



Ministry of  
**JUSTICE**

# **Green Paper Evidence Report**

Breaking the Cycle: Effective  
Punishment, Rehabilitation and  
Sentencing of Offenders

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## Executive summary

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### *Demand on the system*

- Although there has been a fall in crime against households and individuals, the costs of crime to society remain high (estimated at £36.2 billion in 2003). The majority of these costs are borne by victims.
- The increased use of out of court disposals and the falls in crime have not reduced pressures on criminal courts and offender management services. There has been an increasing demand on probation service capacity, although this has levelled off in the last two years. The adult prison population has risen substantially, driven by more offenders serving longer sentences, stricter enforcement of sentences (specifically more offenders being recalled to prison and spending longer in custody once recalled) and a more serious mix of offences coming before the courts. Criminal justice system expenditure has gone up, particularly in the prison and offender management parts of the system.

### *Changes in disposals*

- The most serious and prolific adult offenders are sentenced to custody. The use of custody has increased over the last twenty years, especially for serious offenders, and sentences have lengthened. There has been growth in the volumes sentenced for violence against the person, sexual offences and drugs offences and these groups in particular have seen increases to their custody rates and the length of time they are serving in prison.
- Fines are inexpensive to administer, and offer opportunities for reparation to victims and society. They remain the most common disposal for adults but their use has been declining over the last decade, especially for indictable offences. A greater use of community sentences for similar offences over the same period suggests the two are related to each other and that there has been upwards drift in severity of disposals given for indictable offences. There is scope to increase the use of rehabilitative requirements in community sentences.
- There has been an increase in the use of out of court disposals in the youth system, with these now representing the majority of youth disposals. The number of juveniles sentenced to custody has fallen. The use of community sentences for young offenders has increased.

### *Characteristics of offenders*

- The majority of offenders come into contact with the criminal justice system only once. A small proportion reoffend very frequently and are not well covered by existing interventions. Reoffending rates for those released from community and custodial sentences remain high, with those released from short custodial sentences having the highest reconviction rates. Recent analysis suggests that community sentences are more effective at reducing reoffending than short prison sentences, and cautions are slightly more effective than fines.
- The majority of offenders have a wide range of social problems which are often associated with high reoffending rates.

*Effectiveness of courts and offender management*

- There is a developing evidence base to inform how the aims of the criminal justice system might be delivered more efficiently and effectively. This includes:
  - the potential for greater gains through prevention, early intervention, diversion and resettlement;
  - ensuring that interventions are targeted and tailored to match the characteristics of individual offenders, and improving knowledge on the best sequencing of interventions;
  - using the developing evidence base on desistance, to improve understanding of how and why people stop offending and the role of practitioners in supporting this process;
  - making greater use of restorative justice and other approaches which enable greater reparation to the victim or community.

*Delivery systems*

- Given the demands on the criminal justice system and the current financial resource climate there is scope to increase effectiveness and efficiency through the use of different delivery systems. A number of approaches – which encourage and provide incentives for local joint working and greater focus on outcomes – have been tried in other sectors in the UK and abroad.
- There is a strong case for investing in rehabilitation. The economic and social costs of crime are far greater than those costs which offenders place on public services. Focusing on rehabilitation could therefore generate significant benefits to society through having fewer victims of crime, less damage and destruction of property and more offenders becoming productive members of society. In addition, there could be cost savings to government through reduction in demand for services, such as the criminal justice system, and increases in taxable earnings.
- The evidence suggests that particular gains can be made by focusing strategies on prolific offenders because this group places the greatest demand on the system, causes the greatest costs to victims and wider society, and is typically dealt with through short custodial sentences where there is limited scope for intervention.

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## Chapter One: Report overview

### Purpose

- 1.1 This report has been produced by the Ministry of Justice's Analytical Services Directorate to provide a context for the policy options set out in the Green Paper 'Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders'. It summarises the main findings emerging from our assessment of a variety of evidence sources that we have reviewed to support policy development on rehabilitation and sentencing in recent months. This evidence includes published research and statistics as well as bespoke analyses of survey and administrative data.
- 1.2 The Ministry of Justice's assessment of the costs and benefits of the proposals in the Green Paper is included in the Impact Assessment which accompanies the Green Paper. This report offers our summary of a wider range of evidence but should not be seen as a fully comprehensive review of all evidence in the area.

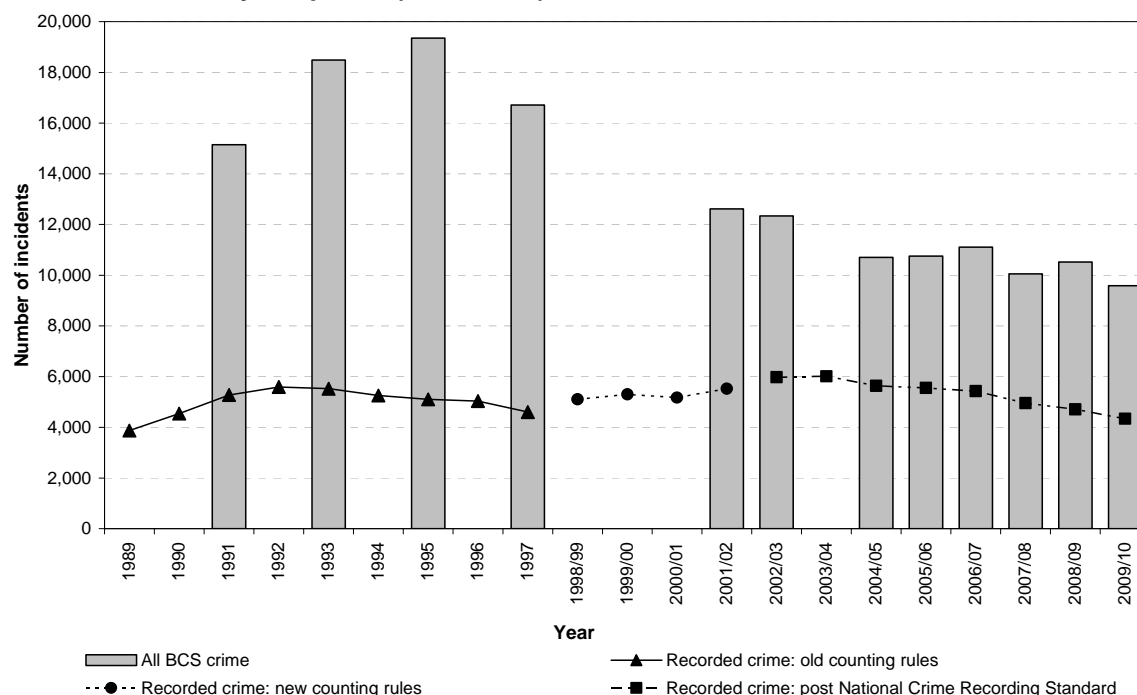
### Main findings

#### Demand on the system (Chapter Two)

**Although there has been a fall in crime against households and individuals, the costs to society remain high.**

- 1.3 Crime reported in the British Crime Survey has fallen by 45 per cent from its peak in 1995 but has been broadly flat since 2004/05 (figure 1.1)

**Figure 1.1: Annual number of incidents reported in the British Crime Survey (BCS) and crimes recorded by the police (thousands); 1989 - 2009/10.**





**The majority of the costs of crime to society – which were estimated at £36.2 billion in 2003 – are borne by victims.**

- 1.4 The Home Office's costs of crime work produced a comprehensive estimate of the social costs of crime. This estimated that the total cost of crimes against individuals and households in 2003/04 was around £36.2 billion at 2003 prices. These comprised:
- costs incurred in anticipation of crime, such as defensive expenditure (e.g. burglar alarms) (two per cent of the total costs);
  - costs incurred as a consequence of crime – these include the physical and emotional impact on the victim and the value of any property stolen (78 per cent of total costs);
  - costs incurred in response to crime, including the costs to the criminal justice system (20 per cent of total costs).
- 1.5 The single largest component of the cost of crime is the physical and emotional impact on victims, accounting for half the total cost. Average costs of crime vary between offence categories. Personal crimes with a large estimated emotional and physical impact, such as wounding, are far more costly on average than property crime.

**There has been increased use of out of court disposals in bringing offences to justice, although this has dropped off in the last few years.**

- 1.6 The use of out of court disposals such as cautions, cannabis warnings or Penalty Notices for Disorder (PNDs) increased rapidly for both adults and youths during the mid-2000s then reduced in 2007/08. These changes coincided with the introduction of the Offences Brought To Justice (OBTJ) target in 2002 and its subsequent replacement in 2008 with a revised target designed to focus effort on bringing more serious offences to justice. This target has now been removed.
- 1.7 The recent decline in the use of out of court disposals for juveniles has had a large downward impact on the number of juvenile first-time entrants to the criminal justice system.

Figure 1.2: Number of offences brought to justice for all offenders by outcome 1998/99 - 2009/10 (thousands).

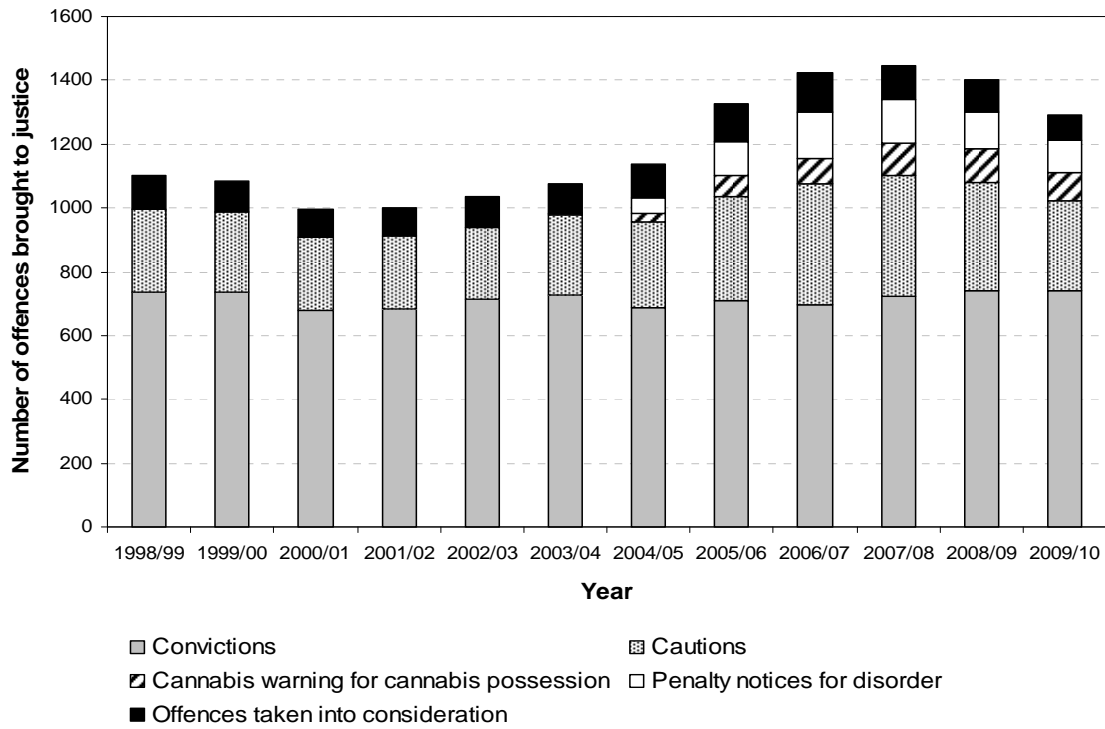
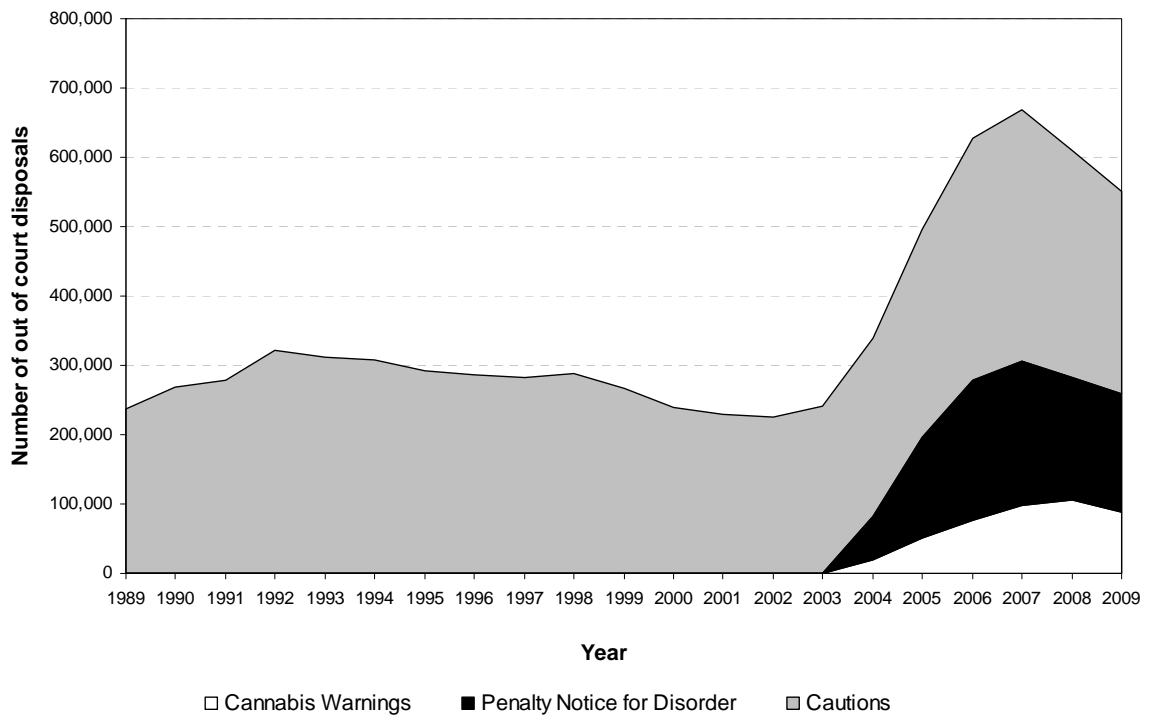


