range of perspectives taken by respondents to our e-consultation. Professor Cynthia McDougall, of the University of York, contended that there is a need for public surveys which examine this.<sup>631</sup>

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626 Q 484

627 Q 532

628 *Oral statement on the Carter Report*, Ministry of Justice press release, 5 December 2007

629 *Op cit.* paragraph 23

630 Ev 247

631 Ev 148

A poll conducted by Policy Exchange found that the public have an appetite for a reallocation of crime reduction resources: 80% are in favour of matching increases in spending on policing and prisons with spending on programmes likely to prevent crime.<sup>632</sup> Mr Scott made specific reference to the public's desire for information on the benefits and outcomes of policies to make decisions about their value. He argued that if the people understand that every pound spent on criminal justice is a pound not spent elsewhere, it may inform public thinking.<sup>633</sup> Professor Cynthia McDougall agreed that research messages from an economic approach should be made more available to the public<sup>634</sup> However, Professor Loader was sceptical that the public would engage with the debate on what works.<sup>635</sup>

382. It appears that the Government is side-stepping the much needed debate. Rt Hon David Hanson MP and Alan Campbell MP agreed that the public is amenable to discussion and debate on criminal justice reform but only if they believe the Government is addressing their other priorities; there are mechanisms to enable them to have their say and; they can have a role to play in the direction of resources and the direction of policy in that area.<sup>636</sup>

383. Professor Loader recommended engaging people in discussion about crime in the place in which they live rather than at national level.<sup>637</sup> Mr Aitken and Lord Dubs shared the view that arguments about more positive solutions to crime that are workable and more rational, in the sense that they would make local communities safer, offer the best chance of gaining acceptance with the public at local level. The local community tends to know most about the circumstances of local offenders.

384. Other mechanisms to engage the public in the criminal justice system may also help to reduce misconceptions. One respondent to the e-consultation explained:

I was very unaware of what happened in prisons until I became a volunteer. I visit the local women's prison about 3 times a year as part of a prayer/activity group. There is much need to inform the general public about prison. Why and how people find themselves there. (odi24)

Professor Loader and Mr Scott spoke of the value of public participation in promoting understanding of the criminal justice system.<sup>638</sup> Mr Thomas gave the example of referral order panels, which decide on an appropriate disposal for first time young offenders, as beneficial in getting the community involved in aspects of the system.<sup>639</sup> Mr Faulkner reminded us of the work of Rethinking Crime and Punishment in the Thames Valley in

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632 Policy Exchange, *Less Crime, Lower Costs: Implementing effective early crime reduction programmes in England and Wales*, May 2009

633 Q 451

634 Q 131

635 Q 489

636 Q 579

637 Q 490

638 Qq 484, 558 [Mr Loader, Mr Scott]

639 Q 230

demonstrating the value of engaging individuals and communities.<sup>640</sup> Professor Pfeiffer highlighted the role of churches and clergy in engaging local communities in Germany.<sup>641</sup> The value of such engagement was highlighted by respondents to the e-consultation, for example:

I did not know very much until this Sunday when the churches in the city centre of Oxford invited the Criminal Justice Alliance to preach and speak on these issues. We were given key statistics which was very far from what the media reported. (kaihsu)

When the public are engaged in debates on the best way to reduce crime and use resources sensibly they are likely to be more realistic about the most desirable direction of policy. **Public information campaigns should seek to promote understanding of the cost of the criminal justice system to the public purse and where the costs of the failure of current initiatives fall. The Government should use this to gauge public reaction to the costs of the system. The forthcoming election represents an opportunity for constructive local debates on the direction of policy, if party spokespeople and candidates are prepared to move the debate on to consider what is cost effective in reducing future crime and what the nation can afford.**

### ***Challenging the media reporting of criminal justice policy***

385. Witnesses discussed the potential for the Government, academics and practitioners to engage with the media in a debate with the public on the rational allocation of resources.<sup>642</sup> The Restorative Justice Consortium was reasonably optimistic:

The media must be engaged in the move to shift the culture of penal policy and the terms of debate that are available. This can be done in part by the media raising the profile of alternatives to the criminal justice policy, but also through presentation of the sound reasoning behind justice reinvestment and the methods of allocating resources to reduce offending and pressure on the criminal justice system.<sup>643</sup>

386. Napo, however, was generally pessimistic in its view of the use of the media to promote a reductionist approach but added that in its experience the local media welcome stories that highlight the success of programmes.<sup>644</sup> Mr Scott was more optimistic about criminal justice services building a more positive relationship with the media, citing efforts by the Association of the Chief Officers of Probation to engage with the Society of Editors.<sup>645</sup> Mr Dean highlighted the success of the efforts of SmartJustice to persuade the Mirror to print positive stories on offenders and prison.<sup>646</sup>

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640 Ev 152

641 Q 620

642 See also Ev 235 [Nacro]

643 Ev 285

644 Ev 236

645 Q 432

646 Q 495

387. Alan Campbell MP, Home Office Minister, commented on the potential to undermine the impact of the media and the need to have public debate based on the reality of what is happening in their local communities not simply the perception of what is happening.<sup>647</sup> Rt Hon David Hanson MP, Ministry of Justice Minister, agreed there was a need to counter the influence of the media: "...the front page of one local paper with one incident, with one particular crime, can raise the fear of crime quite considerably, so it is about not just what we do, but it is the perception and it is about how we build confidence".<sup>648</sup> Professor Pfeiffer argued that it is possible for academics to challenge the media with robust evidence, for example undertaking meetings with editors, media interviews, and chat show appearances to influence thinking in the mass media.<sup>649</sup>

### ***Building public confidence in the system***

388. While our inquiry has been in progress, the Government has sought ways to promote greater public involvement in the criminal justice system. For example, it has embarked on a programme entitled 'Justice Seen, Justice Done' to address public concerns about crime and justice, in response to issues outlined in Louise Casey's report for the Cabinet Office, *Engaging Communities in Fighting Crime*, discussed in chapter 5. The Policing and Crime Act places a duty on the police to enhance public understanding of their work. Provisions on public understanding of the rest of the criminal justice system, particularly the courts, were notably absent from this legislation. We heard that the public have greater confidence in the police and local authorities than criminal justice agencies.<sup>650</sup>

389. Promoting the visibility of criminal justice agencies is of course important but our witnesses distinguished between simplistic measures to improve public confidence and those which genuinely improve public engagement, with the effect of improving confidence. Rushanara Ali, of the Young Foundation, told us: "You have to have measures that build public confidence in order to come up with alternative approaches that do improve rehabilitation. Looking at public confidence in isolation only gives half the answers".<sup>651</sup>

390. The Government has recently set out additional proposals in a green paper *Engaging Communities in Criminal Justice*.<sup>652</sup> These are summarised in the box below. This states that all the criminal justice services, not just the neighbourhood police should help the public understand how they are performing.

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647 Q 578

648 *Ibid.*

649 Q 609

650 Qq 259–260, 558 [Ms Casey, Mr Scott]

651 Q 268

652 HM Government, *Engaging Communities in Criminal Justice*, Cm 7583



Box 18

*The Green Paper's proposals are grouped under 3 key themes:*

*Strengthening connections between communities, prosecution and court services:*

- Community prosecutors and community impact statements to enable community views to feed into the justice process
- Extending the use of problem-solving in magistrates courts by March 2012, including powers of review, to tackle the problems which lead low level offenders to commit crime
- Seeking intensive solutions to the most persistent problems in areas of high-crime and social deprivation, including the co-location of crime and justice teams with advice and support services

*Ensuring justice outcomes are more responsive and more visible:*

- Improving awareness and use of restorative justice to help offenders make amends to victims and communities
- Making community payback more intensive and timely and extending the use of citizen's panels to inform this

*Improving communication between local people and their criminal justice services:*

- Providing information on actions taken and outcomes achieved in response to crime in their area, including outcomes on specific court cases
- Promoting opportunities for volunteering in the criminal justice system

Improving the role of Local Criminal Justice Boards in community engagement to assist across all themes.

391. While outside the remit of this inquiry, decreasing the amount of unsolved crime could also contribute to building public confidence in the system. In 2008, 3.4 million crimes went unsolved. Ensuring that those who should be in the criminal justice system are not allowed to avoid it would increase public confidence that committing a crime is a serious matter and carries the appropriate consequences. This is an issue for the police and the wider criminal justice system.

### **Public ownership of local problems**

392. *Neighbourhood by Neighbourhood*, a report by the Coalition on Social and Criminal Justice,<sup>653</sup> drew similar conclusions to Louise Casey about problems with local community engagement but took a fundamentally different approach in its recommendations. It argues that, in encouraging local ownership, local commissioning can go beyond simply delivering outcomes; it can improve local people's experience, increasing trust and confidence for witnesses and victims. The report refers specifically to the potential benefits of this in broadening public understanding about the most effective ways of dealing with offenders:

Involving local democratically elected leaders, community leaders and the local press offers the best chance of involving the general public in an informed and constructive debate on the relative merits, costs, and risks of different forms of working with offenders. Currently, such debate is seriously lacking in the UK with criminal justice too often being seen by the public as 'their' and not 'our' issue.<sup>654</sup>

The report concludes:

Crime is committed by local people, against local people, within local communities; Justice reinvestment addresses these local concerns by devolving resources to local authorities to invest in their communities.<sup>655</sup>

393. We heard that the participation of local communities is an important component of localised models to reduce crime. For example, Ms Ali spoke to us about the importance of tapping into the potential of local people to think about solutions to local problems.<sup>656</sup> Chris Leslie of the New Local Government Network agreed.<sup>657</sup> Other witnesses noted the value of empowering communities by shifting the emphasis of efforts to reduce crime from the criminal justice system to local communities.<sup>658</sup> For instance, Mr Martin argued for a change in mentality over responsibility for crime to one where communities are able to devise their own solutions to local crime problems and to be rewarded for that. He suggested that communities should be encouraged to actively engage with reducing crime, citing the example of the success of circles of support and accountability to manage sex offenders.<sup>659</sup>

394. Mr Tidball highlighted an additional benefit of a community-based approach to determining local priorities for crime reduction. He remarked that bringing decisions

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653 The Coalition on Social and Criminal Justice comprises a number of experienced public and voluntary sector organisations that work together to reduce crime and better protect the public. Members are: Clinks; Crime Concern, International Centre for Prison Studies; Local Government Association; The Prince's Trust; The Prison Reform Trust and SmartJustice; and the Probation Boards' Association.

654 The Coalition on Social and Criminal Justice, *Neighbourhood by Neighbourhood: local action to reduce re-offending*, November 2006

655 *Ibid*, p4

656 Q 273

657 Q 267

658 See Q 610 [Professor Pfeiffer]

659 Q 469

about justice and sentencing into the hands of communities and their representatives has a chance of bringing downward pressure on the “imprisonment epidemic”.<sup>660</sup> This is supported by the view that local people are more likely to accept that imprisonment is not necessarily the answer to local problems. Professor Loader described the findings of research he had conducted on crime and disorder:

When the conversation turned to questions about young people today or youth crime in general people sounded a lot harsher and much more easily reached some kind of criminal-justice-related solution. When you got them talking about the kids who hung around outside the local store, some of whom they knew or they knew their parents, they tended to be less focused upon criminal justice solutions to that problem. The lesson I draw from this is that the more local you can make crime sound, the more you can think about it as a local rather than a national problem, the less obvious it is to people that the criminal justice system, still less prison, is the way to go in trying to address the problems.<sup>661</sup>

Local accountability may therefore reduce the calls on national government to accept responsibility when things go wrong.

395. The Casey review suggests that the focus for engaging communities should be on particular geographical areas but little was included in the report’s recommendations on addressing inequalities. *Engaging Communities in Criminal Justice*, however, does refer to the need to choose sites for the co-location or virtual co-location of community justice teams based on relative levels of deprivation.

396. We heard that the engagement of communities in particularly deprived areas may require careful and sustained work. For example, Rod Jarman, of the Metropolitan Police, told us that it was important to involve the public in a systematic and long-term way to promote confidence, particularly given the complexity of crime: “What is really important is that when you engage them in debate over a period of time they move on [to understanding] the fact that there are several complex issues and the complex issues need to be dealt with in different ways.”<sup>662</sup> The Young Foundation believed that intensive work might be required to engage with some communities. It has run several programmes of work to encourage neighbourhood empowerment, including the Neighbourhood Taskforce, a model which seeks to tackle entrenched problems in areas where community capacity is low and where public services have difficulty engaging residents and neighbourhood groups.<sup>663</sup>

**397. We welcome the proposals in the Engaging Communities in Criminal Justice white paper. We are encouraged that the Government is seeking to target efforts to engage the public in areas which are particularly affected by crime. Criminal justice agencies must recognise a sustained effort may be required to engage with some communities.**

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660 Q 425

661 Q 484

662 Q 556

663 See <http://www.youngfoundation.org>

**The justice reinvestment framework also fits well with the community justice approach. It has the potential to help produce solutions to community problems, as well as to help reform offenders and reduce re-offending. It could also enable offenders to make amends to their victims and communities for their crimes.**

### *Community engagement in commissioning*

398. We heard about a number of promising initiatives to facilitate community engagement in determining the types of services commissioned at local level. David Ottiwell, of GMAC, described the development of community engagement mechanisms, known as Key Individual Networks, which have been advocated by the Association of Chief Police Officers to identify community priorities, and are being used increasingly by Crime and disorder reduction partnerships.<sup>664</sup>

399. Richard Kramer, Director of the Connected Care Centre of Excellence, told us about “connected care”, a more systematic approach towards the development of community-led commissioning processes. This is specifically designed to work in the most deprived communities and engage them more systematically in audits of the health, social care and housing needs to devise local models for integrated service delivery.<sup>665</sup> The concept originated from research carried out by Turning Point, in conjunction with IPPR in 2004. This work found that people with the most complex needs are failed by health and social care services and concluded that services needed to address the “whole person”. It also proposed that services should work together to meet the relevant needs of the whole community.<sup>666</sup> Turning Point established a Centre of Excellence which promotes connected care as a framework to help commissioners enable local people to design and deliver their own services and engage those who cannot or will not use existing services. Connected Care is not explicitly designed to meet the needs of offenders, but many benefit as a large proportion of offenders have mental health, and/or substance misuse needs.<sup>667</sup>

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664 Ev 153–154

665 Ev 300–304

666 IPPR and Turning Point, *Meeting Complex Needs: The Future of Social Care*, 2004

667 Rainer Communities that Care, has used similar methodology to link the public into community planning processes  
Ev 276–285

Box 19

*Case study: Connected Care, Bolton*

Connected Care in Bolton is one of the Cabinet Office ACE pathfinders discussed above. Turning Point Centre of Excellence has worked with Bolton Primary Care Trust, Bolton Council, Bolton Community Homes and three local communities in Bolton to design and improve services that better meet the needs of local people. Connected Care trained members of the local community, many of whom are local service users, to become researchers. Once trained, these researchers go out into their communities and speak to a range of people, including those with the most complex needs, to find out how people want services to be improved. The information gathered by the community researchers can then be used to design services which are better equipped to meet the communities' real needs.

400. Richard Kramer, Connected Care Director, described how community involvement in the shape of local services can act as an “excuse-remover” for commissioners. He explained: “the sense of accountability has changed, shifting from the commissioners to the communities. So the community is saying: “Actually, we do want this to happen”, and so it binds the commissioners in that way.”<sup>668</sup>

**401. Public engagement should promote involvement in the system rather than simply seek views on it. We would like to see more sophisticated methods of public engagement implemented so that people can become more closely involved in the system in more informed ways, for example, through volunteering or by being encouraged to develop local solutions to local problems. In this context we welcome the Ministry of Justice’s volunteering strategy, although it will only work if it is properly resourced.** Community involvement can bind commissioners and it should therefore become a key part of a blueprint for shifting spending. Using community engagement to help audit local needs would be of great benefit in determining the shape of local provision to reduce crime, particularly in deprived communities. **The Government should consider adopting the Connected Care model as part of its strategies to engage communities in criminal justice and manage the costs of the criminal justice system.**

*Participatory budgets*

402. The Government White Paper *Communities in Control* introduced the idea of ‘participatory budgets’ which would delegate control of some money over to the community. The Participatory Budgeting Unit describes these as follows:

Participatory budgeting directly involves local people in making decisions on the spending and priorities for a defined public budget. Participatory budgeting

processes can be defined by geographical area (whether that's neighbourhood or larger) or by theme.<sup>669</sup>

In this way local people can participate in the allocation of part of the local council's, or other statutory agency's, resources. The white paper promotes these budgets as a way in which local authorities can fulfil their duty to involve their communities.<sup>670</sup> All local authorities should be using participatory budgets by 2012.