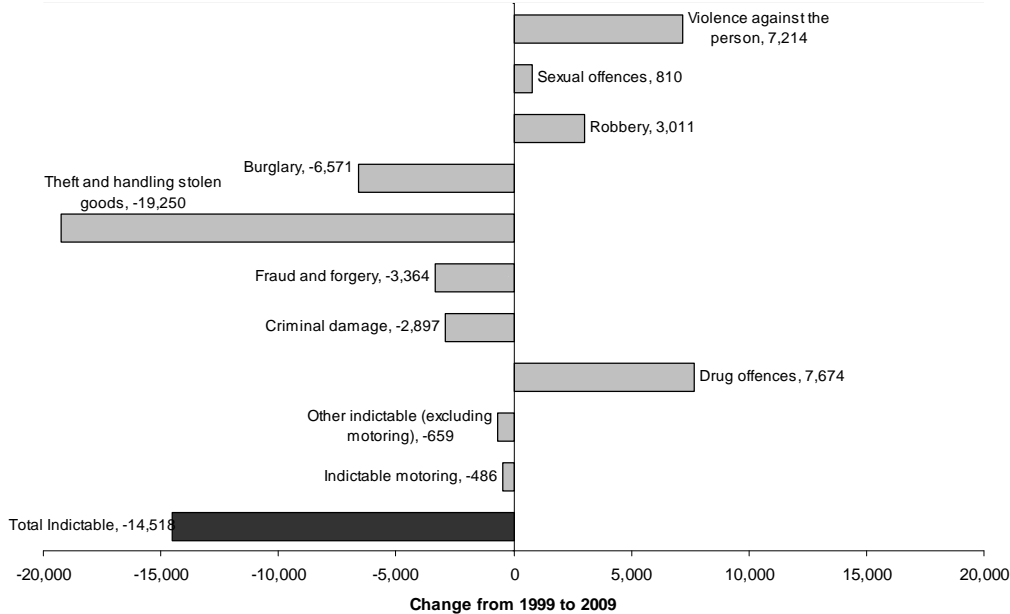
Figure 1.3: Total number of offenders who received an out of court disposal by type 1989 - 2009.



Changes in crime and increased use of out of court disposals have had limited impact on the overall demands on courts. While there has been a reduction in caseload in magistrates' courts, there has been a substantial increase in the Crown Court workload, reflecting the higher proportion of both serious and prolific offenders that are coming before the courts.

1.8 Falls in the number of offenders sentenced for certain offence groups have been offset by increases in the number of offenders sentenced for other offence groups, particularly those which can attract longer sentences, such as violent and drug offences (figure 1.4).

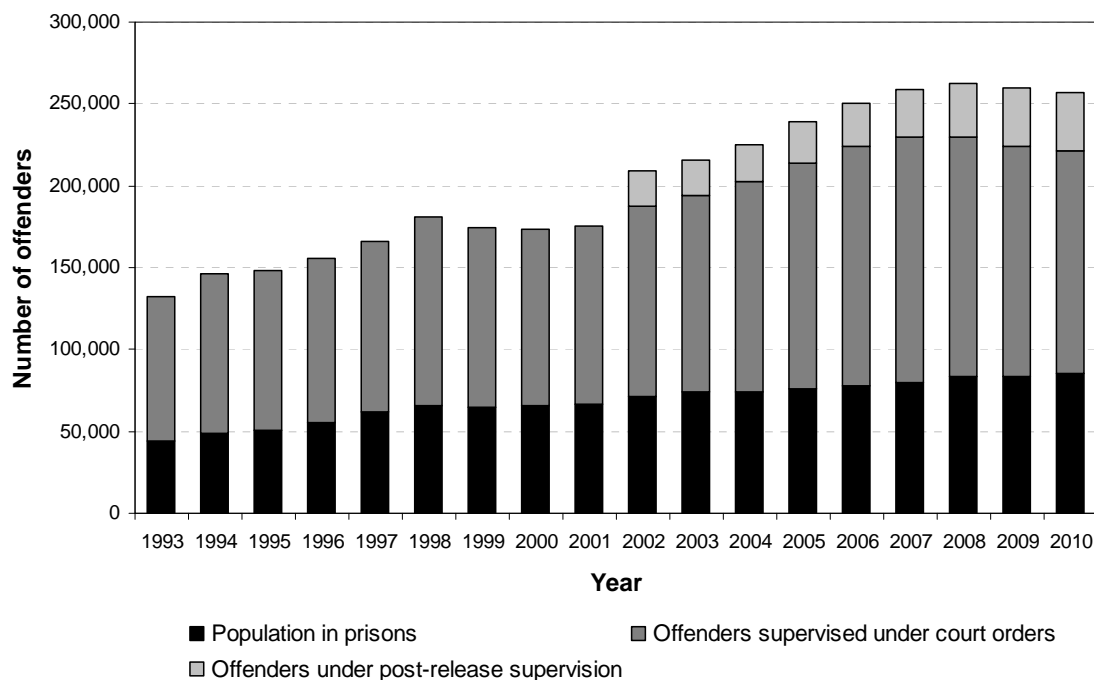
Figure 1.4: Change in total number of offenders sentenced by offence group 1999 - 2009.



There has been an increasing demand on probation capacity, although this has levelled off in the last two years.

1.9 There has been an overall increase in the use of community sentences (including Suspended Sentence Orders from 2005) from 1993 to 2009, in both overall volumes and as a proportion of offenders (from 8 per cent to 17 per cent) sentenced in court. There has also been a continued growth in the overall number of offenders serving custodial sentences of 12 months or more who require supervision from the Probation Service on release from custody. Over the past two years, growth in the probation caseload (supervision on licence and on community order) has levelled off (figure 1.5).

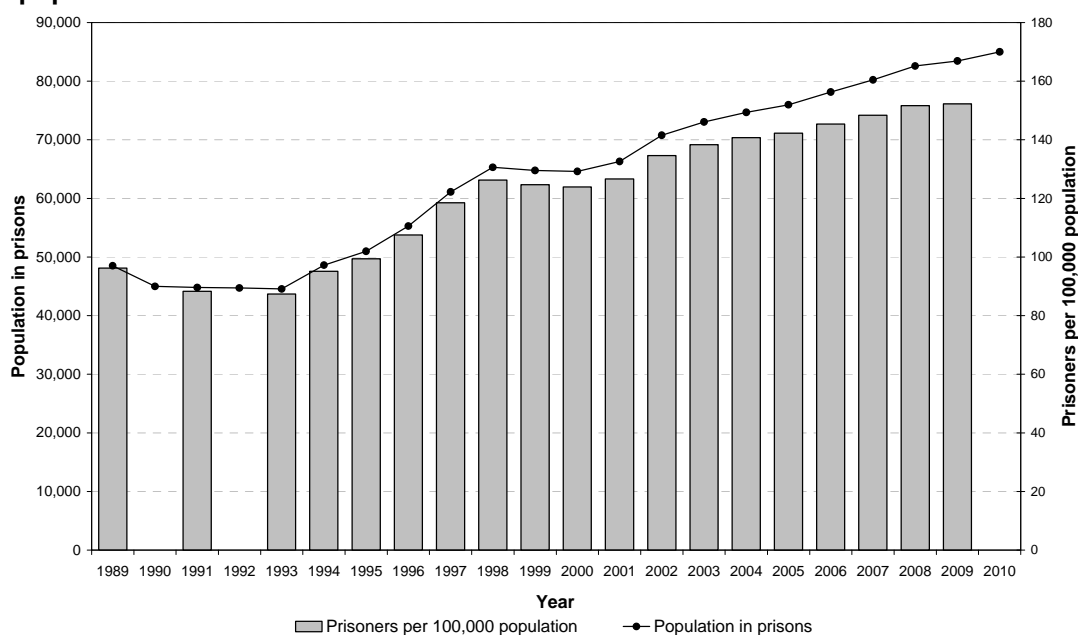
**Figure 1.5: Total Offender Management Caseload in different parts of the system 1993 - 2010.**



**The adult prison population has risen substantially.**

1.10 The overall prison population has almost doubled since 1993 (figure 1.6). This has mainly been due to more offenders serving longer sentences, stricter enforcement of sentences (specifically more offenders being recalled to prison and then spending longer in custody once recalled) and a more serious mix of offences coming before the courts.

**Figure 1.6: Total population in prison and total prisoners per 100,000 of the general population 1989 - 2010<sup>i</sup>.**



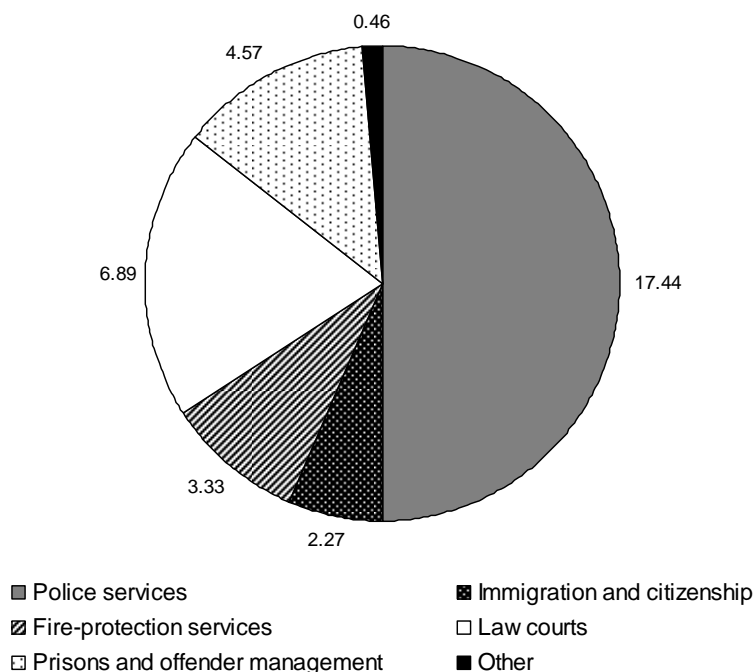
<sup>i</sup> The latest 2009 mid-year population estimates were published by the Office for National Statistics on 24 June 2010. It is anticipated that 2010 mid-year population estimates will become available in May/June next year.

- 1.11 The introduction of Imprisonment for Public Protection (IPPs) has resulted in continuing growth in the prison population. The number of people on IPPs on 5 July 2010 was 6,130 and continues to rise. By 5 July 2010 only 140 offenders had been released from IPP sentences<sup>ii</sup>.
- 1.12 Since 2008 the growth in the prison population has been slowing, partly reflecting measures introduced in the Criminal Justice and Immigration Act 2008. Additionally there has been a sharp decrease in the number of young people (aged 15 to 17) in prison over this period.
- 1.13 Fifteen per cent of the adult prison population is made up of defendants or offenders held on remand. Just under two-thirds of those on remand were untried; the remaining third of the remand population had been convicted but not yet sentenced. In 2009, of those adults who were remanded in custody, 13 per cent were acquitted and a further 23 per cent did not receive a custodial sentence. In June 2010<sup>iii</sup> 603 juveniles were on remand, amounting to 28 per cent of the total juvenile custodial population. Data for 2009 shows that of all juveniles remanded in custody, 16 per cent were then acquitted and a further 35 per cent did not get a custodial sentence.

**Criminal justice system expenditure has gone up.**

- 1.14 An estimated £35 billion was spent on public order and safety in the UK in 2009/10. Half of this was spent on police services, a fifth on law courts (including legal aid) and an eighth on prisons and offender management. Total spending on public order and safety has increased by over half in real terms since 1996/97 (figure 1.7). Over the same period, spending on prisons and offender management has increased by three-quarters in real terms, up by £1.9 billion from £2.6 billion in 1996/97 to £4.6 billion in 2009/10 (figure 1.8)<sup>iv</sup>.

**Figure 1.7: Public order and safety expenditure split by area (£billions) 2009/2010.**



<sup>ii</sup> Figures rounded to the nearest 10.

<sup>iii</sup> These figures are provisional.

<sup>iv</sup> All at 2009-10 prices.

**Figure 1.8: Prisons and offender management spend in real terms 1996/97 – 2009/10.**

Year	Prisons and offender management real spend £billion (2009/10 prices)
1996/97	2,628
1997/98	2,734
1998/99	2,915
1999/00	2,935
2000/01	3,099
2001/02	3,196
2002/03	3,451
2003/04	3,466
2004/05	3,569
2005/06	3,973
2006/07	4,097
2007/08	4,462
2008/09	4,727
2009/10	4,574

### **The overall pattern of disposals does not optimise criminal justice system outcomes (Chapter Three)**

**The use of custody has increased over the last twenty years, especially for serious offenders.**

- 1.15 The use of custody has increased for adults over the last 20 years, and sentences have got longer. There has been growth in the volumes sentenced for violent, sexual and drug offences and these groups in particular have seen increases to their custody rates and length of time they are serving in prison.
- 1.16 The courts sentence around 100,000 offenders to immediate custody each year (100,190 in 2009). Of those sentenced to immediate custody around two thirds (64,529 offenders in 2009) are given 'short sentences' of less than 12 months; this is around five per cent of all those sentenced by all courts each year. As a proportion of the total population in custody, prisoners serving short sentences have declined, as average sentences have got longer.

**Fines remain the most common disposal for adults but their use has been declining. Over the same period, the use of community sentences for adult offenders has increased.**

- 1.17 Fines are relatively inexpensive to administer, and offer opportunities for reparation to victims and society as well as punishing offenders, but their use has been declining over the past decade, especially for indictable offences. A greater use of community sentences for similar offences over the same period suggests the two trends are connected and that there has been upwards drift in the severity of disposals given for indictable offences. Community sentences are now the most common adult disposal for indictable offences. There is scope to increase the use of rehabilitative requirements in community sentences.

**There has been an increase in the use of out of court disposals in the youth system, with these now representing the majority of youth disposals.**

1.18 The majority of young offenders (53 per cent in 2009, compared with 38 per cent for adults) are now dealt with out of court. Custody rates for juveniles have reduced slightly as a proportion of all court disposals in the last twenty years from 6.5 per cent in 1989 to 6.1 per cent in 2009, and the population of juveniles in custody reached its lowest point for over a decade in June 2010. The use of community sentences for young offenders has increased.

## **Characteristics of offenders (Chapter Four)**

**Around a third of men are likely to have received a criminal conviction by age 40.**

1.19 Fifteen per cent of males born in 1963 had a conviction by age 18 and 33 per cent had a conviction by age 40. However, the majority of the general population do not commit serious offences.

**The majority of offenders come into contact with the criminal justice system only once.**

1.20 In 2008, 21 per cent of the 84,200 juveniles receiving their first reprimand, final warning or conviction reoffended within a year. There were 208,800 adults who received a caution or conviction for the first time in 2008 of whom nine per cent reoffended within the first year.

**A small proportion reoffend very frequently and are not well covered by existing interventions.**

1.21 There are around 16,000 offenders a year who have been convicted 75 times or more (figure 1.9). These highly prolific offenders mainly commit acquisitive crimes – such as shoplifting and burglary - and have very high reconviction rates – 75 per cent are reconvicted within a year.

**Figure 1.9: Number and percentage of offenders in 2005/06 cohort banded by number of previous offences.**

Number of previous offences	Number of offenders	Percentage of offenders
No previous offences	311,672	41.6%
1 - 9	261,776	35.0%
10 - 24	86,880	11.6%
25 - 49	51,747	6.9%
50 - 74	20,889	2.8%
75 or more	15,927	2.1%
Total	748,891	100.0%

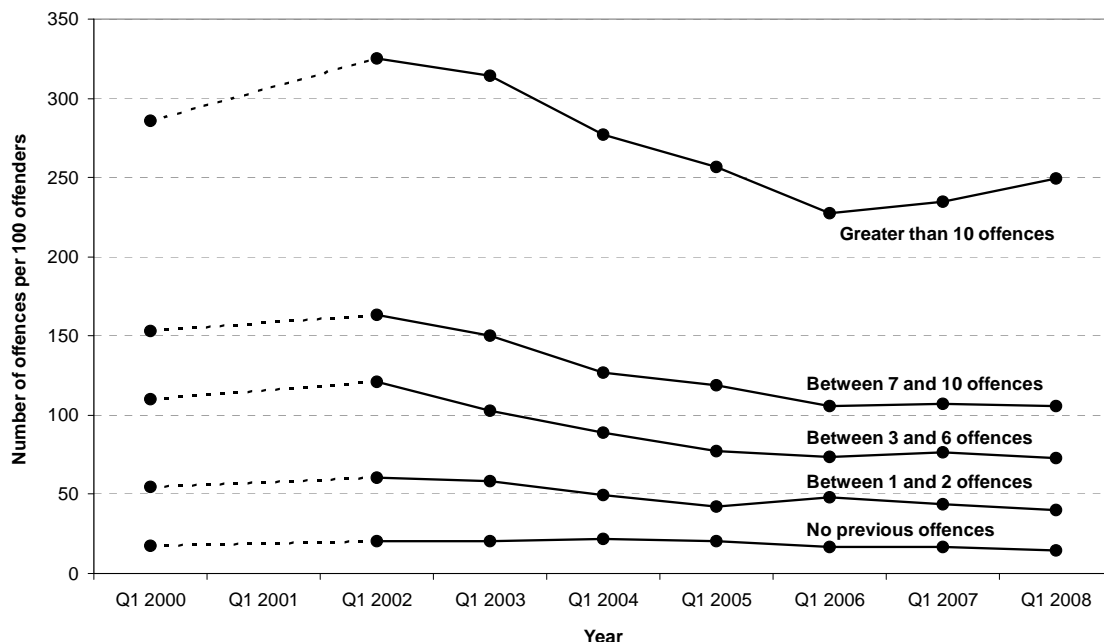
1.22 In the 2005/06 financial year, highly prolific offenders accounted for only two per cent of the offenders cautioned or convicted during the year, but were responsible for around a quarter of the proven offences committed previously by the whole group.

1.23 This group do not receive many rehabilitative interventions while in custody, as many prison interventions are capable of being delivered only to offenders who are sentenced to longer periods in custody (often more than 12 months)<sup>v</sup>. For this highly prolific group, 86 per cent of their prison sentences were for less than 12 months.

**Reconviction rates of those released from prison or starting community sentences remain high.**

1.24 Reconviction rates for adults released from prison or starting a community sentence have varied between 38.6 and 45.4 per cent between 2000 and 2008. The 2008 rate at 40.1 per cent is lower than in 2000 when it stood at 43 per cent but has increased since its lowest point in 2006 (38.6 per cent). The recent rise mainly reflects an increase in those with more than ten previous offences (figure 1.10).

**Figure 1.10: Adult reconviction rates (number of offences per 100 offenders) by number of previous offences, Q1 2000 to Q1 2008.**



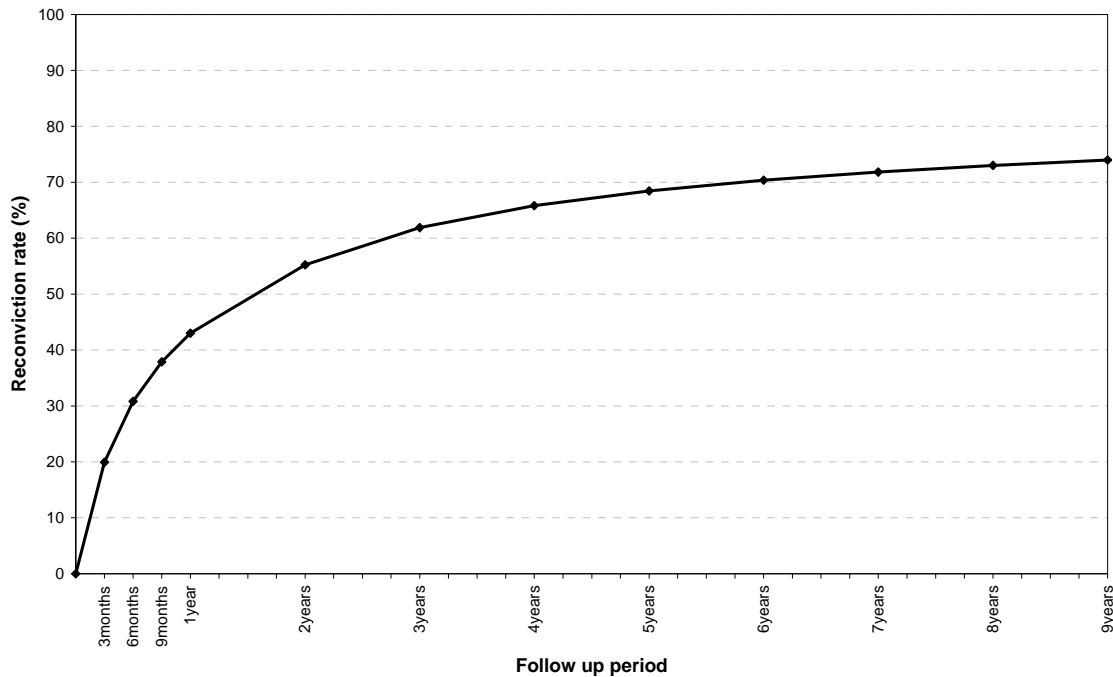
N.B. Previous offences for adults include both court convictions and out-of-court disposals.

1.25 Regardless of the nature of the sanction, the majority of adult offenders receiving custodial or community sentences reoffend. Almost three quarters of offenders who either left prison or started a community sentence in the first three months of 2000 had been reconvicted within nine years (figure 1.11).

<sup>v</sup> The exception to this is drug interventions, with many clinical and psychosocial (CARAT) interventions delivered under the Integrated Drug Treatment System being aimed at prisoners in their first 28 days in custody.

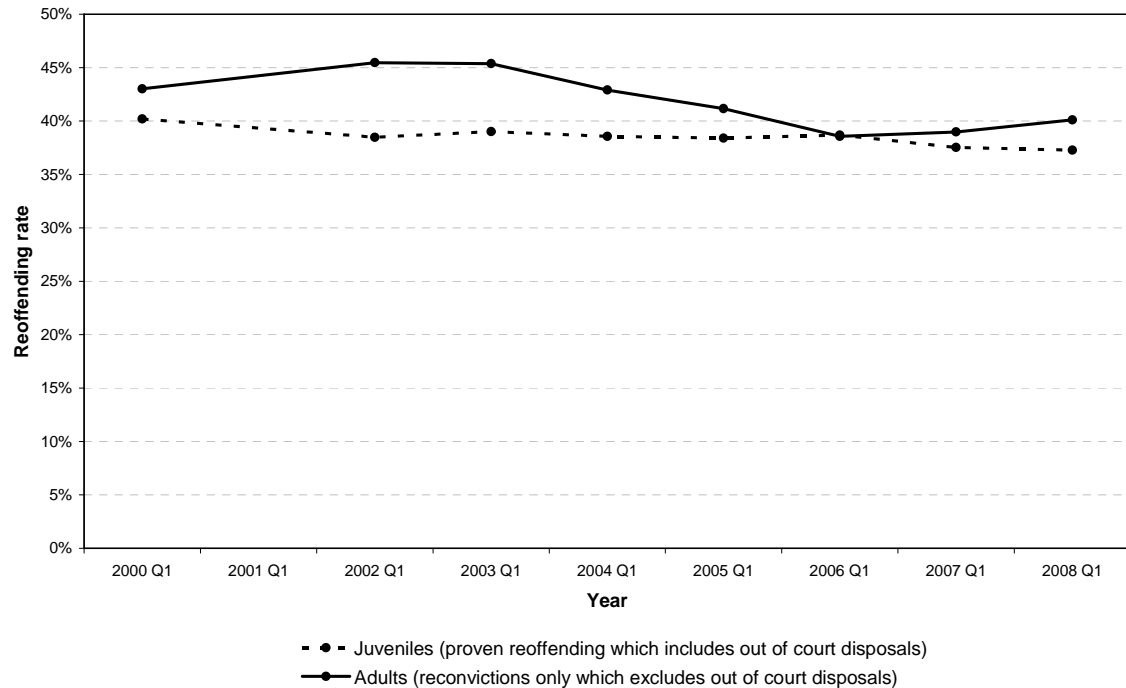


**Figure 1.11: Reconviction rates of all adult offenders receiving custodial or community sentences in 2000 by follow-up period.**



1.26 Juvenile proven reoffending has followed a more consistent downward trend and was 37.3 per cent in 2008 compared with 40.2 per cent in 2000 (figure 1.12). The proven reoffending rates for juveniles released from custody and community sentences are much higher than the overall juvenile proven reoffending rate (74 per cent and 68 per cent respectively).