403. Frances Crook, from the Howard League for Penal Reform, argued that the whole community must benefit from justice reinvestment and that therefore communities should be given a direct stake in the redistribution of resources<sup>671</sup>

404. The Home Office has undertaken to develop participatory budgeting pilots as part of community safety budgets and has begun to reallocate monies from the proceeds of crime through the community cashback scheme. Alan Campbell MP, Home Office Minister, discussed the value of these pilots when giving evidence about the potential for justice reinvestment.<sup>672</sup> **Justice reinvestment is not just about moving money between agencies or partnerships but also about placing it under the direction of local communities and involving them in the process of spending it. Participatory budgets offer another means for local people to engage in determining local priorities, within a justice reinvestment model. We welcome progress made by the Home Office in this area in allowing reinvestment of the proceeds of crime in the community. We consider that participatory budgets could also help to increase the visibility of other positive aspects of the justice system, including the revenue generated by fines.**

### ***Public understanding of the costs of imprisonment***

405. The Sustainable Communities Act 2007 could provide a vehicle for promoting public understanding of the costs of crime to encourage public support for justice reinvestment.<sup>673</sup> The Act is intended to ensure that communities are better informed about the public funding that is spent in their area. New "local spending reports" should provide quick and accessible information about where public money is spent. However, as the system is currently configured, money spent on criminal justice on behalf of a local community would not be reflected accurately due to the substantial proportion of costs borne at national level. The Sustainable Communities Act 2007 makes information about public funding of local services more accessible to communities. However, it may have only limited success in encouraging local people to understand the financial burden of the criminal justice services, and imprisonment in particular, on national taxpayers.

406. **The Government should develop a mechanism to allow the public to understand the costs of local offending to the criminal justice system and the wider costs to society,**

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669 [www.participatorybudgeting.org.uk](http://www.participatorybudgeting.org.uk)

670 Department for Communities and Local Government, *Communities in Control: real people, real power*, Cm 7427

671 Qq 460, 462, 468

672 Q 596

673 Q 457 [Ms Cookson]

**including costs to other services (e.g. health, housing, social services and benefits) of failing to reduce re-offending.**

## Sentencing and Resources

407. One of the problems in reducing the use of custody within a system of rational use of resources, as suggested by justice reinvestment approaches, is that sentencers dictate the level of use of custody, albeit within parameters set by Parliament and the Sentencing Guidelines Council (SGC). The questions of whether sentencers should have regard to resources, and if so, how this could be achieved, has vexed the Government for several years.

### *The Sentencing Guidelines Council and Sentencing Advisory Panel*

408. The SGC and Sentencing Advisory Panel (the Panel), which have been in operation since 2004, aim to promote consistency in sentencing. Patrick Carter's first report was critical that sentencing practice was unable to take account of the capacity of prison and probation services to deliver the sentences of the courts and made a number of recommendations to overcome this:

- Within one year of the establishment of NOMS the Panel should have the capacity to forecast demand and develop an evidence base on the efficacy of different sentences
- Within two years the Panel should have produced sufficient evidence to inform the next spending review, i.e. 2007
- Within five years the SGC should be producing annual guidelines, informed by Government priorities, to manage the demand for prison and probation and ensure cost-effective use of capacity.

He suggested that the functions of the Panel and SGC must be accompanied by responsibilities for the judiciary to ensure the consistent and cost-effective use of prison and probation capacity.<sup>674</sup> He reiterated the need for a sentencing framework which enables demand to be forecast and reflects the availability of resources in his second report and recommended that the Government consider establishing a sentencing commission to devise this.

409. The working group, set up by the Government to consider Lord Carter's 2007 proposals, raised concerns regarding the capacity of a sentencing commission to achieve what he envisaged in his second report and these questions remain unanswered in the light of the resulting legislative provision:

- There is an inherent tension in a structured sentencing framework between the predictability of prison and probation populations and judicial discretion;

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674 Patrick Carter, *'Managing Offenders, Reducing Crime,'* December 2003



- There has been no real public debate about whether the sentencing framework should link to resourcing decisions.

There is a further question, raised in our report *Sentencing Guidelines and Parliament: building a bridge*, about whether sentencers should build assessments about which sentence they consider to be most cost-effective, into their decision-making on what is the most appropriate sentence in each individual case.<sup>675</sup> In this inquiry we have given further consideration to how the proposed Sentencing Council might contribute to a system which seeks to use resources more effectively.

### **The Sentencing Council**

410. The relationship between sentencing, effectiveness and resources was the source of much debate in the passage of the Coroners and Justice Act. The Government's intentions for the enhanced role of the Sentencing Council are:

To place a duty on the Council to assess the impact and application of its guidelines and in doing so to collect new sentencing data. To enhance the role of the Council in assessing the impact of policies and legislation on correctional resources with the intended effect of allowing Government to plan better for demand on correctional services.<sup>676</sup>

411. At the outset of this inquiry, our witnesses were broadly supportive of the Government's proposals to introduce a Sentencing Council, although this was subject to several provisos.<sup>677</sup> For example, the Prison Reform Trust hoped that it would lead to proportionate sentences and the Local Government Association and Clinks anticipated more control over budgets, better planning and costs savings.<sup>678</sup> Nacro stated that a sentencing commission "must address the need for sentencers to have regard for the available resources and the relative costs of their sentencing decisions."<sup>679</sup> Others remarked that it was unclear how the Sentencing Council would differ from the existing Sentencing Guidelines Council.<sup>680</sup>

412. There was agreement on the principle that the sentencing of individual offenders should not be driven by the availability, or otherwise, of resources, although there was consensus that it was nevertheless necessary to find a way that recognition of scarce resources is built into the sentencing process. (We discuss this in more detail in our report *Sentencing Guidelines and Parliament: building a bridge*).<sup>681</sup>

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675 HC (2008–09) 715

676 Ministry of Justice, *Impact Assessment: Coroners and Justice Bill*, 2009

677 Ev 264 [Public and Commercial Services Union]

678 Q 177 [Ms Lyon]; Ev 179, 257 [LGA and Clinks, Prison Reform Trust]

679 Ev 232

680 Ev 236 [Napo]

681 HC (2008–09) 715

413. We did, however, encounter some scepticism over the likely efficacy of the proposed reforms. For example, according to Judge Marcus, sentencing guidelines in the US have, at best, only reduced the speed at which the prison population is still growing. Conversely, he thought that such guidelines made longer sentences easier to introduce without recourse to legislation.<sup>682</sup> He considered sentencing guidelines a waste of resources as they do not attempt to direct sentencing at reducing re-offending. The rate of growth in the use of imprisonment was slowed in Oregon following the introduction of such guidelines; in Washington State there was disagreement whether the reduction in prison expansion was a result of sentencing reform.

414. The Justice Secretary explained the potential benefits of the new sentencing framework: “if we can square the circle between greater predictability of sentencing in general whilst maintaining proper individual judicial discretion in particular cases, then I think it will produce benefits”. He suggested there were shortcomings in the structured sentencing framework approach in the US where the prison population may rise for other reasons, even where there is a mandatory grid. He argued that it could only make a marginal difference to sentence length; and the system would not work in such a way to cut maximum sentences because there may be insufficient prison places. But he did agree that a more transparent system, which takes account of the reality that resources are restrained, may make sense.<sup>683</sup> The Ministry of Justice has since argued that “closer adherence to sentencing ranges could arrest historical trends in upward sentencing drift” and calculated that the reforms could potentially only reduce the number of new places necessary by 1,000 providing a capital cost of £150million and running costs of around £37.5million p.a..<sup>684</sup>

415. The Criminal Justice Commission in Oregon has a wider remit and has built a cost and effectiveness model across agencies to compare the viability of investment opportunities outside the criminal justice system, believing that this offers greatest promise in reducing the growth of spending on imprisonment. Within the criminal justice system a Bill was introduced to ensure that offenders are subject to evidence-based programmes during their sentence. This has also improved the research base for effective practice.<sup>685</sup>

## Challenges for the Sentencing Council

### *Promoting ‘what works’ in sentencing*

416. The original proposals in the Halliday review for a revised sentencing framework were borne out of a belief that the existing framework suffered “...from serious deficiencies that reduce its contributions to crime reduction and public confidence.”<sup>686</sup> Judge Marcus suggested that the objective of sentencing commissions should be to monitor how well

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682 Ev 185ff

683 Q 57

684 Ministry of Justice, *Impact Assessment of Sentencing Council for England and Wales*, January 2008, p 4

685 Oregon Senate Bill 267

686 John Halliday, *Making punishments work: a review of the Sentencing Framework for England and Wales*, July 2001, p i

sentencers achieve objectives of public safety and public values.<sup>687</sup> This implies that what matters most is the extent to which sentencers are effective at reducing crime.

417. Any meaningful solution to the rational use of resources for criminal justice requires a profound change in the very culture of sentencing.<sup>688</sup> The LGA and Clinks argued that sentencers need to be more aware of the costs of sentencing decisions before sentencing budgets can be devolved to local areas.<sup>689</sup> Several witnesses spoke of the importance of communicating best practice to sentencers so that sentencing decisions are informed by evidence of ‘what works’. For example, David Scott, then Chair of the Probation Chiefs’ Association, argued that evidence-based approaches can be used to persuade sentencers to adopt different practices.<sup>690</sup> We heard that, in addition to building cost-effectiveness into sentencing guidelines, there are other ways to achieve this. Roger Hill, then Director of Probation, highlighted the role of probation in providing advice to sentencers on the evidence-base for reducing re-offending.<sup>691</sup> Dr Chloë Chitty, Ministry of Justice researcher, said that magistrates, judges and the Judicial Studies Board are given general information on what is known about effective practice by the Ministry of Justice.<sup>692</sup> **We welcome the fact that the sentencing guidelines are now recognising the effectiveness of different approaches more explicitly, for example, the youth sentencing guideline emphasised limitations in the effectiveness of custody for young offenders. This approach needs to be followed consistently.**

418. Mr Scott described the research base to provide advice to sentencers and inform decision making on community sentences as a gap in the system.<sup>693</sup> Judge Marcus believed that the best available research and data must be used to make decisions at individual sentencing level.<sup>694</sup> He acknowledged deficits in the existing evidence, but argued that using the evidence that does exist is much more likely to achieve public safety than current sentencing behaviours. Professor Cynthia McDougall agreed that sentencing should take account of the cost-benefits of each potential intervention.<sup>695</sup>

419. Judge Marcus questioned the edict that sentencing is an art not a science, arguing that “empirically incorrect imprisonment” is damaging and makes people worse.<sup>696</sup> Mr Scott asserted that without evidence-based decision-making there is a risk that sentencing decisions “relate to the flavour of the month or the latest crisis”.<sup>697</sup> In his view a more rigorous, independent and trusted research base is required to enable frontline probation practitioners to provide advice and information to the courts. He acknowledged that the

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687 Ev 185

688 Ev 187

689 Ev 180

690 Q 449

691 Q 270

692 Q 83

693 Q 449

694 Ev 187

695 Q 151; Ev 148

696 Ev 185–186

697 Q 450

evidence base on sentencing was developing slowly but argued that it needed to be more sophisticated.<sup>698</sup>

420. While we welcome progress made in promoting the confidence of magistrates and judges in the use of community sentences, there continues to be a lack of confidence in the courts about the availability of some community sentences. Given the problems with probation resources it is important that the probation service is clear with sentencers about what it realistically can and cannot deliver. **We support efforts to provide sentencers with information on courts' use of probation resources, although this is unlikely to be effective in encouraging sentencers to be more judicious in their use of resources on its own as it will not include the costs of custodial sentencing. The cost-effectiveness of all sentences given locally should also form part of the information shared at meetings between the judiciary and the probation service.**

### **Shortcomings in the data on sentencing**

421. As we noted in our report *Sentencing Guidelines and Parliament: building a bridge*, there are shortcomings in the data available on sentencing which would be necessary to enable the new Council to monitor effectively the framework and its impact on penal resources.<sup>699</sup> It is not currently possible to say whether sentencers are using the sentencing guidelines or what impact sentencing guidelines are having on sentencing because existing data collection is not sensitive enough. For example, statistics are available on sentencing by offence group but not the variety of circumstances that fall within the groups, or how individual sentences are affected by previous convictions or aggravating and mitigating factors. A sustainable sentencing framework would need to be accompanied by more data collection and analysis than is currently possible in England and Wales.

422. In his 2008–09 annual report, Lord Judge, Lord Chief Justice, explained that he has strengthened his views on the desirability of publishing the potential costs of legislative decisions about criminal justice and sentencing policy before they are made and called for the new Council to be better resourced to support this function.<sup>700</sup> The speed at which data on sentencing decisions improves is important in considering the likely efficacy of Sentencing Council research in facilitating better management of resources. Victoria Sentencing Council in Australia, which performs a similar function, took several years to ensure that courts were generating data of sufficient quality.<sup>701</sup> Professor McGuire also questioned the capacity of agencies in the criminal justice system to collate data to feed into better quality research.<sup>702</sup> Limited financial provision has been made to increase the capacity of the courts to collate data as a result of the Council's introduction.<sup>703</sup> Dr Chloë Chitty, Ministry of Justice researcher, acknowledged that there continues to be limited data

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698 Qq 448–450

699 HC (2008–09) 715

700 *Sentencing Guidelines Council and Sentencing Advisory Panel 2008-09 Annual Report*, p 5

701 Arie Freiberg, Chair of Victoria Sentencing Council, presentation to the International Centre for Prison Studies, 21 May 2009

702 Q 105

703 Ministry of Justice, *Impact Assessment of Sentencing Council for England and Wales*, January 2008

on sentencing decisions but stated that it is improving.<sup>704</sup> **We agree that the Sentencing Council must be well-resourced to enable it to perform its research function. We have concerns that it has taken similar bodies in other jurisdictions considerable time to ensure that data is of sufficient quality to form the basis of decisions about the most appropriate allocation of resources within sentencing guidelines. We do not believe that the Government's assessment of the cost implications of improved data collection adequately reflects the additional administrative burden on courts. It also underestimates the potential of improvements in court technology to provide a more rational approach to sentencing.**

### **Promoting cost-effective sentencing**

423. Among the matters dictated in the Criminal Justice Act 2003 to which the Sentencing Guidelines Council must have regard when framing guidelines, is the cost of different sentences and their relative effectiveness in preventing offending. As we noted in our report *Sentencing Guidelines and Parliament: building a bridge* it is not clear how these considerations are currently built into the guidelines.<sup>705</sup> The Government's intention is that this will be an explicit role for the new Sentencing Council for England and Wales.

424. This element of the Council's role has received mixed support from sentencers. The Council of Her Majesty's Circuit Judges was clear in its response to the Government consultation *Making Sentencing Clearer* that it does not regard it appropriate for the Council to be required to bear in mind the targeting of resources when considering the ranges of sentencing criminal offences.<sup>706</sup>

425. The Probation Boards' Association believed that sentencing should be more rounded and take into account relative cost and long-term effects on sentencing patterns but explained that progress on this must wait for further work from the Ministry of Justice on the effectiveness of community sentences. The Association advocated research which models the impact on re-offending of shifts in sentencing policy from custodial to community sentences and of different levels of investment in the probation service.<sup>707</sup>

426. The Ministry of Justice's consultation document, *Making Sentencing Clearer*, set out plans to publish information (including the unit costs of remand and sentencing disposals and costs of sentencing and remand decisions at national, regional, area or court level) to enable greater transparency in sentencing practice and the relative costs of sentencing decisions. These plans received widespread support, including from the Magistrates' Association.<sup>708</sup> The Council of HM Circuit Judges was also broadly supportive of this element, believing that national costs data may be valuable, but it cautioned that this information could be open to misinterpretation. Furthermore, the Judge's Council did not

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704 Q 86; Ministry of Justice work on unit costs to provide cost information which could be used in combination with outcome data from other research studies to enable cost-benefit evaluations, Ev 207

705 HC (2008-09) 715, para 67

706 Council of Her Majesty's Circuit Judges, response to *Making Sentencing Clearer*, December 2006

707 Ev 263

708 Home Office, *Making Sentencing Clearer: A consultation and report of a review by the Home Secretary, Lord Chancellor and Attorney General: summary of responses*, 2007

believe that comparative contextual information for each area, (including demographics, crime patterns and reconviction rates); would be of any practical benefit; particularly given the costs of producing such data.<sup>709</sup> Dr Chloë Chitty, Ministry of Justice researcher, explained that local area reducing re-offending measures will enable sentencers to have local information on reducing re-offending outcomes.<sup>710</sup>

427. Our evidence suggests that sentencing guidelines should take account of costs more explicitly, as NICE guidelines on NHS treatments and therapies do.<sup>711</sup> Ms Lawlor believed that data on cost-effectiveness should be given to sentencers as part of sentencing guidelines; information should not be limited to public expenditure costs of sentences but must include the costs and benefits that individuals, families and communities are likely to bear as a result of sentencing decisions.<sup>712</sup> Professor Cynthia McDougall advocated development of a cost-benefit scale for sentencing.<sup>713</sup>

428. Some witnesses, including Mr Coughlan, believed the criteria for sentencing should be changed as a means of managing the behaviour of sentencing practitioners.<sup>714</sup> Some countries, including Germany, limit the use of short prison sentences by making no statutory provision for sentences of imprisonment of less than 6 months.<sup>715</sup> The Scottish Government plans to amend its legislation to do the same, supported by the chief executive of the Scottish Prisons Service and chief constable David Strang, of Lothian and Borders police.<sup>716</sup> Mr Tidball, chair of the Prison Governors Association for England and Wales, expressed reservations about abolishing such sentences.<sup>717</sup> Respondents to our e-consultation shared his view, arguing the net effect could be more people given longer in prison instead of replacing custody with community sentences. We note that, since Mr Tidball gave evidence, the Prison Governors' Association has passed a motion that sentences of less than 12 months should be abolished.<sup>718</sup> Alternatively, Napo and the LGA and Clinks proposed that the potential should be explored for offenders who would receive prison sentences of less than 12 months to be dealt with on community programmes.<sup>719</sup>

### *Evidence-based sentencing decisions*

429. We heard in Portland, Oregon, US that Multnomah County Court judges attempt to address the evidence void in sentencing decisions through the use of sentencing support

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709 Council of Her Majesty's Circuit Judges, *Response to Making Sentencing Clearer consultation*, December 2006

710 Q 83

711 Q 151 [Ms Barrett, Professor McDougall]

712 Q 175

713 Ev 149

714 Q 220

715 Q 618 [Professor Pfeiffer]

716 "Phase out short prison terms says chief constable David Strang", *Times Online*, 26 June 2009, [www.timesonline.co.uk](http://www.timesonline.co.uk); Prison chiefs: short sentences are a university of crime, *The Scotsman*, 10 June 2009 [www.thescotsman.scotsman.com](http://www.thescotsman.scotsman.com)

717 Q 428. Since then the Prison Governors' Association has passed a motion that sentences of less than 12 months should be abolished.

718 "Calls to scrap short jail terms", *BBC Online*, 6 October 2009, [www.bbc.co.uk](http://www.bbc.co.uk)

719 Ev 181, 236 [LGA/Clinks, Napo]



tools which are founded on a database of local re-offending data to generate possible sentencing decisions based on the characteristics of the offender and what is most likely to be effective. The tools provide sentencers with information on the success of various types of intervention which have previously been given to offenders with similar profiles. This has been coupled with a state directive that pre-sentence reports must offer direction in terms of what intervention is most likely to work for the individual offender.<sup>720</sup> A similar directive now applies in England and Wales but sentencers do not have the underlying data to support assessments of the most appropriate intervention.

430. We were particularly impressed by the fact that some judges in the US consider that the requirements of justice lead them to a proactive engagement in leading and managing change. In some cases this has led to a genuine search for a new definition of justice. For example, Judge Marcus explained that in his view a ‘just sentence’ was not an end in itself and considered that this precludes sentencers taking responsibility for other outcomes, including the reduction of offending, or the social purposes we describe above. We saw considerable evidence of teamwork involving judges, local authorities, third sector organisations and businesses in ensuring that appropriate interventions are available to the court. What we observed showed the benefits of judges having positive feedback and closer involvement in community decision-making and the cost base of the local system.

431. Lord Carter’s report, and the Government’s response to it, bring the question of capacity and sentencing squarely into view. In the Sentencing Council, we are left with a new institution which is no more likely than its predecessor to provide a mechanism to constrain the expansion of the system and to enable it to run effectively within finite resources. The Government appears to have shied away from the difficult question of the sentencing framework’s costs in terms of prison and probation resources. **The wider question of whether the cost of a sentencing framework is too high—in terms of its use of prison and probation resources—should be answered otherwise the existing system is left in a precarious position and at risk of its future sustainability being undermined.** Court decision-making is already constrained by a lack of resources for community-based options and is, in some cases, driven by availability rather than cost-effectiveness for society and this is only likely to get worse as the system continues to expand while resources contract.

432. The remit of the new Sentencing Council for England and Wales is to analyse existing data rather than to conduct original research. We are not convinced that constraint in the use of resources can be achieved through the use of sentencing guidelines, particularly given the controversy underlying the evolution of the new body, the absence of a statement of its purpose written in the statute and the resulting lack of clarity. **We believe that the role of the Sentencing Council should be to ensure that sentencing practice succeeds in reducing offending and re-offending.** A major shortcoming is that the research function of the Council will concentrate only on sentencing rather than the global management of resources to reduce crime.



433. We agree with the judiciary and other witnesses that the availability of resources should not influence individual sentencing decisions but a mechanism must be found to ensure that one element of the accountability of the judiciary and magistracy to the public is the appropriate use of scarce resources. We are emphatically not advocating a system of elected judges but there are advantages of the US system in terms of judges' accountability to the public to be cost-effective in their sentencing. Both the Government and the Sentencing Council should consider how sentencers can be given a better understanding of what works in terms of reducing offending and re-offending and is therefore best in terms of justice and public protection. Sentencers also need data on the cost-effectiveness, and thus the consequences for the taxpayer, of their decisions. This could be achieved, for example, by strengthening the role of local criminal justice boards, which bring together criminal justice agencies, including the Crown Prosecution Service and HM Courts Service, to consider the implications of decision-making at local level.

434. There is a clear need for more systematic inclusion of effective practice in sentencing guidelines. A national database could be created, like in Multnomah County in Oregon, to provide stronger information on the costs and benefits of various sentencing options and inform the development of the sentencing framework. **The Sentencing Council must be given the resources to recruit expertise to develop a database housing all data on sentencing decisions and the characteristics of offenders sentenced to provide a basis for the development of evidence-based guidelines. In addition courts and probation areas must be given the capacity to record, collate and provide this data to the Sentencing Council.**

### Locally responsive sentencing

435. Witnesses were concerned that the delivery of justice takes place away from the community context. Mr Scott contended that in seeking reform you cannot get to the public without first getting sentencers on your side.<sup>721</sup> Others, including Mr Leslie and the Howard League, lamented the loss of the 'local' justice element of magistracy and links with public and local probation.<sup>722</sup> Mr Aitken described his increasing unease at the way the judiciary are detached from any kind of community or continuity in their sentencing.<sup>723</sup> The Magistrates' Association agreed that there must be greater visibility of justice in local communities.<sup>724</sup>

436. In Newcastle we heard about the potential for the engagement of sentencers with local issues and priorities, in particular in securing appropriate local provision for offenders by local community agencies.<sup>725</sup> Witnesses supported the expansion of community justice, based on the Community Justice Centre pilot schemes in Liverpool and Salford. These bring together teams from the courts, police, Crown Prosecution Service and probation

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721 Q 436

722 Q 271 [Mr Leslie]; Ev 164 [Howard League for Penal Reform]

723 Q 521

724 Ev 183

725 Qq 31–32

services to jointly tackle offending. Witnesses, including the Howard League, proposed that community justice can provide local solutions for local problems.<sup>726</sup> The Young Foundation believed that community justice initiatives like community courts can bolster public confidence in innovative interventions.<sup>727</sup>

437. Mr Faulker argued that justice reinvestment principles are consistent with the notion of community justice.<sup>728</sup> Mr Hill believed that community courts offer the potential for reinvestment through greater use of community penalties<sup>729</sup> as sentencers become more confident in them. Mr Ottiwell highlighted the role of community courts in enabling sentencers to engage in local partnerships and information-sharing.<sup>730</sup> For example, Salford community court has built relationships with Crime and disorder reduction partnerships and local communities. We heard about the value of engagement with local communities, including local businesses, during our visit to the community court in Seattle. It has demonstrated the costs and benefits of the community court model in diverting offenders from custody and the ability to establish, and run, such a court with minimal funding; the court led to larger savings in the use on custody than was anticipated. It has also benefited greatly from financial support from, and involvement of, local businesses who understood that it was not possible for the community to arrest their way out of the problem. Conversely, Mr Leslie, argued that agencies which co-operate in community justice courts could be financially rewarded for doing so.<sup>731</sup>

438. There is emerging evidence of the cost-benefits of such approaches in England and Wales. An independent evaluation of the two initial drugs court pilots showed that they can have statistically significant beneficial outcomes in terms of a higher likelihood of sentence completion and a lower likelihood of reconviction.<sup>732</sup> The Government committed funding for four additional courts as a result of these findings. A subsequent evaluation report has shown that to achieve a net economic benefit in terms of criminal justice costs, a 12 month drug rehabilitation requirement would need to deliver a reduction in drug misuse of 14% over a five year post-sentence period. If the wider costs to society are taken into account the required reduction in drug use is only 8%.<sup>733</sup> Early evaluation of the first year of operation of the community courts in Liverpool and Salford was less conclusive, finding no difference in re-offending rates compared to offenders sentenced in regular courts.

439. We noted in chapter 5 that the public have mixed views about the value of rehabilitation in sentencing. This may be partly related to their limited knowledge about the decisions that are taken in court as there is little systematic feedback of the outcomes of court cases to the public; although the Government plans to publish court records online.

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726 Ev 164

727 The Young Foundation, *Escape from the Titanic*, 2007

728 Ev 152

729 Ev 242

730 Ev 154-155

731 Q 280

732 Ev 200

733 Matrix Consulting, *Dedicated drug courts: a process report*, March 2008

Mr Scott believed that if the evidence-base for sentencing decision-making was more transparent, the public would get a greater understanding of sentencing; he said that if the public understand more, they are far more disposed to support the decisions of the court than seems the case from popular press reporting.<sup>734</sup>

440. As President of the Queen's Bench Division, the current Lord Chief Justice Sir Igor Judge stated "sometimes where it can be achieved, rehabilitation itself provides the significant form of long-term public protection".<sup>735</sup> Her Majesty's Court Service has explained its role in supporting work to reduce re-offending through community courts, and community engagement.<sup>736</sup> HMCS Business Plan sets out proposals to strengthen this role:

- Extending the principles of community justice, including the problem solving approach to sentencing, across magistrates' courts in England and Wales. The aim is to identify and address the underlying causes of offending behaviour to help to reduce re-offending.
- Widen the use of the judicial power to review offenders' progress on community orders under section 178 of the Criminal Justice Act 2003.
- Plans to extend the use of specialist drug courts, mental health courts and domestic violence courts.<sup>737</sup>
- Promoting the visibility of the courts and ensuring that courts learn more about community concerns.

441. Notwithstanding emerging evidence on the cost-effectiveness of community courts in reducing crime and the use of imprisonment, or the success of its implementation in pilot areas, the Government has reportedly admitted that universal provision of community courts is prohibitively expensive.<sup>738</sup>

### ***Promoting the confidence of magistrates and judges in community sentences***

442. Professor Cynthia McDougall believed that magistrates and judges lack confidence in the system to reform offenders.<sup>739</sup> The Revolving Doors Agency explained that this is particularly true in relation to community sentences for chronically excluded offenders.<sup>740</sup> The Ministry of Justice has identified the relationship between sentencers and other criminal justice agencies, especially the police and probation, as a factor which could

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734 Q 451

735 Sir Igor Judge speech, *Current Sentencing Issues*, Lincoln's Inn, 29 October 2007

736 Ministry of Justice, *HMCS Business Plan 2009–10*, 2009

737 *Ibid.*

738 "US style courts fail to reduce re-offending", *Times Online*, July 28 2009,

739 Q 145

740 Ev 288

influence sentencing practice.<sup>741</sup> Ms Done believed that there is value in building stronger relationships between criminal justice agencies and sentencers to reduce the use of imprisonment, citing evidence that lower youth custody rates are linked to better relationships between youth offending teams and courts and confidence in youth offending team court reports.<sup>742</sup> Ministers drew our attention to work that the Ministry of Justice is undertaking to strengthen the confidence of sentencers in community sentencing by providing opportunities for them to observe local probation activities, as espoused by the Rethinking Crime and Punishment initiative.<sup>743</sup>

443. There are other opportunities for strengthening the confidence of sentencers which may also enable them to build up an understanding of the most effective use of resources. In June 2008, the Senior Presiding Judge re-issued guidance for liaison between the Judiciary and the Ministry of Justice, which emphasised the importance of regular liaison between judiciary and probation at local level. This indicated that liaison should include sharing information about the availability and effectiveness of various sentencing options and performance data about the local probation service.<sup>744</sup> In addition each court's use of probation service resources should be regularly reported.

444. There is scope for sentencers to have more information about what is effective in individual cases. Mr Hill, former Director of Probation, spoke of the value of feedback to sentencers.<sup>745</sup> Mr Scott and Ms Lyon pointed out that sentencers have an appetite for feedback about outcomes of sentencing in particular cases that they have sentenced.<sup>746</sup> In addition to leading to better outcomes from sentencing, closer engagement between sentencers and community agencies can be helpful in holding the providers of elements of the sentence to account. Professor McGuire spoke of the value of "therapeutic jurisprudence" in giving courts a different relationship with offenders and the agencies providing services to them.<sup>747</sup>

445. The Magistrates' Association explained that they value the principles of joined-up support through community courts.<sup>748</sup> Community justice initiatives enable judges to engage directly with the offender, allowing them to identify the underlying problems that are causing lower level offenders to offend, potentially offer cost-benefits in terms of reductions in re-offending.

**446. Sentencers must receive systematic feedback on outcomes so that they have a clear idea of the efficacy of their sentencing. We welcome the Government's proposals to explore whether oversight throughout the duration of community orders, along the**

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741 Ministry of Justice, *Local variation in sentencing in England and Wales*, December 2007

742 Q 194; The Youth Justice Board has delivered training to district judges on youth justice provision to deal with young people who are likely to receive a custodial sentence.

743 Qq 44, 569 [Mr Straw, Mr Hanson]

744 Including enforcement and compliance, completion rates and re-offending figures

745 Qq 269, 270, 279

746 Qq 179, 448–449 [Ms Lyon, Mr Scott]

747 Q 109

748 Ev 184

**lines of that provided by community courts, could be made available in all magistrates' courts.** It is not clear where the funding will come from to facilitate this. We are concerned that such models of community courts do not provide the full range of community alternatives which the Liverpool and Salford pilot community courts are able to draw on. **We recommend the Government assesses the potential for drawing in wider community-based sources of funding for courts, for example, through local businesses, which we heard about in Seattle. In the meantime probation could usefully provide feedback to courts on progress in individual cases, for example, through the use of case studies, in addition to sharing aggregated data on outcomes.**

447. **Government should consult with sentencers and the Crown Prosecution Service to seek views on appropriate means of dialogue with crime and disorder reduction partnerships to ensure that provision to reduce re-offending is available to meet the needs of the courts.**

448. The public have limited local information about courts and little knowledge of sentencing except through media portrayal of the most extreme cases. While we support the publication of the outcomes of criminal court hearings online in principle, we are not convinced that the Government's efforts to make this information available represents the best approach to overcoming this. **The public needs to be made aware that a tough outcome in terms of sentence length may not equate to an effective outcome in terms of the reduction of crime.**

## Annex 1: Implementing the reducing re-offending agenda

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1. The implementation of offender management and the success of Public Service Agreement 23 in reducing re-offending rely on addressing a range of offender needs and ensuring that resources are available at local level to provide interventions which meet those needs.