**Figure 1.12: Adult and juvenile reoffending rates, Q1 2000 to Q1 2008.**



**Those released from short custodial sentences have the highest reconviction rates.**

- 1.27 Reconviction rates for adults discharged from custody are higher than for those given community sentences. Highest of all are for those released from short custodial sentences (less than 12 months): 61 per cent of those released from a short sentence were reconvicted within a year, compared with 49 per cent of the total population discharged from custody. This partly reflects the prolific offending history of this short sentence group.

**Recent analysis suggests that community sentences are more effective at reducing reoffending than short prison sentences, and cautions are slightly more effective than fines.**

- 1.28 Proven reoffending by those offenders commencing probation supervision (both community orders and suspended sentence orders) in 2007 was seven percentage points lower than for those who had served short-term custodial sentences (under 12 months) after controlling for differences between offenders.
- 1.29 Between 2005 and 2007 proven reoffending rates for those receiving cautions were up to 2.7 percentage points lower than for those offenders receiving a fine or a conditional discharge after controlling for differences between offenders.

**The majority of offenders have a wide range of social problems which are often associated with high reoffending rates.**

- 1.30 Offenders have a variety of social problems such as a lack of or low qualifications, lack of employment, accommodation needs, and drugs and/or alcohol misuse. These factors are also associated with higher rates of reoffending on release from prison. These problems need to be taken into account and tackled when developing and delivering strategies for reducing reoffending.

**There is a developing evidence base to inform how the aims of the CJS might be delivered more efficiently and effectively (Chapter Five)**

- 1.31 There is good evidence from the UK and internationally that cognitive/motivational programmes and sex offender treatment programmes can reduce reoffending; and there is promising evidence about the impact of drug treatment programmes, education, training and employment, and violence/anger management programmes. The evidence also highlights the importance of targeting and tailoring interventions to the characteristics of individual offenders, and the value to be gained of improving our knowledge on the best sequencing of interventions.
- 1.32 Research has also consistently identified the merits of skilled case management in improving the outcomes of offenders' sentences and suggests that the supervisory relationship plays an important role in securing compliance. The developing evidence base on desistance offers an improved understanding of how and why people stop offending and the role of practitioners in supporting this process.

- 1.33 For youth offenders there is evidence to suggest that family-based and parenting interventions may effect a positive change on the factors associated with offending (e.g. reductions in levels of anti-social behaviour, truancy, drug and alcohol problems, social and communication skills; self-esteem; and skills for coping with peer pressure) and reduce future reoffending.
- 1.34 Diversion out of or away from the criminal justice system (or into specialist provision within the system) can help offenders to address their problems and desist from offending. Problematic drug or alcohol use, and mental health issues, can all be related to offending behaviour; treatment through diversion schemes has been shown to have success. In particular, diversion of drug-using offenders into treatment (in the United States and Canada) has been demonstrated to be effective.
- 1.35 For both adult and juvenile offenders, post-custody resettlement support has been shown to be effective in reducing future reoffending.

**There is scope for offenders to provide more reparation to victims or the community throughout the criminal justice system.**

- 1.36 Currently, reparation to victims and society is mainly provided through financial penalties, out of court disposals or through unpaid work carried out in the community. Young offenders have more opportunity to provide reparation through their current disposals: reparation orders, referral orders and youth rehabilitation orders.
- 1.37 A wide range of restorative justice approaches are used at various stages of the criminal justice process in Australia, New Zealand, Canada, Germany and Northern Ireland. Evidence suggests that many of these approaches have a positive impact on victim satisfaction and have a positive impact on reducing reoffending in some circumstances. These impacts have also been demonstrated in pilots run in England.

**There is a strong economic and social case for investing in rehabilitation (Chapter Six)**

- 1.38 Given the demands on the system and the current financial resource climate, there is scope to increase effectiveness and efficiency through the use of different delivery systems. A number of approaches - which encourage and provide incentives for local joint working and greater focus on outcomes – have been tried in other sectors in the UK and abroad. Not all of these have been fully evaluated yet but some of the early results are promising and offer practical lessons for applying these ideas to the criminal justice context in England and Wales.
- 1.39 There is a strong case for investing in rehabilitation. The economic and social costs of crime are far greater than those costs which offenders place on public services. Focusing on rehabilitation could therefore generate significant benefits to society through having fewer victims of crime, less damage and destruction of property and more offenders becoming productive members of society. In addition, there could be cost savings to government through reduction in demand for services, such as the criminal justice system, and increases in taxable earnings.

- 1.40 The evidence suggests that particular gains can be made by focusing strategies on prolific offenders because this group places the greatest demand on the system, causes the greatest costs to victims and wider society, and is typically dealt with through short custodial sentences where there is limited scope for intervention.

## Chapter Two: Demand on the system

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### Overview

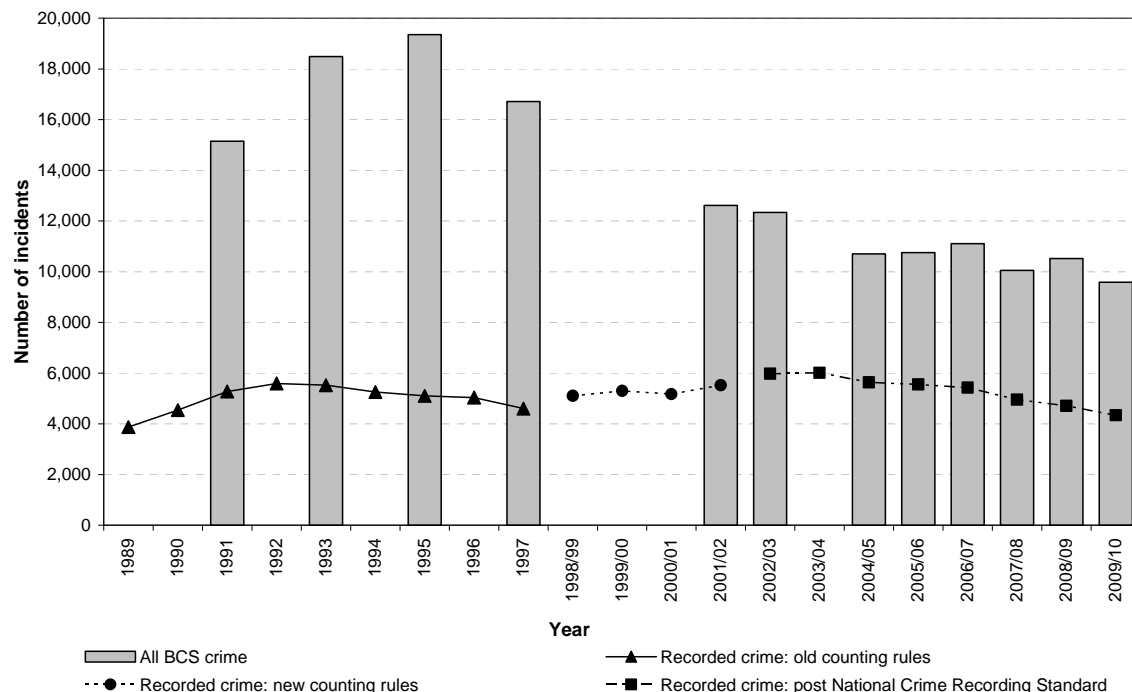
- 2.1 There are growing challenges to the criminal justice system in managing offenders and delivering value for money. Although crime levels have fallen in recent years, the costs to society remain high – estimated at £36.2 billion in 2003. The majority of these costs are borne by victims and include physical and emotional impact, as well as the value of any property stolen or damaged. The use of out of court disposals in bringing offences to justice has increased over the last decade, although this has dropped off in the last few years, corresponding to the introduction, amendment and then abolition of the target to bring more offences to justice.
- 2.2 The fall in crime and increase in the use of out of court disposals has not, however, led to a reduction in pressure on the criminal justice system. There has been an increasing demand on probation capacity, although this has levelled off in the last two years. The adult prison population has risen substantially, driven by more offenders serving longer sentences, stricter enforcement of sentences (specifically breaches) and a more serious mix of offences coming before the courts. As a result, spending on the criminal justice system has gone up, particularly on prisons and offender management.

### Trends in crime

**Total crime against individuals, aged 16 years and over living in private households, as measured by the British Crime Survey, has fallen from its peak in 1995.**

- 2.3 Crime reported in the British Crime Survey<sup>1</sup> in 2009/10 has fallen by 45 per cent from its peak in 1995 but has been broadly flat since 2004/05 (figure 2.1). Although the reductions were spread across most crime types, the main changes between 1995 and 2009/10 consisted of:
- reductions in vehicle-related crime (33 per cent of the total fall in crime);
  - reductions in burglary and other household theft (24 per cent of the total fall in crime), and common assault (18 per cent of the total fall in crime);
  - increases in theft from the person (7 per cent of the total fall in crime);
  - a fall in theft of personal property of almost half (11 per cent of the total fall in crime).
  - in the same period, there was a fall of 50 per cent in violent crime overall, although the reduction was smaller (20 per cent) for robbery.
- 2.4 The trends in other crimes without an immediate victim (such as drug dealing and usage) and crimes which are often under-reported (such as sex offences and fraud) are less clear. Homicide levels (recorded by the police) have been broadly constant since the mid 1990s, although they can vary considerably from year to year because of the relatively small number of incidents involved<sup>2</sup>.

**Figure 2.1: Annual number of incidents reported in the British Crime Survey (BCS) and crimes recorded by the police (thousands); 1989 - 2009/10<sup>3</sup>.**



2.5 The fall in crime appears to be an international phenomenon, with similar trends reported in the US and many European countries<sup>4,vi</sup>.

### Costs of crime to society

**The majority of the costs of crime to society – which were estimated at £36.2 billion in 2003 – are borne by victims and potential victims.**

2.6 The Home Office’s ‘Costs of Crime’ work<sup>5</sup> produced a comprehensive estimate of the social costs of crime. This estimated that the total cost of crimes against individuals and households in 2003/04 was around £36.2 billion in 2003 prices. These comprised:

- costs incurred in anticipation of crime, such as defensive expenditure (e.g. burglar alarms) (two per cent of the total costs);
- costs incurred as a consequence of crime – these include the physical and emotional impact on the victim and the value of any property stolen (78 per cent of total costs);
- costs incurred in response to crime, including the costs to the criminal justice system (20 per cent of total costs).

2.7 The single largest component of the cost of crime is the physical and emotional impact on victims, accounting for half the total cost. Average costs of crime vary between offence categories. Personal crimes with a large estimated emotional and physical impact, such as wounding, are far more costly on average than property crime.

2.8 Recently there has been particular interest in the group of offenders who have been released from short sentences. A National Audit Office (NAO) report estimated that the total cost to society of crime committed by offenders released from short prison sentences (less than 12 months) was £7-10 billion per year.

<sup>vi</sup> However the precise timing of these falls shows variation.

This represents a large proportion of the overall estimated costs, given they represent a small proportion (less than five per cent) of all sentenced offenders.

### Pressure on the courts and offender management services

**There was a sharp increase in the use of out of court disposals in bringing offences to justice between 2004 and 2007, although this has dropped off in the last few years.**

2.9 The total number of out of court disposals administered for notifiable or non-notifiable offences fell by nine per cent between 2008 and 2009 and 10 per cent between 2007 and 2008<sup>6</sup>.

2.10 These falls followed a period of rapid growth from 2003 to 2007, when out of court disposals almost trebled (figure 2.2). This increase was due to the introduction of Penalty Notices for Disorder (PNDs) and cannabis warnings in 2004, and an increase in the use of cautions<sup>7</sup>. This coincided with the introduction of a public service agreement target, which took effect in 2002, to increase the total number of offences brought to justice (figure 2.3). In April 2008, this target was replaced with a target focused only on serious violence, sexual and acquisitive crimes. This target has now been removed.