### *Investment in making prison 'work'*

2. Cross-departmental development to reduce re-offending has focused predominantly on prison health (including mental health and drug treatment) and prisoner learning and skills, responsibility and funding for which transferred from the Prison Service to the National Health Service (NHS) in 2003 (followed by Primary Care Trusts by April 2006) and to the Learning and Skills Council (LSC) in 2006 respectively. The Sainsbury Centre for Mental Health (SCMH) highlighted the Government's emphasis on offending behaviour programmes which seek to overcome cognitive deficits that may give rise to offending rather than other more practical needs.<sup>749</sup>

### *Prison health and mental health*

3. The Government spent approximately £200 million on prison health services in 2006-07, representing a substantial increase on the £118 million spent by the prison service in 2002-03.<sup>750</sup> The annual allocation for NHS mental health in-reach services in prisons has more than doubled from £9.4 million in 2003-04 to around £20 million.<sup>751</sup> Savas Hadjipavlou, then Head of the Health Policy and Strategy Unit at the Ministry of Justice, told us that while this funding has enabled the health service to move forward considerably in provision for health and mental health in custody, the scale of need continues to far exceed provision.<sup>752</sup> This is supported by research from the SCMH which indicates that there are significant disparities in the funding of prison mental health services across England and that these services get only one-third of the money they need to address the mental health problems of prisoners.<sup>753</sup> It is difficult to ascertain whether there have been any improvements in outcomes for offenders, for example, greater access to services, as a result of greater spending on prison healthcare.<sup>754</sup>

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749 Ev 292

750 Q 307

751 HC Deb, 25 June 2008, col 366W [Commons written answer]

752 Q 308

753 Sainsbury Centre for Mental Health, *Short-changed: spending on prison mental health care*, May 2008

754 Q 309

## Learning and skills

4. The Offender Learning and Skills Service (OLASS) is organised on a regional basis and applies to England only, with devolved arrangements for education and training in Wales negotiated between the Director of Offender Management for Wales and the Welsh Assembly Government. Like health, funding for offender learning has increased substantially in recent years, from £59.4 million in 2002-03 to £161.7 million in 2008-09, in addition to investment in capital infrastructure to provide suitable education and training facilities in prisons. Jon Gamble of the National Learning and Skills Council (LSC) explained the dramatic effect that this funding has had on Ofsted assessments of the quality of learning and skills provision: prior to OLASS 75% of the existing learning and skills service were judged by Ofsted to be unsatisfactory, now 80% of provision is deemed to be satisfactory or better.<sup>755</sup> However, again, there is limited evidence of the impact that the additional funding has had on outcomes. While many more prisoners have been awarded education and skills qualifications, the NAO was unable to assess whether OLASS made any additional contribution to reducing rates of re-offending due to lack of data related to the period preceding its establishment.<sup>756</sup>

5. There are also questions over the extent to which this provision meets the needs of offenders. We heard from RL Glasspool Charity Trust that, as a result of limited statutory funding for support for offenders to enter employment (known as Custody to Work) either in prisons or in the community, its trustees are increasingly being asked to provide funding which they believe should rightly be the dominion of the state.<sup>757</sup> Ian Porée, Director of Commissioning and Operational Policy, National Offender Management Service (NOMS), acknowledged that prisons do not have the capacity to provide enough work placements or places on learning and skills courses.<sup>758</sup> Jon Gamble confirmed that approximately 50% of offenders in custody engage in learning and skills provision in any one year.<sup>759</sup> This was supported by the NAO, which also found that where prisoners do have the opportunity to do education and training courses they often do not complete them because they are transferred between different institutions, a problem exacerbated by overcrowding in the prison estate.<sup>760</sup> According to the Prisoners' Education Trust, 41% of prisoners who fail to complete a course do so as a result of being moved to another prison.<sup>761</sup>

## Offending behaviour programmes

6. The number of prisoners who commence offending behaviour programmes<sup>762</sup> each year has fallen since 2003/04 but these figures have recently begun to rise again, standing at

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755 Q 385

756 National Audit Office, *Meeting Needs? The Offenders' Learning and Skills Service*, March 2008

757 Ev 287-289

758 Qq 393, 394

759 Q 393

760 Ev 230

761 Prisoners' Education Trust, *Brain Cells: listening to prison learners*, March 2009

762 Rehabilitation programmes designed to identify the reasons why offenders offend and reduce and monitor these factors.



almost 9,400 in 2007–08.<sup>763</sup> Is not possible to separate the cost of these programmes from the core prison and probation budgets.<sup>764</sup> As with offender learning and skills, whilst a high proportion of prisoners complete their offending behaviour programmes, the NAO encountered difficulties in determining the impact their completion has on reducing re-offending.<sup>765</sup> The Ministry of Justice confirmed that this accords with other UK research, despite international evidence to support the effectiveness of such programmes in prison.<sup>766</sup> The 2002 NAO study, *Reducing Prisoner Re-offending*, provides a potential explanation for this, finding that rapid expansion of programme provision had been carried out without a clear idea of how such programmes complemented other activities. It also found that it was difficult for the prison service to assess the full cost of providing programmes and whether the existing mix of programmes provided value for money.<sup>767</sup> This research was conducted prior to developments in reducing re-offending policy and the establishment of NOMS, however the NAO has recently revisited this work and found evidence that problems in assessing cost-effectiveness remain.<sup>768</sup> The research concluded that key drivers of effectiveness in reducing re-offending include basic factors such as the quality of a prison's regime, staff skills, the stability of a prison population, and arrangements for resettlement. These drivers may be undermined at present by the "churn" of prisoners caused by overcrowding and the movement of prisoners between different institutions.

### Drug treatment

7. Prison drug treatment has seen the biggest rate of increase in funding of all the 'pathways' which have the potential to reduce re-offending; the budget was £92 million in 2008/09 and it is set to increase by at least £20 million over the next 3 years.<sup>769</sup> As a result, according to the Ministry of Justice, the volume and quality of drug treatment has improved, record numbers of prisoners are engaging in treatment and there have been significant reductions in the proportion of prisoners testing positive for drugs.<sup>770</sup> The Government commissioned PricewaterhouseCoopers to conduct a review of how existing resources for prison drug treatment could be used more effectively. The report, published in December 2007, painted a now familiar picture, namely that performance indicators related to the volume of activity rather than quality and outcome, and that the demand for prison-based drug treatment exceeds supply.<sup>771</sup>

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763 HC Deb, 17 December 2008, col 849W [Commons written answer]

764 HC Deb, 3 March 2009, col1508W [Commons written answer]

765 Ev 230

766 HC Deb, 26 January 2009, col 204W [Commons written answer]

767 National Audit Office, *HM Prison Service: Reducing Prisoner Re-offending*, 2002

768 Ev 230

769 HC Deb, 20 February 2009, col 1342W [Commons written answer]

770 Ev 198; HC Deb, 18 March 2009, col 1214W [Commons written answer]

771 PricewaterhouseCoopers, *Review of Prison-Based Drug Treatment Funding*, December 2007

## *Investment in community provision to reduce crime*

### *Drug treatment*

8. Combined funding from the Department of Health, the Home Office and the Ministry of Justice for commissioning community drugs treatment<sup>772</sup> increased from £142m in 2001 to £398m in 2007/08.<sup>773</sup> This is supplemented by mainstream funding from the Department of Health; funding for residential drug treatment can also come via local authority community care budgets. Drug treatment in England is provided by networks of services, rather than by individual organisations, and is commissioned by “drug action teams”, some of which are integrated into crime and disorder reduction partnerships. In Wales provision is made through community safety partnerships.

9. Research commissioned by the Home Office found that community drug treatment is more cost effective than putting offenders through the criminal justice system repeatedly without support to help them address their drug problem—for every £1 spent on drug treatment, at least £9.50 is saved in health and crime costs.<sup>774</sup> Drug action teams received £110 million from the Home Office in 2007–08 to support delivery of the Drug Interventions Programme (DIP), (formerly the Criminal Justice Interventions Programme), a national initiative aimed at directing drug misusing offenders out of crime and into treatment.<sup>775</sup> The Ministry of Justice provides an additional £22 million to fund drug treatment and testing for offenders who are subject to locally commissioned drug treatment at the behest of the court.<sup>776</sup>

10. The number of offenders entering drug treatment through the criminal justice system has increased from 438 per month in March 2004 to over 4,000 a month since January 2008.<sup>777</sup> This represents 48,000 entrants to treatment per year. While this represents a considerable improvement, the Home Office has predicted that it would be possible to achieve a 15% reduction in crime if there were 200,000 placements in drug treatment per year.<sup>778</sup>

### *Alcohol treatment*

11. In May 2006, the National Probation Service published *Working with Alcohol Misusing Offenders—A strategy for delivery*, which complements *Addressing Alcohol Misuse—a Prison Service Alcohol Strategy for Prisoners*, published in December 2004, in order to create a NOMS strategy to tackle alcohol misuse by offenders. According to the Government this provides NOMS “with a coherent framework for tackling alcohol misuse

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772 This is known as the pooled treatment budget and is ring-fenced

773 Ev 198

774 NHS National Treatment Agency for Substance Misuse, *National Treatment Agency Business Plan 2008-09*, 2008

775 HC Deb, 27 March 2008, col 353W

776 *Ibid.*

777 Home Office, *Autumn Performance Report 2008*, p.23

778 Home Office, *Modelling Crime Reduction for the Home Office's Strategic Plan: economic and resource analysis*, 2004, 38/04

which is evidence-based, and will lead to greater consistency and coordination of delivery<sup>779</sup>. The Government's *Alcohol Harm Reduction Strategy for England* outlines a number of additional measures to reduce alcohol-related crime, including referral to treatment at the point of arrest and programmes to reduce violence in some alcohol-related violent crime areas, for example, alcohol misuse enforcement campaigns and the tackling violent crime programme.

12. The Alcohol Needs Assessment Research project found a high level of unmet need for treatment for alcohol-related disorders and identified large variations in the level of provision for dependent drinkers across the country.<sup>780</sup> The Department of Health subsequently published several guidance documents to encourage local areas to assess local needs, identify gaps and develop partnership strategies to develop local interventions for dependent drinkers. Despite the plethora of guidance alcohol treatment remains the poor relation to drug treatment, both generally and in relation to provision for offenders.

### *Employment, learning and skills*

13. OLASS, led by the Learning and Skills Council (LSC), also has a remit to ensure that offenders in England have access to learning and skills in the community, although progress to date has focused predominantly on custodial provision. NOMS Wales has recently transferred responsibility for offender learning in Wales to the Department for Children, Education, Lifelong Learning and Skills. The Department for Work and Pensions has responsibility for raising the employment rates of offenders as one of the least qualified and most disadvantaged groups in the labour market. Offenders are a priority group for support into employment by Job Centre Plus.

14. Jon Gamble admitted that there was an under-use of the LSC's learning and skills resources for offenders.<sup>781</sup> He explained that whilst the Council, with total funding of £4 billion, has the capacity to deliver much more to offenders in the community, it is difficult for community learning providers to identify those serving a community sentence, unless they are referred by probation. Denise Edghill, of Southampton City Council argued that there is very little suitable provision for offenders in the community.<sup>782</sup> Mike Stewart, Director of the Centre for Economic and Social Inclusion, agreed questioning the suitability of mainstream provision for many offenders who typically have very low basic skills and probably require additional learning support.<sup>783</sup> Between 2000 and 2006 the European Social Fund made available substantial funding for tailored support for offenders to access specialist and mainstream learning and skills. The projects funded illustrated the potential benefits of taking a more comprehensive approach to meeting offenders' needs.<sup>784</sup>

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779 HM Government, *Safe, Sensible, Social: The next steps in the National Alcohol Strategy*, June 2007.

780 Department of Health, *Alcohol Needs Assessment Research Project: the 2004 national alcohol needs assessment for England*, November 2005

781 Q 393

782 Q 421

783 Q 400

784 Qq 391, 400

### *Mental health*

15. Department of Health funding to improve mental health provision for offenders has also focused predominantly on care for prisoners.<sup>785</sup> The Government has expressed an aspiration to develop “integrated, evidence-based services which help reduce social exclusion, and improve the health, well-being and rehabilitation of those coming into contact with the criminal justice system in line with NHS and social care standards”, although it is unclear where the additional resources will come from to implement this.<sup>786</sup>

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785 Department of Health, *Offender mental health care pathway*, January 2005

786 Department of Health, *Improving Health, Supporting Justice*, 2007, p 9

## Annex 2: Local performance frameworks

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### *The relationship between local criminal justice boards, crime and disorder reduction partnerships and local strategic partnerships, and their component agencies.*

Reducing re-offending is an important aspect of the crime reduction targets of crime and disorder reduction partnerships (CDRPs) and community safety partnerships (in Wales), and the targets set for local criminal justice boards to improve public confidence in the criminal justice system.

### *Crime and disorder reduction partnerships in England (CDRPs) and community safety partnerships in Wales (CSPs)*

Partnerships between the police, local authorities, probation service, health authorities, fire and rescue, the voluntary sector, and local residents and businesses. Crime and disorder partnerships and community safety partnerships were established under the Crime and Disorder Act 1998 to audit crime and disorder in their areas and set up a strategy to reduce it every three years. The work of these partnerships is largely co-ordinated by staff employed by local authorities and secondees from constituent agencies. CDRP funding is administered through the local area agreement, via local authorities. The Policing and Crime Act introduces a new statutory duty for CDRPs/CSPs to reduce re-offending.

### *Local criminal justice boards*

42 local criminal justice boards (LCJBs) were established in England and Wales in 2003 to improve the delivery of justice and services to victims and witnesses and to secure public confidence in the criminal justice system. LCJBs join up criminal justice agencies by bringing together chief officers and senior managers from police, prisons, probation, Crown Prosecution Service, crown courts, magistrates courts and youth offending teams. The *Criminal Justice System Strategic Plan 2008-11* gives a new remit to local criminal justice boards to focus on reducing re-offending. It is intended that local boards will work increasingly closely with crime and disorder reduction partnerships to devise strategic priorities and plans.

According to the *Criminal Justice System Strategic Plan* LCJBs and CDRPs should work together to consider:

- the results of consultation with local communities regarding their priorities and concerns;
- evidence from policing intelligence tools about crime in their area;
- the performance of the criminal justice system on bringing offences to justice and most serious crimes; and,

- the most effective way of dealing with offence and offender types that emerge from the assessment of demand.<sup>787</sup>

### *Local strategic partnerships (LSPs)*

Local strategic partnerships in England provide a forum for agreeing priorities for improvement in the local area agreement (LAA). Local area agreements set out the priorities for a local area agreed between central government and the local area and simplify some central funding. Responsibility for delivery of community safety outcomes in the LAA is the role of the crime and disorder reduction partnerships. The annual review of LAAs is intended to coincide with the CDRP plans; the priorities decided on by the CDRP should inform those which go into the LAA. Local strategic partnerships in Wales also agree priorities for community strategies but not through the vehicle of LAAs.

### *Local authorities*

Local authorities perform a key linking role with priorities for community engagement and community development and regeneration. They also have a role in the prevention of crime and in dealing with specific offender needs, including housing, drug and alcohol treatment, education, employment, as employers in their own right, social services, community safety and leisure.

### *Probation trusts*

Probation boards/trusts represent the National Offender Management Service (NOMS) in partnership arrangements with other statutory bodies such as crime and disorder reduction partnerships, non-statutory bodies such as third sector organisations and local criminal justice boards, and in work with local communities to reduce re-offending. Probation is the local lead provider in offender management that engages with the local area agreement process. Until the Policing and Crime Act 2009, which made probation boards/trusts 'responsible authorities' on CDRPs/CSPs, probation was not a statutory partner in these partnerships, but was expected to co-operate with them and was frequently represented on partnership boards.

### *Primary care trusts*

Primary care trusts (PCTs) are among the 'responsible authorities' within crime and disorder reduction partnerships. It is the responsibility of PCTs to ensure that offender health is considered as part of the joint strategic needs assessment carried out with the local authority and that offender health is given sufficient consideration by the CDRP and local strategic partnership.

## Annex 3: Glossary of terms

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ACE	Adults facing chronic exclusion pathfinder led by the Cabinet Office
CAA	Comprehensive area assessment—assessment of local public services in England
CDRP	Crime and Disorder Reduction Partnership—partnerships between the police, local authorities, probation service, health authorities, fire and rescue, the voluntary sector, and local residents and businesses, established under the Crime and Disorder Act 1998 to audit crime and disorder in their areas and set up a strategy to reduce it every three years.
CJS	Criminal justice system
CSP (Wales)	Community Safety Partnership—see CDRP
DAT	Drug Action Team—partnerships responsible for commissioning and delivering the drug strategy at a local level.
DOM	Directors of offender management—regional representatives of NOMS, accountable to the National Offender Manager.
GMAC	Greater Manchester Against Crime—a partnership between the local criminal justice board and 10 local crime and disorder reduction partnerships
HMCS	Her Majesty's Court Service
HMPS	Her Majesty's Prison Service (now part of the National Offender Management Service)
HOPS	Health Offender Partnerships
IMG	Inter-ministerial group on reducing re-offending
IOM	Integrated offender management—a strategic partnership approach to managing repeat offenders



LAA	Local area agreement—a three year agreement that sets out the priorities for a local area agreed between central government and a local area.
LCJB	Local criminal justice board—comprises chief officers from the Police, the Crown Prosecution Service, Crown and magistrates courts, the Prison Service, the Probation Service and Youth Offending Teams. Boards devise local delivery plans setting out how they aim to bring more offenders to justice, provide a better service for victims and witnesses and increase public confidence in the Criminal Justice System.
LGIU	Local Government Information unit
LSB (Wales)	Local Service Boards—similar to LSPs with responsibility for delivering local delivery agreements
LSC	Learning and Skills Council
LSP	Local strategic partnership—statutory, multi-agency body, which matches local authority boundaries, and aims to bring together at a local level the different parts of the public, private, community and voluntary sectors. Local partners working through LSPs will be expected to take many of the major decisions about priorities and funding for their local area.
MAA	Multi-area agreement—a cross-boundary local area agreement (LAA) allowing strategic partners across boundaries to agree targets and aligned funding arrangements with their government office (GO).
MAPPA	Multi agency public protection arrangements—a process designed to bring together key agencies to co-ordinate and manage those individuals returning to or in the community, who present a risk of serious harm to the public in general—and to children and vulnerable adults in particular. The arrangements are led by the responsible authority for each area, which comprises the probation service, police service and prison service.
MOJ	Ministry of Justice
NAO	National Audit Office
NAPO	The Trade Union and Professional Association for Family Court and

	Probation Staff (formerly National Association of Probation Officers)
NEF	New Economics Foundation
NCJB	National Criminal Justice Board
NICE	National Institute for Clinical Excellence
NOM	National Offender Manager—head of the National Offender Management Service who leads and develops offender management and national commissioning, including the commissioning of custodial and community sentences.
NOMS	National Offender Management Service
OASys	Offender Assessment System—the assessment tool used by the Prison Service and the Probation Service from 2002 to measure the risks and needs of criminal offenders under their supervision.
OBP	Offending Behaviour Programme—a programme of work undertaken with an offender which is designed to tackle the reasons or behaviour which leads to his or her offending.
OCJR	Office for Criminal Justice Reform—a cross-departmental organisation which supports all criminal justice agencies in working together to provide an improved service to the public. The OCJR reports to Ministers in the Home Office, the Ministry of Justice and to the Office of the Attorney General.
OECD	Organisation for economic co-operation and development—brings together the governments of countries committed to democracy and the market economy from around the world to: support sustainable economic growth; boost employment; raise living standards; maintain financial stability; assist other countries' economic development; and, contribute to growth in world trade.
OLASS	Offenders' Learning and Skills Service
PBA	Probation Association (formerly Probation Boards' Association)

PCT	Primary care trust
PGA	Prison Governors' Association
PFI	Public finance initiative
PSA	Public Service Agreement
PPO	Prolific and priority offender
QALY	Quality adjusted life years measurement—method used to compare different drugs and measure their clinical effectiveness
SCMH	Sainsbury Centre for Mental Health
SCCJR	Scottish Centre for Crime and Justice Research
SAP	Sentencing Advisory Panel
SGC	Sentencing Guidelines Council
SLA	Service Level Agreement
WSIPP	Washington State Institute for Public Policy
YJB	Youth Justice Board—an executive non-departmental public body which oversees the youth justice system in England and Wales.
YOT	Youth offending team—comprise representatives from the police, probation service, social services, health, education, drugs and alcohol misuse and housing officers to co-ordinate youth justice services.