**Figure 2.2: Total number of offenders who received an out of court disposal by type 1989 - 2009<sup>8</sup>.**

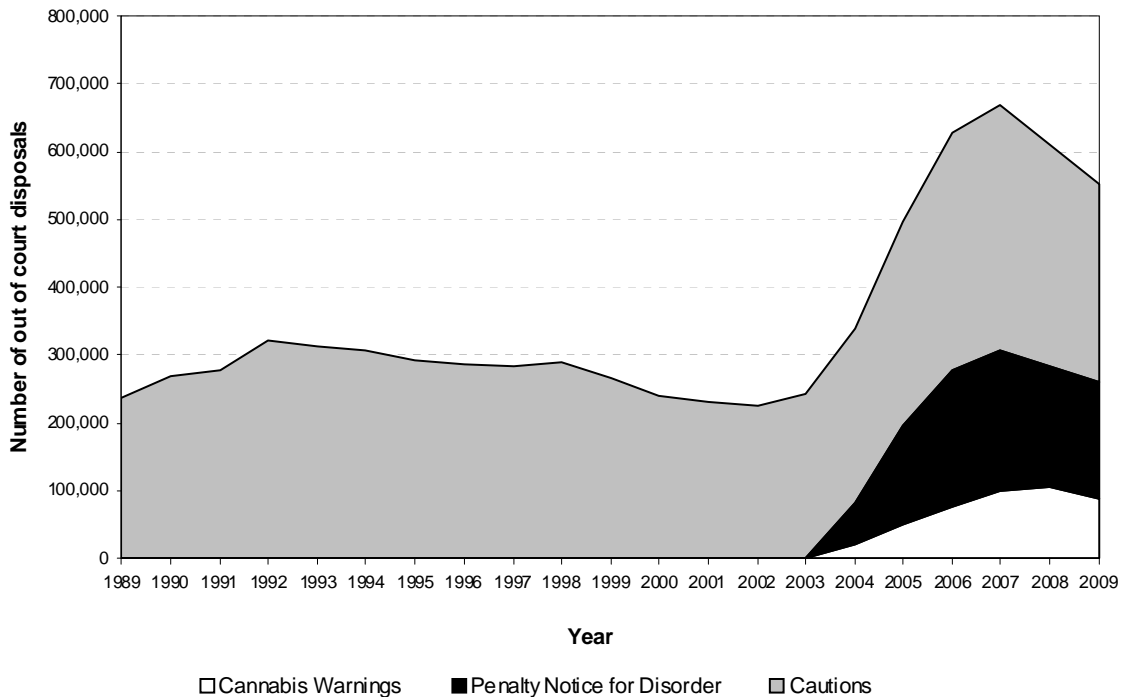
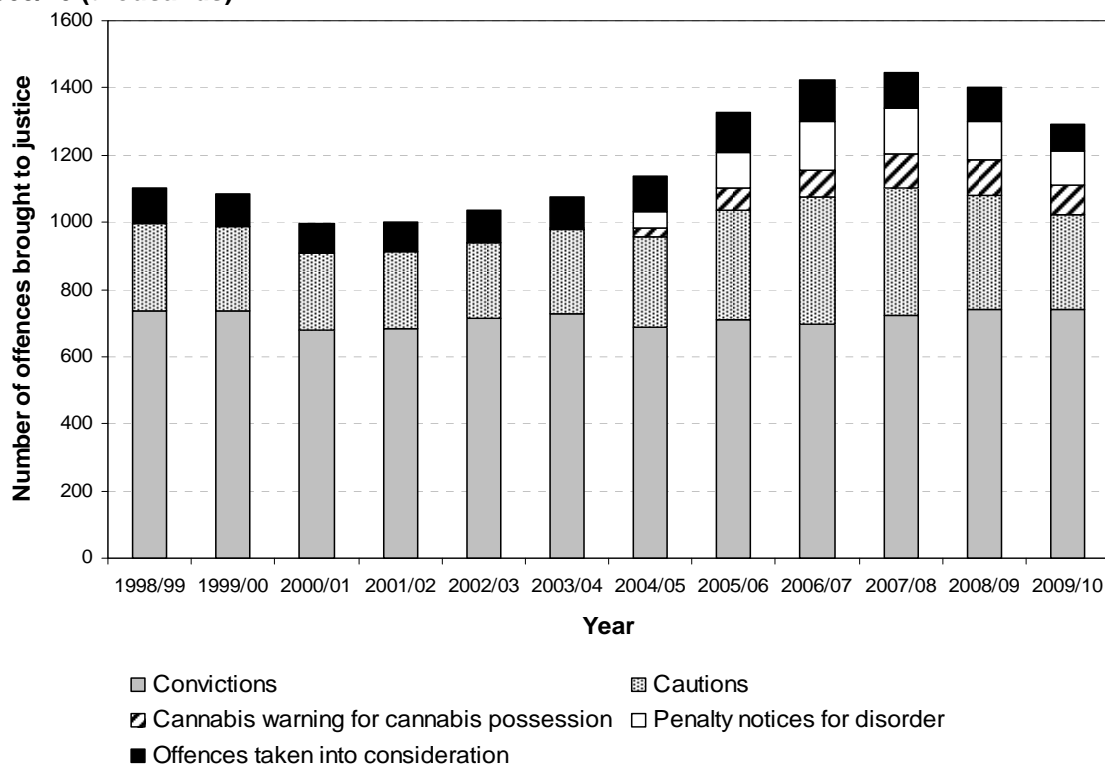
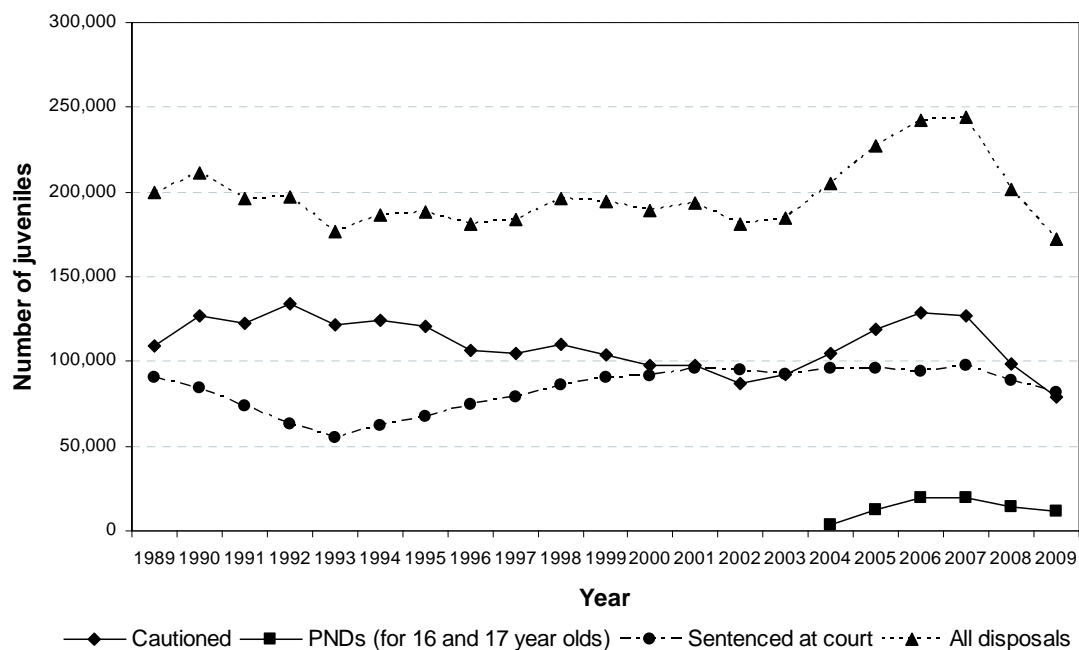


Figure 2.3: Number of offences brought to justice for all offenders by outcome 1998/99 - 2009/10 (thousands)<sup>9</sup>.



2.11 The number of out of court disposals (including PNDs) issued to juveniles broadly follows the same trend over time as for adults (figure 2.4)<sup>10</sup>. The decline in the use of out of court disposals closely follows the trends for first time entrants to the criminal justice system. This is because the majority of juveniles coming into the system for the first time receive an out of court disposal.

Figure 2.4: Number of juveniles receiving each disposal type 1989 - 2009<sup>11</sup>.

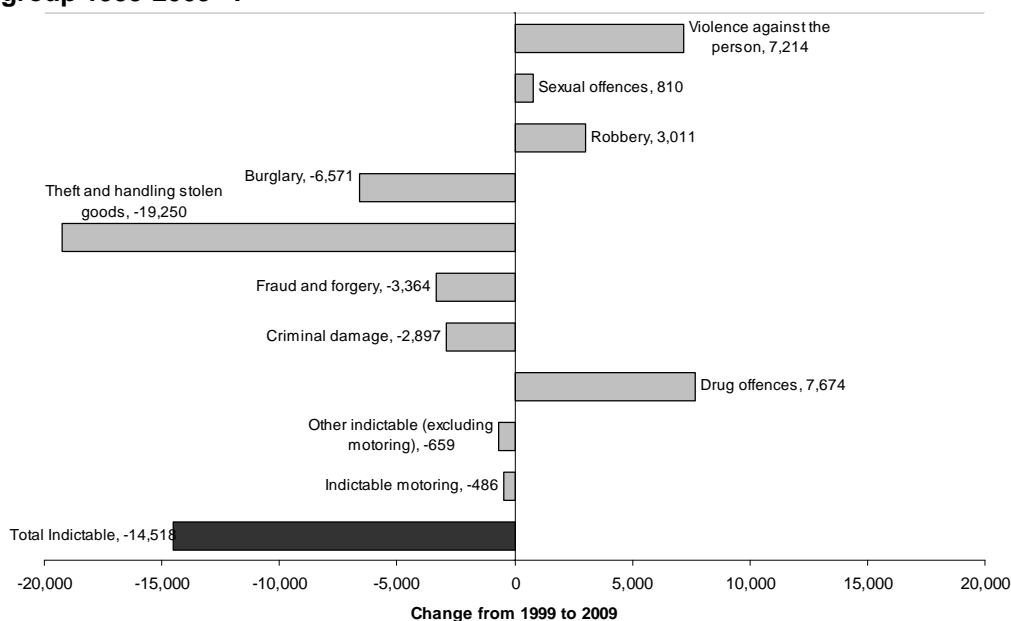




**Changes in crime and increased use of out of court disposals have had limited impact on the overall demands on courts. While there has been a reduction in caseload in magistrates' courts, there has been a substantial increase in the Crown Court workload, reflecting the higher proportion of both serious and prolific offenders that are coming before the courts.**

2.12 While there have been falls in the number of offenders sentenced for certain offence groups, these have been offset by increases in the number of offenders sentenced for other offence groups, particularly those which can attract longer sentences such as violent and drug offences<sup>12</sup> (figure 2.5).

**Figure 2.5: Change in the total number of offenders sentenced by indictable offence group 1999-2009<sup>13</sup>.**



2.13 Overall, pressures on the courts and offender management services have not reduced. Although, there has been a reduction in the workload in the magistrates' courts, the workload in the Crown Court has increased significantly over the last ten years: there were 28 per cent more cases received in the Crown Court for trial or sentence in 2009 (136,000) than there were in 1999<sup>vii</sup> (106,000). In many areas there are long delays and backlogs: almost 40,000 cases were waiting for trial at the end of 2009. However, Crown Court efficiency appears to be improving. Despite the number of cases waiting for a trial, the Crown Court disposed almost 21,000 more trial cases and almost 29,000 sentence cases in 2009 compared to 1999<sup>14</sup>.

2.14 Of all sentences given for indictable offences, the proportion given to offenders with 15 or more previous convictions or cautions has risen steadily from 17 per cent in 2000 to 28 per cent in 2009<sup>15</sup>.

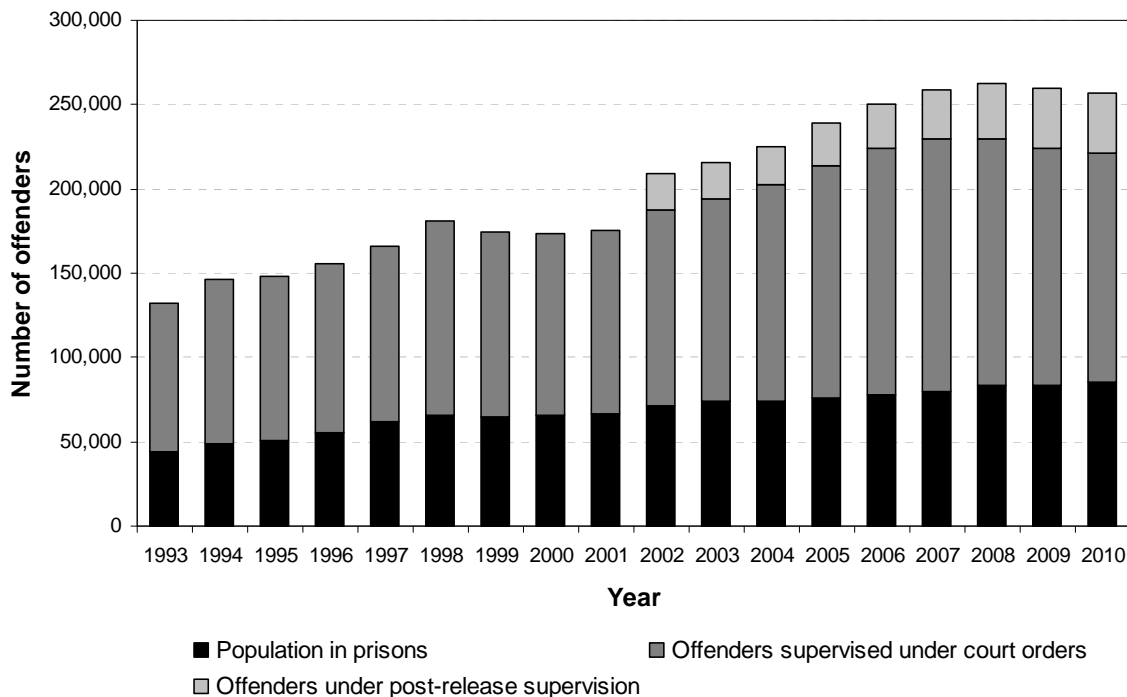
**The overall numbers being sentenced to community sentences have risen and there has been an increasing demand on the probation caseload.**

2.15 The total population under Probation Service supervision increased by 39 per cent between 1999 and 2007 but since then has remained broadly flat<sup>16</sup> (figure 2.6). The use of suspended sentences has also increased.

<sup>vii</sup> The methodology for counting the number for cases received, disposed and outstanding was revised in 2001. Sent for Trial cases under s51 CDA 1998 were introduced nationally on the 15th January 2001.

2.16 There has also been a continued growth in the overall number of offenders serving custodial sentences of 12 months or more who require supervision from the Probation Service on release from custody<sup>17</sup>.

**Figure 2.6: Total Offender Management Caseload in different parts of the system 1993 - 2010<sup>18</sup>.**

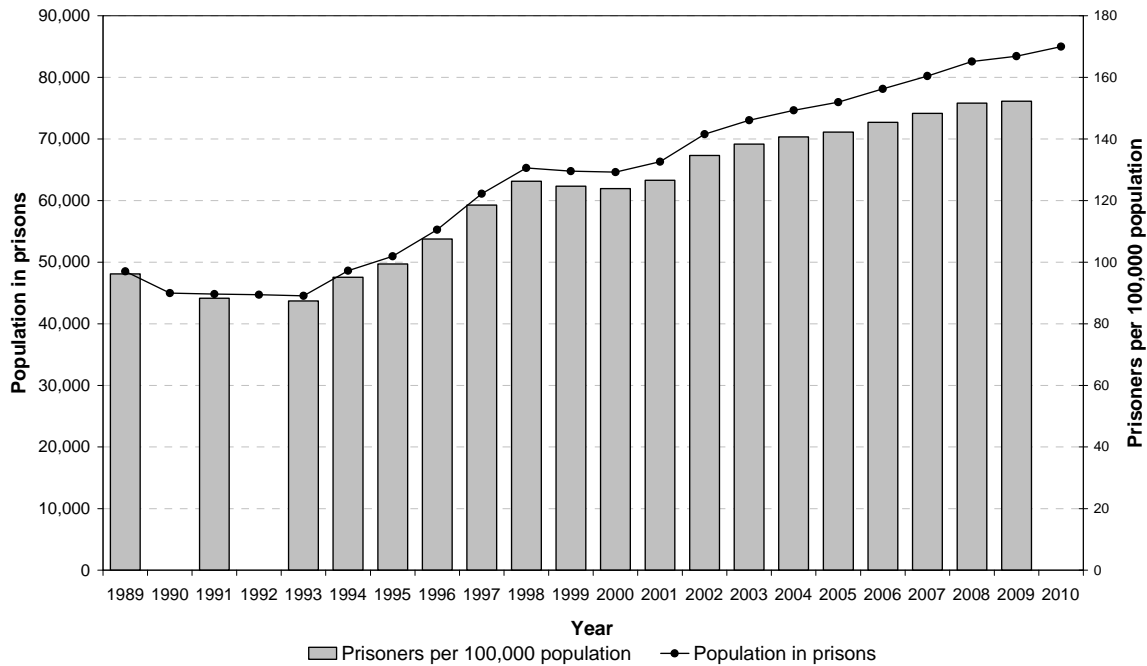


**The overall prison population has risen substantially.**

2.17 The prison population has almost doubled since 1993 (figure 2.7). In June 2010, the overall prison population of England and Wales (including those on remand) was 85,000<sup>19</sup>. The growth in the prison population has been driven by several factors<sup>20</sup>, including:

- an increase in those sentenced to immediate custody;
- more offenders serving longer sentences;
- greater enforcement of sentences (including recalls of those on licence); and
- a more serious mix of offence groups coming before the courts (such as violence against the person and drug offences).

**Figure 2.7: Total population in prison and total prisoners per 100,000 of the general population 1989 - 2010<sup>21,viii</sup>.**



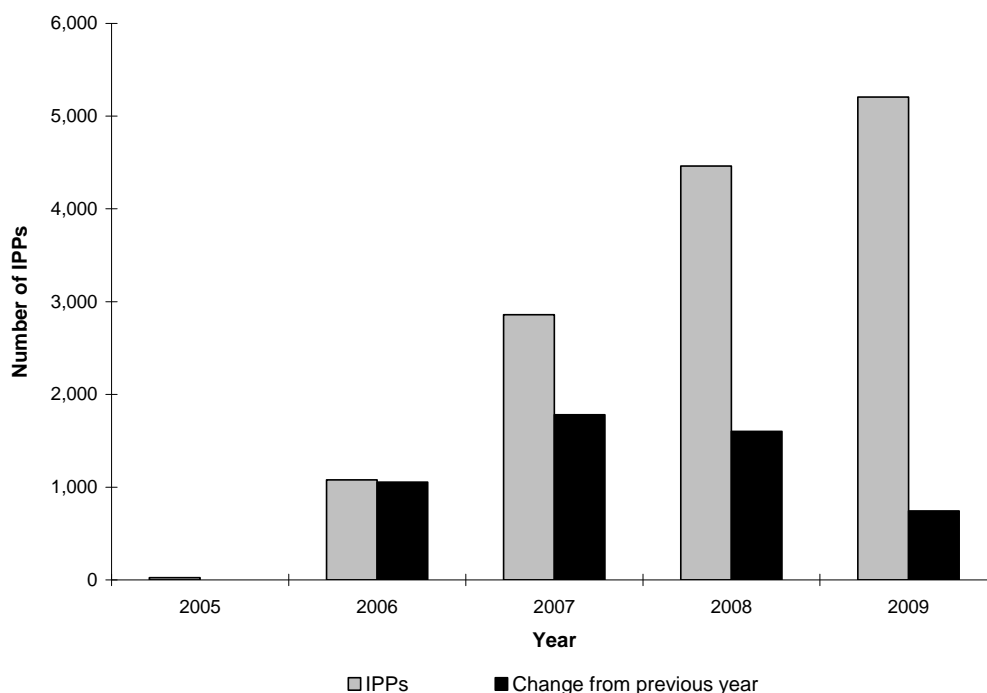
**Increases in the number of prisoners serving indeterminate sentences, and in average custodial sentence lengths have contributed to the rising prison population.**

2.18 The number of offenders in custody on indeterminate sentences, including life sentences, has more than doubled since 2002 to just below 13,200 in June 2010<sup>22</sup>. A new type of indeterminate sentence, Imprisonment for Public Protection (IPP), was introduced by the Criminal Justice Act 2003 for ‘dangerous’ offenders convicted of specific offences. Offenders given an IPP sentence have mostly been convicted for violence against the person and sexual offences (36 per cent and 30 per cent of those sentenced to an IPP in 2009 respectively). These sentences have a minimum term (or ‘tariff’) to be served in custody and thereafter release can only be authorised by the Parole Board.

2.19 The number of prisoners serving IPPs is rising because offenders are being released from these sentences more slowly than the rate at which they are being given (figure 2.8). By 5 July 2010, the number of offenders serving IPPs had reached 6,130, but only 140 offenders had been released from these sentences since their introduction<sup>23</sup>. Just under half (46 per cent) of prisoners serving IPPs are past their original tariff<sup>24</sup>. In deciding whether or not to release a prisoner once their tariff has expired, the Parole Board must consider whether or not the offender is likely to reoffend on release. As the types of violent and sexual offences that are typically committed by offenders serving IPP sentences are both serious and rare, it is particularly difficult for the Parole Board to predict likely future reoffending with any certainty<sup>25</sup>.

<sup>viii</sup> The latest 2009 mid-year population estimates were published by the Office for National Statistics on 24 June 2010. It is anticipated that 2010 mid-year population estimates will become available in May/June next year.

**Figure 2.8: Total number of offenders serving Imprisonment for Public Protection (IPP) sentences, and change from previous year 2005 to 2009<sup>26</sup>.**



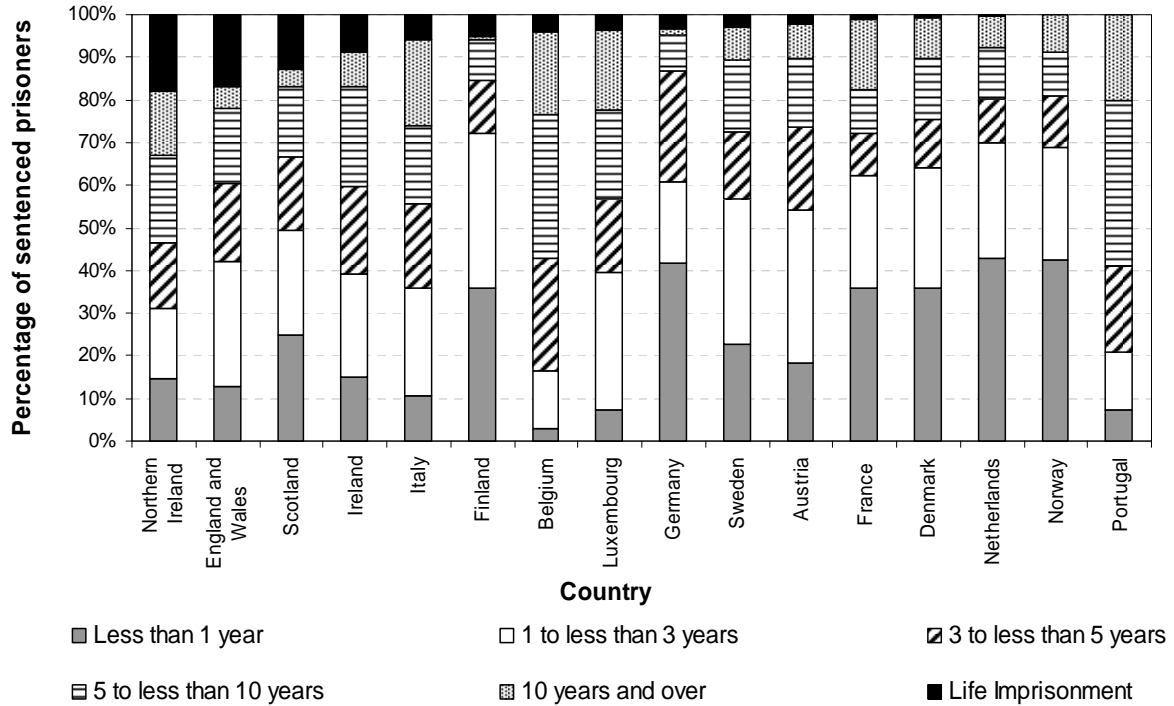
**The population of foreign national offenders in the system has doubled over the last decade.**

2.20 Between June 2000 and June 2010, the foreign national prisoner population doubled from 5,586 to 11,135. Over the same period, the total prisoner population increased by around a third from 65,194 to 85,002. Foreign national prisoners now account for 13 per cent of the population, up from nine per cent in 2000<sup>27</sup>.

**Within Europe, England and Wales has one of the highest proportions of prisoners serving life sentences.**

2.21 Statistics from the Council of Europe show how different countries sentence offenders to prison (broken down by sentence length)<sup>28</sup>. The proportion of prisoners serving life sentences in England and Wales is among the highest in Europe (figure 2.9).

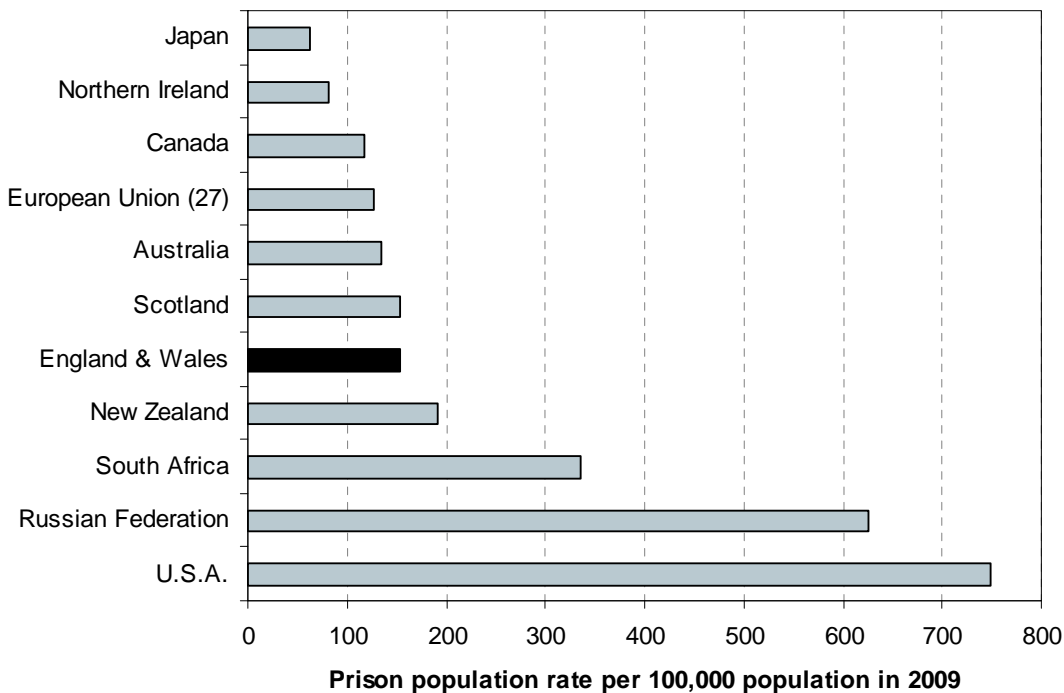
Figure 2.9: Breakdown of custodial sentences on 1<sup>st</sup> September 2008, by sentence length (percentages) comparing sixteen European countries<sup>29</sup>.