## Annex 4: Justice Reinvestment e-consultation

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The Committee wished to conduct an e-consultation alongside this inquiry in order to engage a wider cross-section of the public and interested groups than would be possible through the gathering of written and oral evidence alone.

### Profile of respondents

92 people registered to take part in the e-consultation. At the point of registration, participants were asked to categorise themselves according to their interest in the consultation. This is illustrated in the table below:

Interest in consultation	Number of registered users
General public	38
Criminal justice professional	26
Other organisations or stakeholders	25
Ex-offenders	3
Total	92

Participants were asked to address the following questions:

1. If the Government could take one action that would cut crime and save the taxpayer money, what should it be?
2. How much do you feel you know what happens in the prisons and probation services? How confident are you in the effectiveness of these services and how well they are run?
3. Do you know of someone who committed a crime and was helped to become a law abiding citizen? What made the difference to them?
4. Is it more important to spend money on imprisoning more people for longer or to spend money to ensure that those who've finished their sentence do not commit more crimes?

49 of those who had registered posted a total of 134 messages on the site, including moderators and MPs.

Of these:

- 45 were posted on the single action page, including 1 from a moderator

- 23 were posted on the knowledge of prisons and probation page, including 1 from a moderator
- 14 were posted on the preventing re-offending page, including 1 from a moderator
- 52 were posted on the balance of spending page, including 1 from a moderator and 2 from Members

The table below shows that half of the contributors posted more than one message, and some made as many as six or more contributions:

Number of postings	Number of posters
One	23
Two	5
Three	7
Four	8
Five	1
Six or more	5
Total	49

## Summary of Responses

### General observations of public understanding of the criminal justice system

#### *Lack of public awareness*

The respondents generally felt that public awareness of the criminal justice system was low:

“I was very unaware of what happened in prisons until I became a volunteer. I visit the local women’s prison about 3 times a year as part of a prayer/activity group. There is much need to inform the general public about prison. Why and how people find themselves there” (odi24).

“I really feel that probation staff are quietly heroic on a regular business and no one knows about it. The government has never (under any administration) tried to sell probation to the public” (pete1974).

#### *Role and value of staff in the criminal justice system*

Most of the respondents who commented on the staff in the criminal justice system felt that they were dedicated and professional:

“There are many staff that try to do a good job but are hampered by over-crowding and movement of prisoners round the system” (sarah46).

“The staff I have met appear to be motivated and competent” (ConcernedCitizen).

“Probation is generally staffed by very committed passionate people. It’s a job you tend to have a vocation for and you work hard as a result” (pete1974).

However, one poster alleged that prison staff treated inmates abusively:

“I hear that most prison officers treat inmates like scum. They call them ‘scum’. They feel that it is their duty to get inmates to feel bad about themselves. But of course this does not work” (Optimaxim).

### *Frames of reference*

Participants drew on different frames of reference when responding to the e-consultation, such as their experiences as practitioners, volunteers, or offenders. A few became more aware of criminal justice issues after they attended public talks:

“I did not know very much until this Sunday when the churches in the city centre of Oxford invited the Criminal Justice Alliance to preach and speak on these issues. We were given key statistics which was very far from what the media reported” (kaihsu).

“I attended a recent talk by Ann [*sic*] Owers the Chief Inspector of Prisons, and understood her to be frustrated and disappointed, too, by the inability of the prison service to do what its best officers know they should be doing and know how to do” (jan1937).

Several respondents were critical of the role of the media in creating inaccurate public perceptions of the criminal justice system:

“What happens inside our prisons... often bears no resemblance to what you see or read in the media. The press of course want to focus on the ‘juicy’ prison stories of what happens to notorious inmates, reflecting what their readers demand perhaps, but it gives a very skewed view of how our prisons operate” (prisonsorguk).

“It has been widely publicised by MPs from varying parties that they will get ‘tough on crime’ all of which translates into sending more people to prison. In my opinion this has caused a lack of tolerance in society which is further fuelled by the media who choose to sit on the fence and berate the justice system for being too lenient or harsh dependant upon the day of the week. ... There is a massive amount of good news stories within the criminal justice system that go unnoticed as a reactive approach is taken when things are reported to have gone wrong. It is time to stop being driven by the media and start to lead the change based on what we know works and not on the opinion of people who are being whipped up to fever point by unbalanced reporting” (LAG62).

“I deplore the attitude taken by our local newspaper, which bays for retribution at every local crime; gives a platform to every victim who complains that they consider the sentence given is outrageously soft; and titillates the public with on-going stories

about how a prisoner has attempted suicide, or been moved prison, etc. and stirs up anxiety when a well-known figure is to be released” (jan1937).

### *Beliefs versus experience and evidence*

Where there had been prior knowledge of the prison system, some contributors expressed frustration at the way the service was perceived by the wider public:

“My picture of what it is like to be in prison or on probation is based on many years' experience visiting prisons and probation services. What I read in broadsheet ('quality') newspapers or see on TV bears no resemblance to reality” (GW-PET-Trustee).

“Part of the difficulty of having a meaningful debate on criminal justice though, is too often it comes down to people expressing their beliefs rather than using the evidence of what actually makes a difference” (Matt K).

### *Few responses by members of the public*

Most of the respondents to the question “How much do you feel you know what happens in the prisons and probation services?” were practitioners or volunteers in the criminal justice system. There were very few responses from members of the public, suggesting that public awareness of the prisons and probation services in general is not high.

## **Roles, purpose, and performance of the criminal justice system**

### *Effectiveness of prisons and other current policies*

Participants were asked about their confidence in the effectiveness of prisons and probation. Most of the comments were about prisons, reflecting either the public's familiarity or their concern with this aspect of criminal justice. There was a general perception that the prison system has failed. Some of the reasons given were that it is a weak deterrent and that it damages social bonds:

“Is prison effective—does prison ‘work’? Well the truth is that it ‘works’ for some (it certainly worked— eventually—for me), but it doesn't work at all for the vast majority of the people who experience it; and once you've been there once, the prospect of going there again has no deterrent effect at all; and therein lays the crux of the problem...Seventy-five per cent of people released from prison in the last twelve months will be back inside again within the next twelve months—and in truth around 50% of them are already there” (prisonsorguk).

“The reason prison has lost its sting as a punishment is because life for many people in Britain is little more than a pathetic existence anyway, caught between drugs, crime, benefits, poor wages, low expectations, social exclusion in other words. To people living this life prison holds no fear because their lives outside aren't much better than prison. This is a pitiful indictment of our neo-liberal society where big business and low taxes rule. It will get worse” (pete1974).

“We believe prison to be largely counter-productive and destructive of social cohesion because of the damage it does to individuals, families and communities.



Tackling the reasons for offending behaviour should take priority over expenditure on imprisoning people whatever the length of the sentence” (CCJG).

The lack of resources and overcrowding were among the most frequently cited concerns that affected the effectiveness of the prison system:

“Chronic over-crowding, cost-cutting, and high turn-over of the often excellent but under-funded projects provided both within the services and by the voluntary sector, have undermined useful skill-building work in education and training, and disrupted vital links with the families of offenders” (CCJG).

“There are many staff that try to do a good job but are hampered by over-crowding and movement of prisoners round the system” (sarah46).

“The failure of prison is a result of overcrowding and this in turn is due to many convicted persons being sent to prison inappropriately” (ConcernedCitizen).

“What probation needs is more resources. Staff are not replaced, programmes are not being run and offenders are being turned away in some cases. We are paying lip service to rehabilitation in many cases” (pete1974).

Several posters registered strong objections to incarceration but did not provide reasons:

“Prison and the other methods deemed lawful have over the years achieved nothing but produce a moral pit where neither society, or those brought to account for crimes of various magnitudes, know where or what is being achieved on their behalf” (northwoody).

“Prisons are an expensive problem causing apparatus. The more widespread their use, in all but the most necessary instances, the greater the magnitude of problems that those who enter them face on release back into the world before the walls” (TH2972).

### *Purposes of sentencing and ethos of the system*

Respondents were asked about their priorities for criminal justice interventions, in particular between spending on expanding the number of prison places or on preventing re-offending through rehabilitation. The resulting discussion centred on the relative importance of the various roles of criminal justice and its sometimes conflicting aims.

### *Role of prisons*

Several posters remarked that the role of the prisons is to combine incarceration and rehabilitation. Hence, in their views, there is no trade-off between these two aims:

“The question implies a false dichotomy between spending on prison places and spending on rehabilitation. That false dichotomy is central to the attitudinal failures of the present administration in dealing with crime and punishment effectively. Criminal justice does not involve a *choice* between deterrence and rehabilitation: all sentences should be strongly deterrent, and most sentences for all but relatively

minor crime should be also rehabilitative where there is at least some prospect of rehabilitating the offender” (jamesfleetstreet).

“The spending should be balanced, to ensure that offenders receive the appropriate level of rehabilitation whilst in custody and then followed up comprehensively when released. Using the services that are best equipped to look after the individual” (Kitchener).

“It is essential to try to re-educate the poor performers who are unable to express themselves or carry out basic numeracy tasks, but it is also important that prison strikes them as a prison and not just a distraction from their pre sentence way of life. It must be realised that most of them have deliberately rejected the opportunity to enjoy a good education, and have decided that the illegal way of life gives better returns than many of the legitimate jobs that so many of the people who are inside the law are obliged to take” (Petronius).

Contributors discussed the perceived aims of the criminal justice system, including deterrence, rehabilitation, discipline, punishment, and treatment. With regards to deterrence, the posters expressed views about the importance, effectiveness, and futility of incarceration as a deterrent measure:

“The deterrence is vitally important, since the existence of such deterrence is what provides the necessary disincentive to committing crimes in the first place. Many people reach the grossly flawed conclusion that, because people who have been to prison often re-offend, prison is not an effective deterrent to committing crimes. In fact, that information shows no such thing: all the people who are in prison in the first place are the people whom prison has not deterred. If it has not deterred them already, it is unlikely to do so again. Conversely, the very large number of people who do not commit any crime at all (or, at least, any serious crime) are the people who *are* deterred from committing crime by the prospect of imprisonment” (jamesfleetstreet).

“Prisons must exist. Without prisons as described above, there can be no 'fear of being imprisoned'” (stellaeec).

“The majority of folk who are in prisons have no fear of returning again and again. This has to be stopped in its tracks if the system is going to be made to work” (Petronius).

“As long as prisons are kept in the way they are at the moment, offenders will keep on re-offending as prison is not seen as much of a deterrent. They are allowed to socialise, watch tv, work, participate in workshops and go to the gym, what kind of 'deterrent' is that - it isn't! Prisons should be a place of minimal leisure and luxury! There should be no tv, no gym, a limited amount of outdoor exercise and no games. ... If they think that they will have to be locked up in a cell with 4 walls and nothing but themselves and their conscience they it might make them consider what they are doing” (alexj).

“However prison has not and is unlikely to ever work as a disincentive to re-offending. Most prisoners will face circumstances and situations far worse on their

release than before. I would send only those to prison for whom we need protecting or for whom a just punishment is the loss of liberty” (HCCJ).

Related to deterrence is crime prevention. One participant suggested that the fall in crime rates can be attributed to detaining more offenders:

“Prison is also an effective means of physically preventing people from committing crimes: It is likely no accident that the present time of falling crime rates coincides with a rising prison population” (jamesfleetstreet).

Several posters saw the main purpose of criminal justice as rehabilitation, or the shaping of law-abiding attitudes, because this will prevent re-offending:

“It is trite to state that simple incarceration has no rehabilitative effect. What is needed in order to ensure that those who are sufficiently delinquent to commit either serious crimes, or wilfully refuse to submit to lesser punishments or persistently commit crimes of any nature, is a regime in prisons designed to bring about a permanent change in attitude of the prisoners...It is a person's attitude that determines whether the response to living in difficult circumstances will be a law-abiding one or not, and the most important part of rehabilitation is to change that attitude. If, and only if, that is successful, then other measures (such as education and training of various kinds) can be invaluable in helping people to capitalise on their new, law-abiding attitudes, and incentivise their retention” (jamesfleetstreet).

“Surely the main point of prison ought to be to offer the offender the opportunity to start a new life without offending on release. If prison only reinforces the attitudes of the offender or fails to deal with the problems which contributed to the offence, then there is nothing gained. However long people are imprisoned for they are mostly eventually released, so we have to do all we can to ensure that they do not re-offend. It is inhuman to deprive people of their liberty merely to exact revenge on them for their crime, or even to ‘keep society safe’” (jan1937).

“Aside from protecting public safety the most important task of the prison system must be to reduce re-offending” (PeterO).

As to the role of punishment, the posters discussed their views on the effectiveness or otherwise of prison regimes:

“Prisoners should be rewarded for their progress, and punished for lack of progress, or for ill-discipline, by a strict hierarchy of status amongst prisoners. Cells should be segregated depending on where in the hierarchy that prisoners are; prisoners should only be allowed to mix with other prisoners on the same level. New entrants should be admitted to the lowest level, in which no socialising between prisoners at all would be allowed. At that, lowest level, prisoners would have no visiting allowance, no spending money, no access to telephones, and no access to any sort of leisure facility” (jamesfleetstreet).

“At present prison appears to be a soft touch where prisoners have more rights than the average law abiding citizen. Prison needs to be a place where criminals are made to work for their upkeep and are also forced to participate in educational courses.

Having prisoners working and participating in education would mean that there would be no time for them to enjoy the pleasures of play-stations and gyms, etc.” (pete1974).

“Prisoners have more rights'. Er, no they don't. They can't walk down the street, they can't buy a pint, they can't hug their kids, etc. Being in prison IS the punishment. Being in prison at the moment is not a soft touch. It means being held in unpleasantly crowded conditions with lots of other men who don't want to be there” (morty105).

“Those who put stress on punishment—in the belief that it either deters or reforms, seem to feel little need to provide the evidence. Punishment is seen as self-evidently justified. I have known plenty of offenders where getting a home or a job has completely changed their mindset. ... It's not a simple prescription, but it is pretty clear” (Matt K).

A few contributors spoke in support of using incarceration to instil discipline. In contrast with punishment, the argument for discipline was that it can create positive change in the inmates:

“Punishment = discipline. How do we discipline? The surrounding must be lack of leisure and pleasure. This alone will cut costs and make it more economical for the justice system. No games, no TV, and other enjoyment. Rooms must have bare walls and sufficient place for a single hard bed, without a pillow. That will help reform” (stellaec).

“I am not an advocate of the bread and water days, but in my personal opinion we are at risk of abandoning discipline in the name of decency. Prisons can be decent, humane places without resorting to appeasement. ... Custody should be hard work—it should require effort to improve oneself and recognition for that improvement. It should build moral attitude and insist on respect for others” (Trish123).

Posters identified treatment for drug dependency and other mental health problems as important components of rehabilitation. One contributor went as far as to say that long prison sentences are justifiable only on the grounds of providing an opportunity for treatment and training:

“Drug dependant prisoners and prisoners with significant mental health problems should be identified early and subject to an entirely separate, specialist, regime in entirely separate, specialist establishments. Ordinary prisoners, drug dependant prisoners and prisoners with mental health problems should never be allowed to mix with each other in prison. This scheme should also apply in Young Offenders' Institutions, but the details modified to make it more suitable for youths” (jamesfleetstreet).

“Many offenders have unaddressed mental health problems, learning difficulties, emotional problems and/or addictions. Unless their needs are addressed the circumstances which lead to offending are highly likely to recur” (CCJG).

“Most inmates especially repeat offenders have both mental health and drug misuse problems and have a life story of suffering harm abuse and neglect. They are more to be pitied than feared” (tommydoc).

“Assuming the individual is going to prison - whatever plan is made for the prisoner, and progress against it, should follow the prisoner if he is moved and followed up on release. Priorities should be: addressing drug dependency....; addressing alcohol misuse; mental health care; learning needs—literacy, numeracy, communication skills; care of the vulnerable (e.g. those with learning difficulties)...; addressing behaviour (e.g. anger management)” (Doug49).

“It must be important to spend money on education, mental health care, training, etc. or what is prison for?... A long sentence is only justified if the prisoner requires a course of treatment or training that cannot be done in a shorter time” (jan1937).

### *Sentencing*

Criticisms of sentencing policy centred on three issues—the automatic reduction of custodial sentences weakens the effectiveness of prisons as a deterrence; sentences are too lenient considering the serious nature of some offences; and sentences are too short for rehabilitation to work.

“Of what benefit is it to the public if a 12 month sentence is reduced to 3 months through them being released on automatic sentence discounts? Is there a real deterrent to assaults and violent crimes - from my experience a person carrying a knife or knuckle duster in the street is not likely to incur more than court costs and a meagre fine? When will the financial penalties catch up with the costs involved in prosecuting the offender?” (ThinBlueLine)

“Look at the case of <sup>\*\*\*</sup>, he was attacked for no reason whilst waiting for a lift with his friend, the attack was caught on camera... You could blatantly see that all three thugs were involved yet two were only sentenced to a minimum of 5 years! ...5 years behind bars for taking the life of a young man for absolutely no reason in an unprovoked attack! What sort of message is this sending out?” (alexj)

“Prisons at the moment are a complete joke, the whole 'justice' system is appalling, these days a murderer will get on average 12 years for taking somebody's life, that isn't exactly justice for the victims family is it [?][...] it seems as though the offenders get an easier ride than the families of these victims” (stellaeec).

“Why must he expect an automatic reduction in sentence for a guilty plea and why serve only half of the sentence in prison [...] Prison cannot do anything effectively in this time to change the offender [...]” (tonyt).

“There's a lot to be said for prisoners spending a full calendar year inside, the full four seasons. Certainly there is no point in handing out three month stretches. A full year offers a good long pause for thought, it's time enough to do some literacy work, and any other bits and pieces that need to be taught, banking, cooking, washing and dressing, those sorts of skills” (313jones).

“It is a complete waste of money, time and effort when the majority of women are imprisoned for short periods of time. Detox, or IDTS as it's now grandly called does not get the time to work when prisoners are back on the streets within weeks if not days” (birdman).

### *Meeting social needs*

A few participants said that prisons have an unintended effect of providing some offenders with a welcome respite from difficult life circumstances:

“Many offenders have a vastly improved life in prison to that which they experienced outside, and are in the main managed by committed professionals who have a genuine desire to rehabilitate and reduce re-offending. This presents itself as receiving attention on a plate from people who care—often for the first time in their lives. Why would this put these people off?” (Trish123)

“...I know a fair few people from where I live and they actually enjoyed their prison sentence, and I also know homeless [people] that are committing crime in the attempt to be sent to prison, because it means a roof over their heads and 3 square meals a day as well as other gadgets that many people that are honest law abiding citizens don't get” (Rich219).

### *Community interventions*

Several posters expressed the view that community interventions are a poor deterrent:

“I am a serving magistrate and do visit prisons regularly [...] The community punishments don't appear to work or they would not progress to prison” (tonyt).

“The suggestion, for example, to require ‘a sentencing judge, who would otherwise have imposed a sentence of 6 months imprisonment or less, to impose a Community Supervision Sentence instead’ is grossly misconceived. In England and Wales [...] 6 months' imprisonment is the maximum penalty for a range of offences that are, in themselves, really quite serious, such as driving whilst disqualified, assault and battery, assaulting a police officer in the execution of his duty, and driving with excess alcohol or while unfit through drink or drugs. To make people who commit such offences absolutely immune from imprisonment would grossly undermine the rule of law by fatally undermining the deterrence for... such offences” (jamesfleetstreet).

“A harsher community penalty with the risk of a long prison sentence for those who breach them would be a better use of resources. Then we could work on those sent to prison over a longer period of time” (birdman).

But another participant argued that community interventions are more cost-effective than incarceration:

“Of course it's better to spend the money on rehabilitation and ensuring offenders do not re-offend. To this end, robust community sentences are much more effective

than prison which should be reserved for the truly violent and those who are genuinely a risk to the public”(devonpractioner).

“YJB innovation has demonstrated that intensive supervision and surveillance, which includes tagging for 3 months and is very demanding of the young person, has a much better success rate than prison if you consider frequency and seriousness of offending rather than crude offence counts. These programmes demand high numbers of skilled personnel but cost-wise compare very favourably with custody. For adults, more probation officers working with low risk offenders would be far more effective than short term prison sentences at the end of which people are tipped out with no support” (devonpractitioner).

### *Particular groups*

Some posters questioned whether the system was appropriate to deal with particular groups of offenders, such as women and young people. For women, there was concern with regards to the unique circumstances which led to their imprisonment and the impact of incarceration on their role in the family:

“It seems many [women] are there not because they are evil or committed a terrible crime but because of circumstances in their own country. Women were coerced to bring in illegal substances or sometimes they are just in because they failed to possess the correct documentation to be in this country. I think a way to save money would be to have arrangements worldwide so that the person was sent back to their country to do community service or indeed prison... This way, the many mothers who are in, far away from their homes and children, might at least keep in contact with their families” (odi24).

“The vast majority of [female] offenders I have dealt with have histories of victimisation of which their drug use is a symptom. ...We need more smaller, women's prisons so they can stay near to their families and we need to imprison less women in the first place”(pete1974).

“One of the worst things that happens in the penal system is that female inmates who give birth while in prison can keep their babies for no longer than six months after birth. If their sentence continues then the babies are taken into care and the women are sent back to the wing again. This can break a woman. There are not many prisons that serve this function. In Peterborough Prison the women go back to the wing without even the dignity of a single sex environment to support their grief” (313jones).

As to young people, the respondents commented on a wide range of issues including the effectiveness of imprisonment and current sentencing policies, and the provision of children's services in the community:

“I think putting more money into young offenders institutes could work as it may be easier to get through to them, but as for these youths who have killed other teenagers, in my opinion they should serve at least 25 years and their age shouldn't be considered. I think the younger they are the worse it is, as they will still be young enough when their sentence is up to go out and do the same thing” (alexj).



“Once you've let them out it's difficult to see how much more can be done. Young people particularly can't be told. They must find their own way. But while you have them you can put material in front of them from which they might learn. Plus of course a minimum twelve month stretch, or two years if you are planning on giving half remission” (313jones).

“It is no coincidence that the apparent rise in youth crime has coincided with the more systematic criminal justice approach to youth offending. The establishment of Youth Offending Teams coincided with considerable shrinking of children's services so that it is now virtually impossible in many areas to get a service, especially accommodation, for teenagers” (devonpractitioner).

### *Impact of custody*

Several posters were concerned that custody had negative outcomes that lasted beyond the term of imprisonment:

“Most prisoners will face circumstances and situations far worse on their release than before. Much rehab out of prison is merely putting right the pains of imprisonment” (HCCJ).

“Don't forget, the vast majority of those sentenced by the courts will be released and could return to live in our communities. Do you want someone who is at best as bad or even worse than when they entered custody” (birdman).

### *Titan prisons*

There were several specific mentions of the Titan prison proposals, including criticisms of its effectiveness and cost. But one poster also saw it as an opportunity to attempt a different approach to rehabilitation:

“Titan prisons are an appalling idea. It is already known that small local prisons have a lower re-offending rate. In order to become a responsible citizen a prisoner needs to have a job and relationships. Links with firms/ employers can be made from local prisons and family contacts can be maintained more easily. Titan prisons are a confession of failure. ...We seem to be going backwards. Anyone who really knows what it is all about knows that we are heading in the wrong direction because penal populism has taken over” (sarah46).

“Am I right that three-quarters of imprisoned young offenders re-offend within 2 years? If so, it doesn't seem sensible to spend £50,000 a year on imprisoning them. Especially not in Titan prisons. Please try something else with a better success rate” (paul554).

“Titan prisons, huge 2,500 place establishments due to come on stream by 2014, offer the opportunity to do something different” (prisonsorguk).

## *Proportion of responses supporting prevention of re-offending versus imprisonment*

Of the posters who responded to Question 1 in the e-consultation, 26 (57%) preferred greater investment in preventing re-offending, 5 (11%) preferred investment in expanding the use of imprisonment, while 5 (11%) advocated a balanced approach. Another 10 did not express a clear position on the matter.

## **Cost and cost-effectiveness of the criminal justice system**

### *Costs and balance of resources*

Several contributors felt that we should be mindful of the cost to society of operating the prisons and that there should be limits to investing in incarceration:

“Prisons and other sentences should be about repaying the debt to society, however it seems that society is paying the debt incurred by criminals. On the CCTV Cities TV programme the other night a hand bag snatcher was caught and got £90 costs and compensation. The cost of apprehending him, police time, camera operator time, court costs, admin costs, etc. would far exceed the £90. Make the perpetrators pay. Add to fines, seize assets, community work, so on. If a year in prison for an offender costs £25,000 then make them pay that one way or another, instead of us, the law-abiding tax payers. It does seem that we pay for their mistakes and it appears to me the biggest deterrent is a financial one” (KPyper).

“Help inmates by all means, deliver courses, and more than once if necessary, but at some point if that help is spurned, if the lessons of the course are ignored and not translated into action then the State is entitled to draw a line with our money—in fact it has a duty to do so. At that point the focus must shift from helping the offender to protecting the public” (prisonorguk).

“We have to make economic choices—as individuals and as a society. We all want to feel safe from crime. We also want good healthcare, education, public transport and so on. We can’t have it all, and we need to make sure that whatever service is provided is efficient and effective” (MattK).

Question 4 of the e-consultation asked about an action that the Government could take to reduce crime and save the taxpayer money. This drew two types of responses—some participants felt that spending on prisons cannot be justified because it is ineffective; others pointed to the need to balance spending between incarceration and reintegration.

“Imprisonment is not effective in preventing re-offending: the levels of re-offending and in particular the 'revolving door' aspect of imprisonment must show that the £5 billion is ill-spent. In no other area of social spending would we countenance such a poor outcome for the expenditure” (CCJG).

“The use of custody for young people and adults continues to rise at enormous financial and social costs. Insufficient investment is made into supporting offenders particularly those coming out of custody in key areas such as accommodation, education, training, employment, and health” (Brian).

“More incentives should be given to offer work and accommodation to break the cycle of offending. The money saved by working in the community should be seen as a future investment and provided for greater community sentence management. Too often the govt introduces schemes which offer alternatives to custody but then cut the funding year on year, making it more difficult to ensure effective provision and management. Instead they tell us how much they have spent, but should these sentences have been custodial the spend would have been four times greater” (Badger).

“It is more expensive to imprison people than helping them to reintegrate properly into the community, and the latter is more effective and better for everybody” (kaihsu).

“The spending should be balanced, to ensure that offenders receive the appropriate level of rehabilitation whilst in custody and then followed up comprehensively when released” (Kitchener).

### *Cost cutting through private prisons*

One poster suggested that private prisons should be considered a viable alternative to public sector-run prisons, as they offer better standards of rehabilitation:

“Before we had private prisons I was against them in principle, being of the mind that it was somehow wrong to make a profit out of punishment. My experience of the actuality has been that the introduction of private prisons has been a major contributory factor in allowing us to do something about some of the worst aspects in the state system. Anyone who experienced the conditions and working practices in prison in the 1980s (i.e. before the first private prisons) would agree that despite the current level of overcrowding, things are decidedly better” (Matt K).

However, this positive view of private prisons was in the minority. Most posters who mentioned private prisons objected to their use because they believed that it will generate pressure to build more prisons to the detriment of other rehabilitation alternatives, and that the prisons are best operated by the public sector.

“Because of the economies of scale involved, private providers will generally be much keener to bid for large blocks of work rather than for one-off or small scale contracts. The concern, shared by many within the criminal justice system, is that contestability/privatisation ‘drives forward’ a prison building programme, takes up scarce resources and detracts from meaningful debate about managing a rising prison population and progressive penal policies that would look to genuinely tackle the issue” (Peter O).

“There is no evidence that private establishments are generally even as good as public sector prisons... The public sector is also better at running prisons, training staff and dealing with prisoners, their needs and the needs of their families, which is what this is all about” (Petronius).

“To make money from this expression of state disapproval is unjust. It will lead, as it does in the [United S]tates to a private prisons lobby with a vested interest in stricter

laws and increased use of prison...the public sector is not perfect in terms of efficiency and waste and money etc. but it is dispassionate and professional. If the main aim of the criminal justice system is efficiency then we are abandoning justice—the two are not compatible unfortunately” (pete1974).

“The government seems happy to pay out to the private sector higher fees, which it must be stressed are usually 'per capita', and to impose on the public sector economic cuts on a year after year basis” (Petronius).

Another respondent argued that for private prisons to work, they must be incentivised to provide rehabilitation in addition to custody:

“Under the private system companies are paid money to hold inmates in custody. If rehabilitation was part of the remit then companies could be paid more or less according to the rate of recidivism. This would amount to an annual bounty for success” (313jones).

### *Other countries*

Two posters pointed to Scandinavian models of criminal justice which incurred lower costs through preventive intervention and lesser reliance on incarceration:

“In Finland teachers are trained to spot potential future offenders and problems are addressed at an early stage. Containment as our only option is expensive and does not help those who are willing to be helped” (Optimaxim).

“Countries who use prisons sparingly—as a last resort—have far lower levels of recorded crime than those countries who effectively perpetuate generational cycles of crime through incarcerating—at a huge financial cost—individuals who are for the most part in some way damaged and then further damaged through the penal process. [We] could do worse than look to Scandinavian solutions to crime problems” (TH2972).

### **Barriers to change**

#### *Lack of political will in asserting against popular opinion*

Contributors cited a perceived lack of political will as a key factor that prevented effective reform of the criminal justice system, especially since crime often attracts heated interest from the media and the public.

“As has often been said we need political courage when dealing with crime not populism... Responses to crime are too important for party political games” (pete1974).

“As many other comments show, it is a question of political will. Many only want retribution and sequestration, not true rehabilitation for prisoners...Alas, the public would react as the toxic tabloid owners would like them to, unless the politicians start acting statesmanlike and talk sense”(kaihsu).

“We make punitive laws regularly, like clockwork or at the drop of another knife crime headline. Our reliability on so-called opinion formers to support political posturing is divisive and expensive” (Ralph000).

“First you have to stop national politicians grovelling to the Daily Mail tendency. ... Then you have to wean them off launching constantly changing ‘eye-catching initiatives’ with different names and targets every year” (Lulu).

“At the moment the two main parties play to the worst elements in the gallery (who would probably vote back capital punishment if they could). A non-party approach would make a big difference” (Sarah46).

“The system over the past decade has become reactive to public pressure for vengeance, and sentencing is too often influenced by a political need to respond to that pressure” (CCJG).

“Many people can identify simple things that would reduce levels of crime. ... You could put a guaranteed roof over an ex-prisoners head, give them a guaranteed income from work... The difficulty arises when it becomes apparent that each of these measures is deeply unpopular with one or other lobby group. (313jones)

Some respondents felt that decision-makers should not give in to public pressure but instead should have greater regard for professional opinion:

“I would like to see more attention paid by government ministers to the views of the professionals in the field who are, it seems to me, often ignored in favour of more punitive measures seen to be needed to satisfy ‘public opinion’” (jan1937).

“The health service has NICE to examine the evidence base for medicine. Perhaps we need a similar body for criminal justice. But of course if the findings ran counter to what we believe, some people would soon conclude that it wasn’t working and what we really need is more ‘hanging and flogging’. Not too many votes in being rational about crime I guess” (Matt K).

## *Resources*

Another barrier to change is the lack of resources, seen most evidently in falling staff numbers.