The prison population in England and Wales is one of the highest (per capita) in Europe although it is considerably less than countries such as the United States.

2.22 In 2009, England and Wales, at 153 prisoners per 100,000 of the total population, had a per capita rate the same as Scotland but higher than Northern Ireland. The England and Wales rate was also higher than the European Union average of 127 and higher than the figures for countries such as Australia and Canada. However, it was considerably lower than the US rate of 748 per 100,000 population (figure 2.10)<sup>30</sup>.

Figure 2.10: Prison Population Rate per 100,000 population in 2009 by country.<sup>31</sup>



**Around 15 per cent of the adult prison population and 28 per cent of the juvenile prison population are held on remand.**

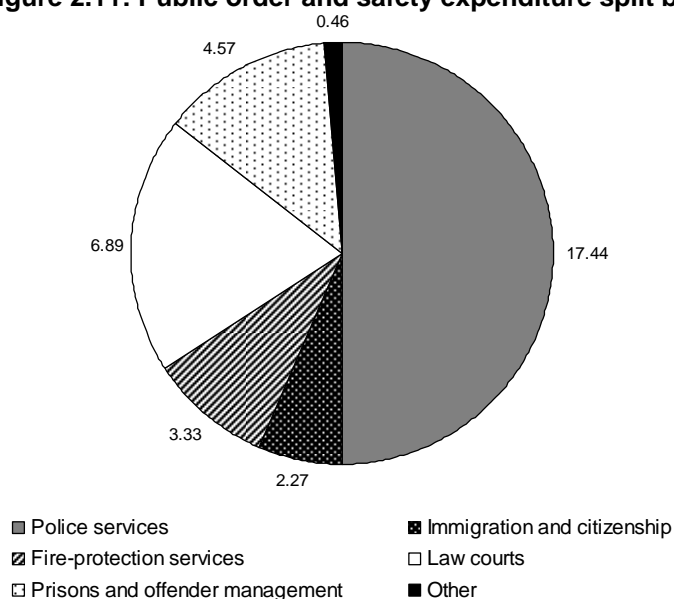
- 2.23 Latest statistics show that 12,533 adults who were in prison in England and Wales in June 2010 were on remand, amounting to 15 per cent of the prison population. Just under two-thirds of those on remand were untried. The remaining third had been convicted but not yet sentenced. In 2009, of those adults who were remanded in custody, 13 per cent were acquitted and a further 23 per cent did not receive a custodial sentence<sup>32</sup>.
- 2.24 In June 2010<sup>ix</sup> there were 603 juveniles in custody who were on remand, amounting to 28 per cent of the total juvenile custodial population. Data for 2009 show that of all young people remanded in custody, 16 per cent were then acquitted and a further 35 per cent did not get a custodial sentence<sup>33</sup>.
- 2.25 Since 2008, the growth in the prison population has been slowing down compared to earlier years. The population grew by 0.3 per cent in the year ending June 2009<sup>34</sup> and, after allowing for the removal of end of custody licence, by 0.7 per cent in the year ending June 2010<sup>35</sup>. This slower growth partly reflects the measures introduced in the Criminal Justice and Immigration Act 2008 such as making release at the halfway point of a custodial sentence automatic for most prisoners (followed by rest of sentence on licence) and introducing fixed term recalls for 28 days for certain prisoners. Additionally there has been a sharp decrease in the number of young people (aged 15 to 17) in prison over this period.

**Resources**

**Criminal justice system expenditure has gone up.**

- 2.26 An estimated £35 billion was spent on public order and safety in the UK in 2009/10. Half of this was spent on police services, a fifth on law courts (including legal aid) and an eighth on prisons and offender management (figure 2.11).

**Figure 2.11: Public order and safety expenditure split by area (£billions) 2009/10<sup>36</sup>.**



<sup>ix</sup> These figures are provisional.

2.27 Total spending on public order and safety has increased by more than half in real terms since 1996/97. Over the same period, spending on prisons and offender management has increased by three-quarters in real terms, up by £1.9 billion from £2.6 billion in 1996/97 to £4.6 billion in 2009/10 (figure 2.12)<sup>x 37</sup>.

**Figure 2.12: Prisons and offender management spend in real terms 1996/97 - 2009/10<sup>38</sup>.**

Year	Prisons and offender management real spend £billion (2009/10 prices)
1996/97	2,628
1997/98	2,734
1998/99	2,915
1999/00	2,935
2000/01	3,099
2001/02	3,196
2002/03	3,451
2003/04	3,466
2004/05	3,569
2005/06	3,973
2006/07	4,097
2007/08	4,462
2008/09	4,727
2009/10	4,574

<sup>x</sup> All at 2009-10 prices.

## Chapter Three: Changes in disposals

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### Overview

- 3.1 The disposals available and the methods of delivery vary significantly between the adult criminal justice system and the youth justice system. The distribution of disposals in both systems has changed over time.
- 3.2 The use of custody has increased for adults over the last 20 years, and sentences have lengthened. There has been growth in the volumes sentenced for violent and sexual offences, and these groups in particular have seen increases in their custody rates and length of time they are serving in prison.
- 3.3 The courts sentence around 100,000 offenders to immediate custody each year (100,190 in 2009). Of those sentenced to immediate custody around two thirds (64,530 offenders in 2009) are given 'short sentences' of less than 12 months; this is around five per cent of all those sentenced by all courts each year. As a proportion of the total population in custody, prisoners serving short sentences have declined, as average sentences have got longer.
- 3.4 Fines are relatively inexpensive to administer, and offer opportunities for reparation to victims and society as well as punishing offenders, but their use has been declining over the past decade, especially for indictable offences. A greater use of community sentences for similar offences over the same period suggests the two trends are connected and that there has been upwards drift in the severity of disposals given for indictable offences. Community sentences are now the most common adult disposal for indictable offences.
- 3.5 The majority of young offenders (53 per cent in 2009, compared with 38 per cent for adults) are dealt with out of court. Custody rates for juveniles have reduced slightly as a proportion of all court disposals in the last twenty years from 6.4 per cent in 1989 to 6.1 per cent in 2009, and the population of juveniles in custody reached its lowest point for over a decade in June 2010. The use of community sentences for young offenders has increased.

### Disposals in the adult justice system

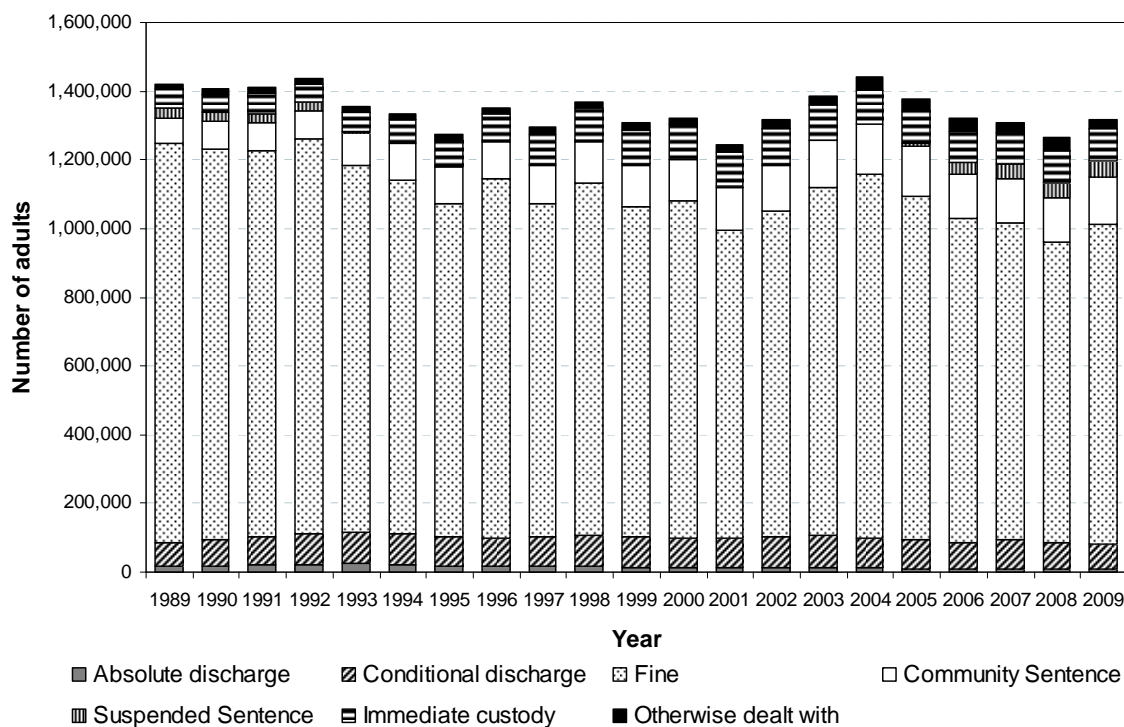
- 3.6 Of those adult offenders (those aged 18 years and above) sentenced by courts in 2009 (764,337 excluding summary motoring offences), 55 per cent received a fine, around 21 per cent were given a community-based sentence (including suspended sentences), and just under 12 per cent were sentenced to immediate custody. The remaining 12 per cent received 'other' disposals, including, for example, absolute and conditional discharges or detention in a secure hospital on mental health grounds<sup>39</sup>.
- 3.7 The changes to court disposals over the last 20 years are summarised in figure 3.1. Over this period the main trends for adults were:
  - the use of custody has increased by 63 per cent from 58,400 in 1989 to 95,300 in 2009. Over the same period the custody rate has increased from 4.1 per cent in 1989 to 7.2 per cent in 2009. In June 2010, the overall adult



prison population of England and Wales (including those on remand) was 83,300<sup>xi</sup>.

- the use of sentences served in the community, including Community Orders and Suspended Sentence Orders, has increased by 83 per cent from 101,000 in 1989 to 185,000 in 2009; and
- the use of fines has decreased by 20 per cent from 1.16 million in 1989 to 929,000 in 2009.

**Figure 3.1: Number of adult offenders receiving each type of disposal in all courts 1989 - 2009<sup>40</sup>.**

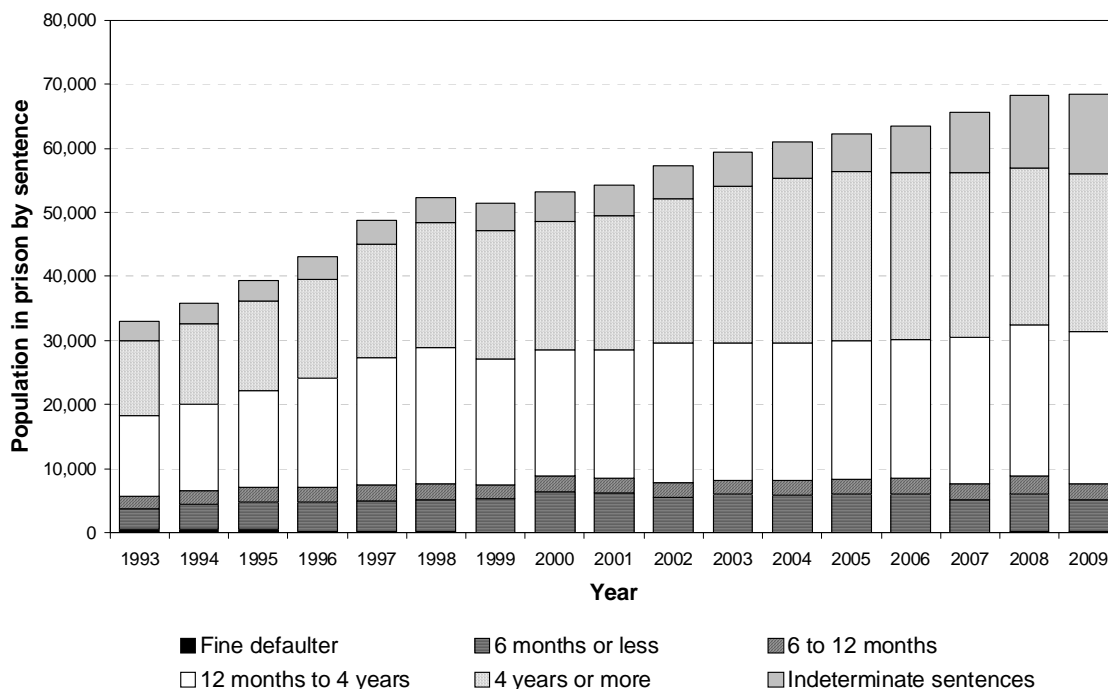


**The use of custody and sentence lengths have increased over the last twenty years, particularly for the most serious and prolific adult offenders.**

3.8 In 2009, the courts sentenced 1.4 million convicted offenders. Of these, 64,529 were given short sentences of less than 12 months (representing 64 per cent of the offenders sentenced to immediate custody, and five per cent of the total sentenced population in the same year). Taken as a proportion of the total prison population, those serving short sentences have become a smaller share since 1993. This is because of the large numbers of offenders serving longer sentences, which has increased over the same period (figure 3.2).