“What probation needs is more resources. Staff are not replaced, programmes are not being run and offenders are being turned away in some cases. We are paying lip service to rehabilitation in many cases [...] For example there are only five prisons in the country running a domestic violence programme. Another fact is the fall in the numbers of prison officers. There are now far less staff per prisoner and yet more men in jail [...] You cannot make prisoners do productive work at present because there are not the numbers. A prisoner of mine was recently allocated to a work detail (for which he is paid). The detail is for 8 men but due to overcrowding 26 have been allocated. As a result all he does is play cards... Staff ratios in private prisons are even worse—look at HMP Ryehill. A serious prison riot is now just a matter of time and I fear for the prison officers who will get hurt. We can have effective punishment

systems, prisons and probation, but they will cost money. You cannot do this on the cheap as this government, and successive governments have tried to” (pete1974).

“Prison services and probation services are under-resourced and overstretched. Individually most have the right dedication and attitude to ensure a reasonable level of delivery, but the services are constantly targeted as areas where savings can be made. This is a short term gain which will come back to bite society in the future. We have to break the offending cycle, and resources should be targeted to that end” (Badger).

### *Complexity*

Several posters felt that effective criminal rehabilitation is a complex challenge:

“I wish it were as easy as it first appears to punish, rehabilitate and send offenders out to a new life” (Petronius).

“The trouble is that we seem pretty powerless in the face of growing prison numbers to do much by way of starting to reduce the demand for prison places” (Matt K).

In particular, the posters highlighted the need for a long-term strategy rather than quick fixes:

“Crime is a social problem that needs a social answer. Answering crime with short term fixes will not work” (pete1974).

“Worthwhile programmes require investment. It is reckless to attempt to achieve anything of that nature whilst reducing immediate investment, and dishonest to claim that it can be done” (jamesfleetstreet).

### **What makes the difference to offenders?**

#### *Individual support and the value of individual staff*

Question 3 of the e-consultation asked if posters knew anyone who had been successfully rehabilitated and what made a difference in that process. One respondent shared his personal experience and how he benefited from the support of a prison staff:

“I am a former prisoner and two prisoners I was in prison with all succeeded on making law abiding lives for themselves on the outside [...] The difference in our case was a prison officer who went beyond the remit of his job and treated us as his friends. He lost his job for keeping in touch with us—as it is against the rules of the prison service—but without his empathy and support none of us would have made the transition from custody to community and criminals to citizens. Positive role models and mentors who can look beyond the criminal label are needed in prisons to prepare individuals and help them with desistance—prisons need fewer prison officers and more pedagogists” (TH2972).

#### *Opportunities to change*

One respondent identified skills training as providing an opportunity for change:

“A prisoner in a northwest prison had been put onto a brick laying course and on completion of his sentence was released and went to London. Some time later he wrote to the instructor who had trained him, thanking him for the work he had put into training him and stating that he was now happy and working as a bricklayer earning a wage of which he was proud” (Petronius).

For other respondents, they felt that the outcome of rehabilitation often depended on individual commitment to change:

“I do know one chap who escaped from the circle of crime and re-offending... There wasn't much in the way of rehabilitation. I think he found it useful to get away from society for a while, and he eventually made up his mind that he'd had enough of prison cells, and determined never to get locked up again...” (313jones).

“In my 16-year experience as a professional in the criminal justice system, there have been very few offenders that I have come across who have genuinely ‘turned the corner’ as a direct result of the not inconsiderable help they have received in custody. I have seen a number of offenders who give up crime, but almost exclusively this was due to the fact that they have eventually woken up to the impact of long periods of custody on themselves, their families, children etc.” (Trish123).

### *Mentoring and other positive influences*

Mentoring and participation in church activities were mentioned as positive influences:

“Monies would be best spent on interventions, diversions from custody, mentoring and skills delivery programmes” (TH2972).

“I know a lot of people, especially males who have been in and out of prison, but only one of them has managed to stay out of prison for good... He also became part of the church, he has stayed a member of the church and has risen in terms of status within the church, his children are also members, he now teaches younger males who are on apprenticeships” (alexj).

### *Restorative justice*

There was uniform support for restorative justice approaches where it was mentioned:

“People are capable of change. Criminals are responsive to coming face to face with victims, and understanding the impact of their crime. Restorative justice works” (LT999).

“I would say that daily moderated discussion groups intended to confront criminals with the consequences of crime both for themselves and for others should help a lot eventually [...] And meeting with victims too! (Optimaxim)

“An increased use of restorative justice approaches, together with properly applied community sentencing and other community initiatives, would reduce the need for custodial sentences and the level of reoffending, and increase public confidence in the effectiveness of the criminal justice system” (CCJG).



“I have rarely come across individuals who have any consideration for the direct victims of their crimes. If I am honest a disturbing majority of prisoners appear to have little remorse for their actions, especially amongst the under 35's. Of course any justification individuals use to stop offending is a good one if it works, but I believe more involvement with victim agencies and the use of reparative justice schemes will more ably focus the minds of offenders into perhaps eventually appreciating that they have done wrong” (Trish123).

### *Barriers to change for offenders*

Specific concerns were raised about the Rehabilitation of Offenders Act 1974 and its impact on offenders' reintegration prospects after release:

“Repeal the Rehabilitation of Offenders Act 1974 and overhaul the processes governing the disclosure of former convictions which currently is a huge obstacle to many former offenders who wish to enter into education or work—both of which, if secured, lead to reduction in offending” (TH2972).

“It's not clear to me what the purpose of Rehabilitation of Offenders Act is. No-one needs a license to lie and there are no sanctions for the applicant so far as I can see, apart from not getting the job! And although the employer is not allowed to ask awkward questions on the application form they are quite capable of working out for themselves what's going on” (313jones).

### **Recommendations for change**

#### *More funding*

Ensuring adequate resources was a common recommendation in order to have effective rehabilitation. Posters emphasised that the cheapest solutions were not always the most effective:

“Once in prison, the need to rehabilitate is imperative, and funding in the area of rehabilitation needs some serious investment. If the government is truthful about wanting to reduce re-offending, then let's have some decent funding into the prison systems we already have, instead of the cutbacks it is having to face over the next year” (Rhona).

“We can have effective punishment systems, prisons and probation, but they will cost money. You cannot do this on the cheap as this government and successive governments have tried to. Despite its failures prison is absolutely necessary for certain people. I would urge the committee to campaign for more resources for prisons and probation” (pete1974).

“Custody should... build moral attitude and insist on respect for others. This is not achievable in the current restricted financial climate... Better planning of new initiatives and reform based on the service need rather than the cheapest option, may go a long way towards saving needless expenditure” (Trish123).

One poster also recommended the reallocation of spending decisions on custodial facilities to local governments:

“The costs of crime and funding for these supportive services are met by local areas and in some cases regional agencies whilst the cost of custody is met at a national level. If local areas were responsible for spending on custodial places (through a grant from central government based on a formula of historical custodial trends), there would be a greater and more co-ordinated commitment to reducing the use of custody in the first place and creating opportunities for offenders on release” (Brian).

### *Long term, coordinated strategy*

With regards to the expenditure on criminal justice, participants felt that decisions should be taken with a long-term perspective:

“The executive may well find that such a [mental health treatment] scheme has non-trivial start-up costs: all worthwhile schemes do. The short-term price of such a scheme is inevitably higher than the short-term price of any arbitrary or unprincipled reduction in prisoner numbers. Any administration, however, that focuses solely on short-term costs and ignores the long-term is ideologically destitute and doomed to catastrophic failure” (jamesfleetstreet).

“I do not have a magic solution that will provide the required financial investment, but... our history of knee-jerk reactions has cost us dear and resulted in a system of containment rather than reduction of re-offending. (Trish123)

In the postings, there was also an emphasis on joined-up government and better coordination between departments:

“When surveys show that 70% of offenders have some kind of mental illness the major input should be in special education not in prisons. The LEA (Local Education Authority) are just fighting to save a budget. The LEA are not responsible for the consequences of their decision and because there is no joined up thinking the prison service could end up with the problem. Until there is holistic thinking and more emphasis on education to stop people going to prison there will always be a need to waste money on further prison building etc.” (mark54).

“One action to save money is simply [to] join all the various bodies, departments, institutions that are bound by confidentiality agreements into one joint agreement. In this way, YOTs, social services, police, probation, health authorities, some voluntary groups, local authorities etc. could all share the excellent work they do and have time to apply their resources to the individuals who need it” (Ralph000).

“Unfortunately there is not a magic wand that will cure all, but it will need a structured response working at a 'whole package solution' almost 1987 all over again” (northwoody).

“A Royal Commission to oversee justice issues and make evidence based judgments would be able to drive things forward” (sarah46).

### *Public debate*

The posters were divided in their views of the value of public debate in criminal justice issues. Some felt that public debate is unproductive:

“Consulting ‘the public’ about law and order is a daft idea to start with” (pete1974).

“Cutting costs by obtaining free comments through forums will not provide a holistic strategy for change” (stellaeec).

However others argued that open public debates are essential to criminal justice reform:

“The criminal justice system needs a proper debate about what works and what can be done to tackle the [size of the] prison population” (PeterO).

### *Prisons policy*

Contributors offered numerous suggestions on various components of the rehabilitation regime.

### *Education, training, and employment*

Posters were in agreement that education and training were crucial to improving offenders’ prospects for staying crime-free after release:

“We strongly believe that it is more important to spend money on increasing the possibility of and opportunity for those offenders who have completed their sentence not to re-offend. One way of achieving this is through investing in increasing education opportunities, at all levels, from Basic Skills through to academic and vocational qualifications. The benefits of such investment will include enhancing offenders’ skills for employability, enhancing offenders’ self-esteem, and improving the experience of offenders with long custodial sentences” (GE-PET-Trustee).

“The one action that government could take to reduce crime, reduce re-offending, and reduce government expenditure on the consequences of crime and re-offending is to ensure that offenders are encouraged and enabled to complete education and vocational training programmes. This would entail two main strands of activity by HMPS/NPS/NOMS: Ensuring continuity of offenders’ programmes as offenders in custody are moved between prison establishments...and...as offenders in custody move to the community to complete their sentences” (GW-PET-Trustee).

Securing employment was equally emphasised:

“As I pointed out elsewhere, in order to escape the cycle of offending the inmate will need to be able to access paid work and a roof over their head. Paid work is effectively unobtainable for those without marketable skills and a recent criminal record. They will need to become self-employed, or work in a Remploy-type community” (313jones).

“Put more money into custodial sentence management, accommodation and employment incentives for employers” (badger).

### *Treatment for mental health and substance use*

Specialised treatment programmes for mental health and substance use issues were raised as important components of the rehabilitation regime:

“In the short term the most pressing priority is to deal effectively with the mental health needs of prisoners” (jan1937).

“Much more resource needs to be put into treatment for drug dependency and mental health problems and into teaching socially responsible behaviours that many have never learned” (tommydoc).

“Drug dependant prisoners and prisoners with significant mental health problems should be identified early and subject to an entirely separate, specialist, regime in entirely separate, specialist establishments. Ordinary prisoners, drug dependant prisoners and prisoners with mental health problems should never be allowed to mix with each other in prison. This scheme should also apply in Young Offenders' Institutions, but the details modified to make it more suitable for youths” (Rhona).

“The greatest priority for crime reduction is addressing drug dependency: the vast majority of all acquisitive offences, and a very significant proportion of offences generally, are committed to fund drug habits. The present system of rehabilitation is half-hearted at best: people who are addicted to drugs are not forced sufficiently resolutely to submit to rehabilitation and to continue to submit until they are rehabilitated. What I propose is a system that takes drug-dependant offenders outside the general sentencing regime, and give them their own, specific sentencing regime” (jamesfleetstreet).

“The probation service is funded to provide very expensive treatment services to drug users but, outside of London, we have no funding for alcohol treatment. There are other areas of concern of course but this misdirection of attention, funds and effort is a major blight on public health and on crime” (pete1974).

### *Housing and resettlement*

One contributor highlighted the importance of integrating housing and resettlement plans with other aspects of rehabilitation:

“Accommodation needs are top priority, closely followed by education, training and employment opportunities, all with appropriate support to reduce risk of failure. But there are some (all ages) who will not be able to engage in ETE without mental health and/or substance misuse problems being sorted out (which links to appropriate accommodation provision with the right support)” (devonpractitioner).

“The one thing that would really address reoffending is to CUT the number of prison places... The money saved should be spent on proper support especially appropriate and properly supported accommodation options. ... This is especially important for young offenders, around 30% of whom are effectively homeless on release (this means unsupported B&B or sofa-surfing), and women who need accommodation which supports reuniting them with children” (devonpractitioner).

### *Changes to sentencing*

Posters' suggestions regarding sentencing varied widely. Some favoured shorter sentences, others preferred longer sentences, while one poster recommended special sentencing policies for repeat offenders:

"Prison sentences should be shorter but the prison environment harsher. Money saved from secure containment should be used in the community environment to help reintegrate people back into the community they come from" (Badger).

"Short sentence prisoners are the highest risk group of offenders (in terms of future of offending), but if they are adults and serving less than 12 months they are under no form of supervision by the probation service when they get out of prison...So maybe for this group we have got to do something radical. Given how often they bounce in and out of prison on short sentences, maybe it would be better if these were rolled up a bit to a longer term of over 12 months. Put this together with a really intensive and properly resourced post release package and you might have a valid argument for longer sentences" (Matt K).

"If someone is convicted of a crime that carries a prison sentence within 12 months of being released from their last period of imprisonment then it should be open to the Prosecution to apply to the sentencing judge before sentence to have that offender designated a Persistent Offender. If that application is granted the effect will be they will serve a minimum 80% of their sentence and in conditions that are humane but austere. No in-cell television, no education, no training, no gymnasium, no smoking—they've had all of these before and failed to take advantage" (prisonorguk).

### *Investment in alternatives*

Some contributors, taking a broader view of offending behaviour, felt that tackling crime required efforts at a higher, societal level, in areas such as education and parenting.

"We do not as a country spend sufficient on education at any level from pre-school to universities. We do not make our social agenda inclusive, we actively make it exclusive" (Ralph000).

"This needs to begin a base level—society generally in this country has degenerated into a situation where many parents don't or won't give their children any moral standards or respect for rules and regulations. If an individual has been raised from birth by parents, who encourage a belief that no effort is required to prosper and that the individual want is greater than the mass need, then the chances of changing that belief in adulthood are slim to none...We need to breed respect for themselves and others into our children to have any hope of redressing the downward spiral of anti-social behaviour" (Trish123).

"Re-order sentencing policy to make the top priority the achievement of responsible citizenship, not punishment or the prevention of crime by incarcerating offenders. The re-ordering needs to be part of a wider policy of preventing crime by giving everyone the best possible start in life. Ingredients are likely to include more effective

education with involvement of citizens as individual volunteers and as members of voluntary organisations” (ConcernedCitizen).

“Prisons are not the answer to crime. Crime is a social problem that needs a social answer. Answering crime with short term justice fixes will not work. If there is an attitude of brutality in our young men leading them to pick up knives then throwing the worst offenders in prison (to be brutalised by 'tough' prison regimes) will cause more problems” (pete1974).

“[In the] longer term we need policies to support a more caring, communally-minded society in which all have a voice and a chance to fulfil their potential in life. We need to tackle poverty more effectively—but also to address the poor training and opportunities offered to young people; and the poor example set before us in the media of greed for a quick gratification of our wants as our celebrity culture suggests” (jan1937).

Prevention work with children from high-risk backgrounds was also highlighted as an area that required more attention:

“Our focus should be prevention, prevention, prevention. Why do we not target (properly) the impoverished areas where we know the next criminals will come from. [...] if any child is shown attention and input, they flourish. Even if we had to employ one teacher for every one of these kids, we would save the money when they didn't end up in prison. Many of these kids marvel at a reassuring hand or a genuine interest in themselves as a person” (ThinBlueLine).

“How about prevention? I know of nowhere, anywhere, where all the kids are offered something useful/interesting/creative etc. to do, all the time they are not in school. Spare time and holiday schemes are run by schools, local authorities, arts facilities, football clubs, libraries, churches, the police etc—but always on the goodwill of a few individuals and on puny funding [...] Just fund sustained, commonsense provision of somewhere to go and something to do. Properly. Consistently” (Lulu).

“Invest in the right kind of support for children in care (including state boarding schools if necessary) and make sure that the right kind of CAMHS (child and Adolescent Mental Health Services) support is available for all children that need it. [...] Linked to this is the need to ensure that enough resources are available in schools to identify when children may need extra support from CAMHS or other professionals (because teachers say that they don't have the time). I'm ashamed to live in a country where we can be sympathetic to a child who has been neglected, tortured or abused until s/he is 10 but then after having offered nothing much by way of therapeutic support we lose patience with them, call them hoodies and fast track them to the Young Offenders' Institute” (Nugent1).

### *Radical ideas*

Other innovative ideas raised by respondents include deploying offenders into community work, decriminalising drugs, and raising alcohol tax:

“The money wasted for minor offenders should be invested by sending these people [to] poor countries to build hospitals, water channels and so on. In this way these people might gain some skills and most of all will learn what is real life struggle” (aggi56).

“Serious offenders can be changed by a short time in Sudan, Congo or Namibia (no more expensive than prison and certainly no holiday)” (LT999).

“Personally I think if the government were to do one thing, that would guarantee a cut in crime and save tax payers money it would be to decriminalise all drugs and supply them instead in a safe and controlled environment... If drugs were decriminalised/ legalised and the control of them was taken away from the gangs this would benefit all of society... No more sick people needing help being slammed in prison without access to rehab programmes, and the government could monitor and tax the drug use, much as they do with alcohol or cigarettes” (nerd).

“Increase the tax on drink. Alcohol is at its lowest price for years. The government is totally delusional on this subject. The problem cuts across the classes [...] In my job as a probation officer [...] violence equals alcohol in 99% of cases” (pete1974).

### *Other countries*

A few contributors referred to Scandinavian countries as providing useful models of criminal justice, in particular their lower use of incarceration, higher community involvement, and attention to prevention:

“Countries who use prisons sparingly—as a last resort—have far lower levels of recorded crime than those countries who effectively perpetuate generational cycles of crime through incarcerating—at a huge financial cost—individuals who are for the most part in some way damaged and then further damaged through the penal process. [We] could do worse than look to Scandinavian solutions to crime problems” (TH2972).

“Society should move away from the American models to Scandinavian models of more community involved and open prisons” (TH2972).

“In Finland teachers are trained to spot potential future offenders and problems are addressed at an early stage. Containment as our only option is expensive and does not help those who are willing to be helped” (Optimaxim).

### **Value of the e-consultation**

#### *Positive towards e-consultation*

Overall, the participants welcomed the e-consultation:

“Congratulations to the committee on the innovative use of technology to widen and deepen public involvement in the deliberation. I hope this carries on in other parliamentary work” (kaihsu).



“I think that opportunities like this which offer to a wide range of interested people the chance to have their say is very useful, it is low in cost and has the added bonus on being anonymous. I would willingly take the time, as I have done here, to pass on my opinions, but would need to know that they have been considered” (Petronius).

### *Negative towards e-consultation*

However several respondents criticised the use of e-consultation for this issue. They felt that it reflected an attempt to cut costs by avoiding paying for professional consultation:

“Cutting costs by obtaining free comments through forums will not provide a holistic strategy for change. Paid consultation is recommended so that all angles are covered by those with integrity” (stellaeec).

“I actually question the purpose of this public consultation as you should really be asking experts not the public” (pete1974).

### *Concerns about use of information*

Some respondents were wary that the Committee would not listen to their views:

“I would willingly take the time, as I have done here, to pass on my opinions, but would need to know that they have been considered. To ask and then say we asked and then just ignore what has been said is a very nasty insult. Good idea, use this system well, but carefully” (Petronius).

“Your website contains a majority of opinions against increasing numbers in prison (which we can surely not afford). Please take note of this and have the courage to look at evidence” (sarah46).

## Annex 5: Quick reference guide to witnesses for oral evidence and others quoted in the Report

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**Aitken**, Jonathan, Prison Reform Working Group (Centre for Social Justice), former Minister and ex-prisoner

**Ali**, Rushanara, Young Foundation

**Barrett**, Barbara, Centre for the Economics of Mental Health, King's College London

**Beecham**, Sir Jeremy, Local Government Association

**Billingham**, Zoë, Audit Commission

**Campbell** MP, Alan, Parliamentary Under-Secretary of State, Home Office

**Casey**, Louise, Crime and Communities Review, Cabinet Office

**Chitty**, Dr Chloë, Offender Management and Sentencing Analytical Services, Ministry of Justice

**Cookson**, Amelia, Local Government Information Unit

**Coughlan**, John, Association of Directors of Children's Services

**Crook**, Frances, Howard League for Penal Reform

**Dean**, Malcolm, journalist (former social policy editor, The Guardian)

**Done**, Francis, Youth Justice Board

**Dubs**, Lord, Prisons Policy Group

**Edghill**, Denise, Southampton City Council

**Faulkner**, David, Centre for Criminology, University of Oxford

**Finegan**, Brendan, Youth Justice Board

**Gamble**, Jon, National Learning and Skills Council

**Gaul**, Ruth, Gateshead Council

**Greatley**, Angela, Sainsbury Centre for Mental Health

**Hadjipavlou**, Savas, Health Policy and Strategy Unit, Ministry of Justice

**Hanson** MP, David, Minister of State, Ministry of Justice

**Hennessey**, Catherine, Revolving Doors Agency

**Herbert** MP, Nick, Conservative Shadow Secretary of State for Justice

**Hill**, Roger, Director of Probation, NOMS

**Howarth** MP, David, Liberal Democrat Shadow Solicitor-General

**Hussain**, Imran, Prison Reform Trust

**Jallab**, Dr Kadhem, Tyne and Wear Research and Information

**James**, Rob, Birmingham Community Safety Partnership

**Jarman**, Commander Rod, Metropolitan Police

**Kramer**, Richard, Centre of Excellence for Connected Care

**Lawlor**, Eilís, New Economics Foundation

**Lees**, Jonathan, Rainer Communities that Care

**Leslie**, Chris, New Local Government Network

**Loader**, Professor Ian, Centre for Criminology, Oxford University

**Lyon**, Juliet, Prison Reform Trust

**Marcus**, Judge Michael, Circuit Court, Multnomah County, Oregon, USA, American

Law Institute Model Penal Code Members Consultative Group and National Institute of Corrections' National Advisory Committee on Evidence-Based Decision-Making for Local Criminal Justice Systems.

**Martin**, Clive, CLINKS

**McDougall**, Professor Cynthia, Centre for Criminal Justice, Economics and Psychology, University of York

**McGuire**, Professor James, Forensic Clinical Psychology, University of Liverpool

**Ottiwell**, David, Greater Manchester Against Crime

**Pfeiffer**, Professor Dr Christian, Criminological Research Institute of Lower Saxony

**Porée**, Ian, NOMS Operational Policy and Commissioning

**Ramsbotham**, General Lord David, former HM Inspector of Prisons

**Reitemeier**, Bob, Children's Society

**Roy**, Ellie, Youth Justice Board

**Rickard**, Paul, London borough of Tower Hamlets

**Rinaldi**, Dr Miles, New Directions Team, South West London and St George's Mental Health NHS Trust

**Scott**, David, London Chief Probation Officer and Probation Chiefs' Association

**Shepherd**, Professor Jonathan, Cardiff University Violence and Society Research Group

**Stewart**, Mike, Centre for Economic and Social Inclusion

**Straw** MP, Rt Hon Jack, Lord Chancellor and Secretary of State for Justice, Ministry of Justice

**Thomas**, Mike, Association of Youth Offending Managers

**Tidball**, Paul, Prison Governors' Association

# Formal Minutes

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**Tuesday 1 December 2009**

Members present:

Sir Alan Beith, in the Chair

David Heath

Alun Michael

Jessica Morden

Julie Morgan

Dr Nick Palmer

Andrew Turner

Dr Alan Whitehead

Draft Report *Cutting crime: the case for justice reinvestment*, proposed by the Chairman, brought up and read.<sup>788</sup>

*Ordered*, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 448 read and agreed to.

Annexes and Summary agreed to.

*Ordered*, That the list of conclusions and recommendations be inserted after the Summary.

*Resolved*, That the Report be the First Report of the Committee to the House.

*Ordered*, That the Chairman make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report.

[Adjourned till Tuesday 8 December at 4.00 pm]

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<sup>788</sup> The Chairman's draft Report was considered informally on 27 October, and 10 November, 2009 in Session 2008-09.

## Witnesses (page numbers refer to Vol II)

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	<i>Page</i>
<b>Thursday 13 March 2008</b>	
<b>Sir Jeremy Beecham</b> , Local Government Association, <b>Ruth Gaul</b> , Strategy Safety Manager, Community, Safety and Drugs, Gateshead Council , and <b>Dr Kadhem Jallab</b> , Head of Tyne and Wear Research and Information	Ev 1
<b>Tuesday 13 May 2008</b>	
<b>Rt Hon Jack Straw MP</b> , Secretary of State for Justice and Lord Chancellor, Ministry of Justice	Ev 7
<b>Tuesday 17 June 2008</b>	
<b>Dr Chloë Chitty</b> , Assistant Director, Offender Management and Sentencing Analytical Services, National Offender Management Service, Ministry of Justice	Ev 13
<b>David Faulkner</b> , Senior Research Associate, Centre for Criminology, University of Oxford, and <b>Professor James McGuire</b> , Professor of Forensic Clinical Psychology, University of Liverpool	Ev 19
<b>Tuesday 24 June 2008</b>	
<b>Professor Cynthia McDougall</b> , Centre for Criminal Justice, Economics and Psychology, University of York, and <b>Barbara Barrett</b> , Lecturer, Centre for the Economics of Mental Health, King's College London	Ev 23
<b>Juliet Lyon</b> , Director, and <b>Imran Hussain</b> , Head of Policy and Communications, Prison Reform Trust, and <b>Eilís Lawlor</b> , Researcher, Measurement and Evaluation Team, nef (the new economics foundation)	Ev 29
<b>Tuesday 1 July 2008</b>	
<b>Frances Done</b> , Chair, <b>Ellie Roy</b> , Chief Executive, and <b>Brendan Finegan</b> , Director of Strategy, Youth Justice Board	Ev 35
<b>Mike Thomas</b> , Chair, Association of Youth Offending Team Managers, <b>John Coughlan</b> , former President, Association of Directors of Children's Services, and <b>Bob Reitemeier</b> , Chief Executive, Children's Society	Ev 42

## Tuesday 15 July 2008

**Louise Casey CB**, Head of Review, Engaging Communities in Fighting Crime Ev 48

**Roger Hill**, Director of Probation, National Offender Management Service, **Chris Leslie**, New Local Government Network, **Zoë Billingham**, Director, Community Safety and the Environment, Audit Commission, and **Rushanara Ali**, Associate Director, Young Foundation Ev 53

**Jonathan Lees**, Programme Manger (England), Rainer Communities that Care, **David Ottiwell**, Data Analysis and Development Manager, Greater Manchester against Crime, and **Rob James**, Constituency Director, Birmingham Community Safety Partnership Ev 58

## Tuesday 28 October 2008

**Savas Hadjipavlou**, Head of Health Policy and Strategy Unit, Ministry of Justice Ev 63

**Angela Greatley**, Sainsbury Centre for Mental Health, and **Professor Jonathan Shepherd CBE**, Cardiff University Ev 66

**Richard Kramer**, Director, Centre of Excellence for Connected Care, Turning Point, **Catherine Hennessey**, Director of Operations, Revolving Doors Agency, and **Dr Miles Rinaldi**, Head of Recovery and Social Inclusion, New Directions Team Ev 71

## Tuesday 11 November 2008

**Ian Porée**, Director of Operational Policy and Commissioning, National Offender Management Service Ev 76

**Ian Porée**, Director of Operational Policy and Commissioning, National Offender Management Service, **Jon Gamble**, Director for Adults and Lifelong Learning, National Learning and Skills Council, and **Mike Stewart**, Director, Centre for Economic and Social Inclusion Ev 81

**Denise Edghill**, Manager, Learning and Skills, Southampton City Council, and **Paul Rickard**, Resettlement Co-ordinator, London Borough of Tower Hamlets Ev 86

## Tuesday 18 November 2008

**David Scott**, London Chief Probation Officer, Chair of the Probation Chiefs' Association, and **Paul Tidball**, Chair, Prison Governors' Association Ev 91

**Amelia Cookson**, Head of Centre for Service Transformation, Local Government Information Unit, **Frances Crook**, Director, Howard League for Penal Reform, and **Clive Martin**, Director, CLINKS Ev 96

**General Lord Ramsbotham, GCB, CBE**, House of Lords Ev 100

### Tuesday 25 November 2008

**Ian Loader**, Professor of Criminology and Director of the Centre for Criminology, Oxford University, and **Malcolm Dean**, former social policy editor of *The Guardian* Ev 104

**Nick Herbert MP**, Conservative Shadow Secretary of State for Justice, and **David Howarth MP**, Liberal Democrat Shadow Solicitor-General Ev 110

### Tuesday 9 December 2008

**Jonathan Aitken**, Chair, Prison Reform Working Group, Centre for Social Justice, and **Lord Dubs**, House of Lords, Prisons Policy Group Ev 115

**Commander Rod Jarman**, Metropolitan Police lead on neighbourhood policing and partnership (incorporating Diamond Districts), and **David Scott**, Chair, Probation Chiefs' Association Ev 121

### Tuesday 16 December 2008

**Rt Hon David Hanson MP**, Minister of State, Ministry of Justice, and **Alan Campbell MP**, Parliamentary Under-Secretary of State, Home Office Ev 128

### Tuesday 27 January 2009

**Professor Dr Christian Pfeiffer**, Criminological Research Institute of Lower Saxony Ev 140



## List of written evidence

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1	Association of Chief Police Officers	Ev 147
2	Professor Cynthia McDougall OBE, University of York	Ev 148
3	David Faulkner, University of Oxford Centre for Criminology	Ev 151
4	David Ottiwell, Greater Manchester Community Safety Partnership Team	Ev 153
5	Department for Communities and Local Government	Ev 156
6	HM Inspectorate of Probation	Ev 160
7	Howard League for Penal Reform	Ev 163
8	International Centre for Prison Studies	Ev 166
9	International Drug Policy Consortium	Ev 170
10	Leicester City Council	Ev 173
11	Local Government Association and Clinks	Ev 178
12	The Magistrates' Association	Ev 182; 184
13	Michael Marcus, Circuit Court Judge	Ev 185
14	Ministry of Justice	Ev 192; 206; 208; 212; 219; 221; 230
15	Nacro	Ev 233
16	Napo	Ev 236; 240
17	National Audit Office Home Affairs and Justice Value for Money team	Ev 241
18	NOMS, Ministry of Justice	Ev 242
19	New Directions Team	Ev 243
20	new economics foundation	Ev 246; 250
21	Partnerships in Care	Ev 251
22	Paul Kiff, University of East London	Ev 252
23	Policy Exchange	Ev 253
24	Prison Governors Association	Ev 257
25	Prison Reform Trust	Ev 258
26	Probation Boards' Association	Ev 263
27	Probation Chiefs' Association	Ev 264
28	Public and Commercial Services Union	Ev 265
29	Rainer	Ev 269; 274; 276
30	Restorative Justice Consortium	Ev 285
31	Revolving Doors Agency	Ev 288
32	RL Glasspool Charity Trust	Ev 291; 293
33	Rob Owen, St Giles Trust	Ev 293
34	Sainsbury Centre for Mental Health	Ev 295
35	Sarah Pearce, University Hospital of North Durham	Ev 300
36	Turning Point, Centre of Excellence in Connected Care	Ev 300
37	Victim Support	Ev 304
38	West Yorkshire Police Intensive Offender Management Pilot	Ev 306
39	Youth Justice Board	Ev 308; 315; 323

## Reports from the Justice Committee since Session 2007–08

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The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2008–09

First Report	Crown Dependencies: evidence taken	HC 67 (HC 323)
Second Report	Coroners and Justice Bill	HC 185 (HC 322)
Third Report	The work of the Information Commissioner: appointment of a new Commissioner	HC 146 (HC 424)
Fourth Report	Work of the Committee in 2007–08	HC 321
Fifth Report	Devolution: A Decade On	HC 529 (Cm 7687)
Sixth Report	Sentencing Guidelines and Parliament: Building a Bridge	HC 715 (Cm 7716)
Seventh Report	Constitutional Reform and Renewal: Parliamentary Standards Bill	HC 791 (HC 1017)
Eighth Report	Family Legal Aid Reform	HC 714 (HC 1018 and HC 161)
Ninth Report	The Crown Prosecution Service: Gatekeeper of the Criminal justice System	HC 186
Tenth Report	Draft Sentencing Guideline: overarching principles—sentencing youths	HC 497
Eleventh Report	Constitutional Reform and Renewal	HC 923 (HC 1017)
Twelfth Report	Role of the Prison Officer	HC 361

### Session 2007–08

First Report	Protection of Private Data	HC 154 (HC 406)
Second Report	Work of the Committee in 2007	HC 358
Third Report	Counter Terrorism Bill	HC 405 (HC 758)
Fourth Report	Draft Constitutional Renewal Bill (provisions relating to the Attorney General)	HC 698 (Cm 7689)
Fifth Report	Towards Effective Sentencing	HC 184 (Cm 7476)
Sixth Report	Public Appointments: Lord-Lieutenants and High Sheriffs	HC 1001 (Cm 7503)
Seventh Report	Appointment of the Chair of the Office of Legal Complaints	HC 1122 (HC 342)