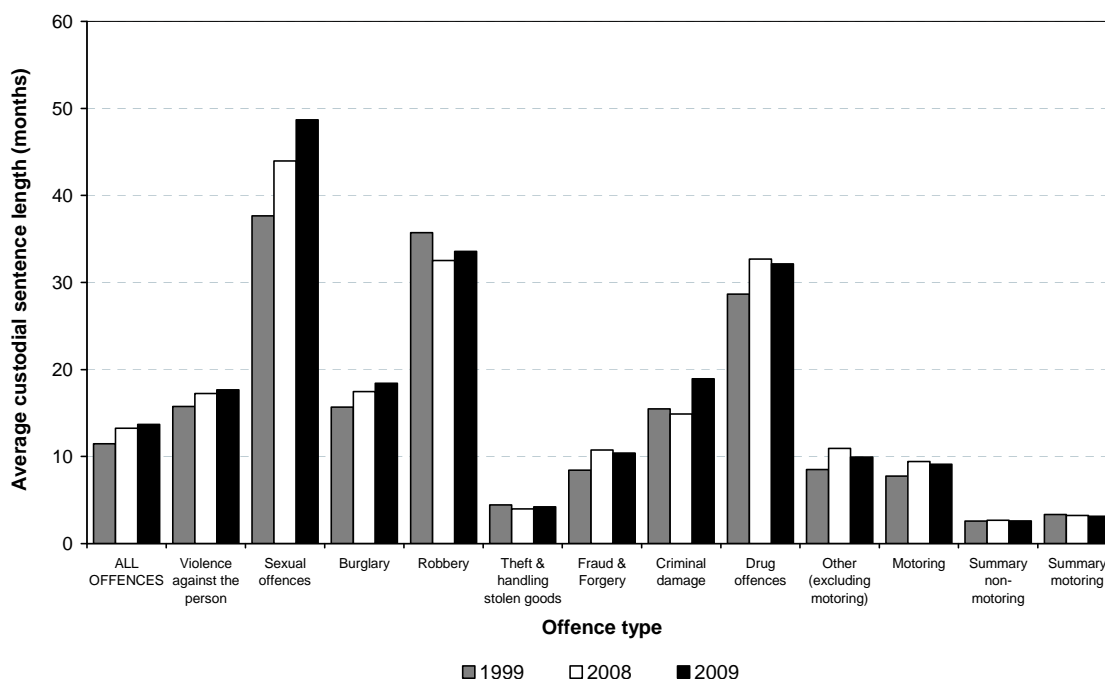
<sup>xi</sup> The overall prison population in June 2010 (including juveniles) was 85,000

Figure 3.2: Population in prison by sentence length 1993 - 2009<sup>41</sup>.



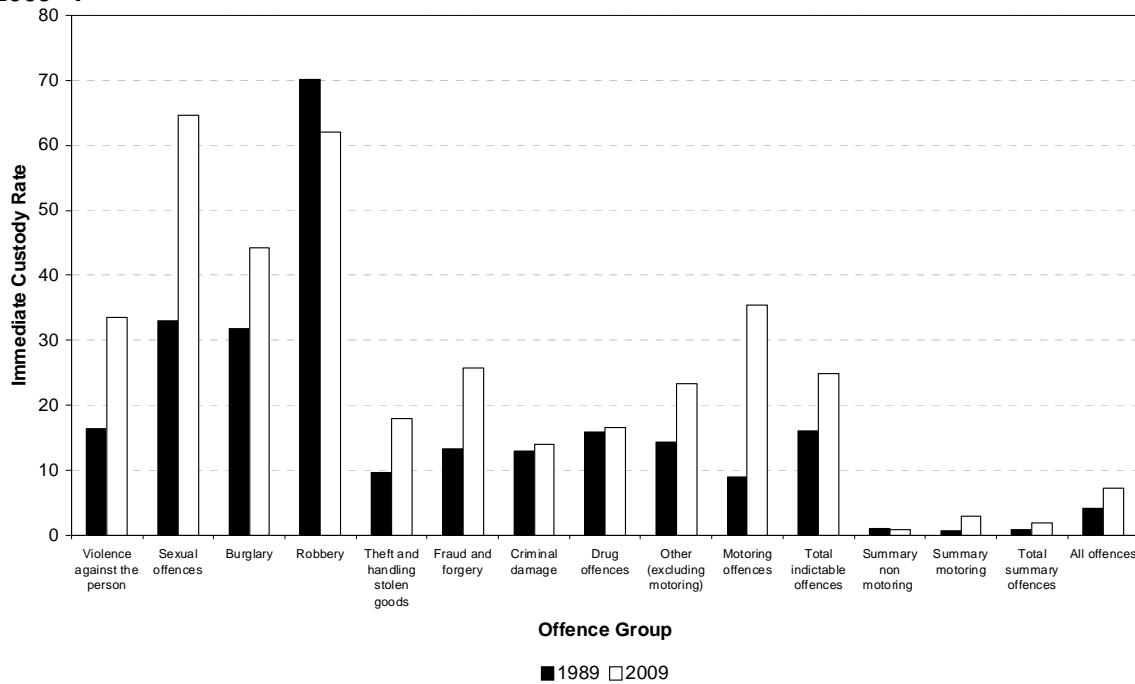
3.9 The overall average custodial sentence length (excluding indeterminate sentences) was 13.7 months in 2009, 2.2 months longer than in 1999 (figure 3.3)<sup>42</sup>. The overall figure increased due to a rise in the proportion of custodial sentences from the Crown Court (which tend to have longer sentences and hence will have a greater effect on the overall figure). The calculation of average custodial sentence lengths excludes indeterminate sentences which increased following the implementation of IPPs from 2005. These figures are therefore likely to underestimate the extent to which sentences on average have increased.

Figure 3.3: Average custodial sentence length in months by offence group 1999, 2008 & 2009<sup>43</sup>.



- 3.10 The most serious and prolific adult offenders are sentenced to immediate custody. There has been growth in the volumes sentenced for violence against the person and sexual offences and these groups in particular have seen increases to their custody rates and the length of time they are serving in prison (figures 3.3 and 3.4). The decrease in the custody rate for robbery (figure 3.4) is likely to be linked to changes in the age profile of offenders committing this crime. Younger offenders are more likely to be given non-custodial sentences at magistrates' courts.
- 3.11 The average custodial sentence length is longest for those convicted of sexual offences (48.7 months in 2009), robbery (33.6 months in 2009) and drug offences (32.1 months in 2009). The average custodial sentence length increased over the last ten years for the majority of offences. The average custodial sentence lengths for robbery and theft & handling stolen goods decreased slightly over the same ten year period (despite both having seen a small increase since 2008). Fraud & forgery and drug offences have both seen a small decrease in average custodial sentence length since 2008 (10.8 to 10.4 months and 32.7 to 32.1 months respectively)<sup>44</sup>.

Figure 3.4: Immediate custody rate for all offenders by offence group 1989 & 2009<sup>45</sup>.



- 3.12 Many low-level prolific offenders are sentenced to short periods of less than 12 months in custody<sup>46</sup>. In 2009, around two-thirds (64 per cent) of offenders sentenced to custody were given short sentences of under 12 months<sup>47</sup>. Those offenders with a substantial previous criminal history (15 or more previous convictions) were more likely to receive a custodial sentence than those with one or two previous convictions (38 per cent and 15 per cent respectively in 2009). Although the number of sentenced first time offenders receiving custodial sentences has increased (from 18 per cent in 2000 to 26 per cent in 2009), these are offenders whose first conviction is for a relatively serious offence in contrast to the majority of offenders who have a longer criminal history of less serious offences<sup>48</sup>.
- 3.13 Around half (56 per cent) of offenders on short term (less than 12 months) custodial sentences and 14 per cent of offenders on long term custodial sentences do not move prison during their sentence. The majority of long term

custodial sentence offenders move one or two times, although a quarter move three to six times during their sentence. There are many possible reasons behind offenders' moves, such as: operational management decisions relating to prison capacity; meeting particular offender needs to access training programmes and interventions; for disciplinary reasons; or to move the offender to a prison closer to home<sup>49</sup>.

### **The use of community sentences for adult offenders has increased.**

- 3.14 The main court orders served in the community are the Community Order and the Suspended Sentence Order (SSO). In 2009, 10 per cent of offenders were sentenced to a Community Order and three per cent were sentenced to a Suspended Sentence Order. Community sentences are now the most common disposal for indictable offences, accounting for a third of all sentences<sup>50</sup>.
- 3.15 There has been an overall increase in the use of community sentences, including proportion of offenders sentenced in court (from 11 per cent in 1999 to 17 per cent in 2009)<sup>51</sup>. Their use in magistrates' courts has increased while their use in Crown Court areas has declined<sup>52</sup>. This is likely to be due to a number of factors such as changes in the offence mix coming before the courts.
- 3.16 Of the 131,000 Community Orders terminated in 2009, 64 per cent had run their full course or were terminated early for good progress, compared to 26 per cent terminated for negative reasons (16 per cent for failing to comply with requirements and 10 per cent for conviction of a further offence).

### **There is scope to increase the use of rehabilitative requirements in community sentences.**

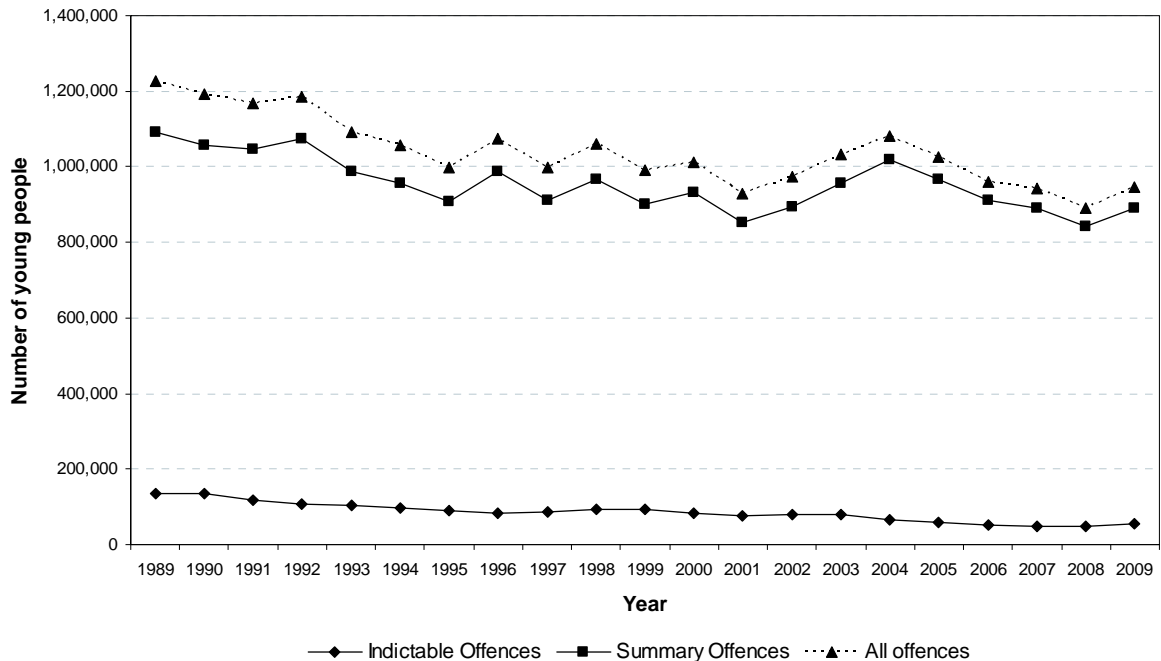
- 3.17 In 2009, around a quarter of the requirements that could be attached to community and suspended sentence orders had a clear rehabilitative aim. These were: accredited programmes; drug/alcohol treatment; specified activities; residential; and mental health and attendance centres. Unpaid work and supervision have a rehabilitative aspect and a punitive one. All other requirements that could be attached were primarily punitive in nature; these included curfews, prohibitive activity and exclusion.
- 3.18 The most commonly used requirement (including combinations) for Community Orders and Suspended Sentence Orders was unpaid work in isolation (given for 33 per cent of Community Orders and 20 per cent of Suspended Sentence Orders). Some requirements could also be used in pre-set combinations; the most frequently used combination was supervision and accredited programme, used for 9 per cent of Community Orders and 12 per cent of Suspended Sentence Orders<sup>53</sup>.
- 3.19 Looking specifically at rehabilitative requirements for both Community Orders and Suspended Sentence Orders, accredited programmes were used the most (10 per cent and 14 per cent respectively). Drug treatment was used in only five per cent of all community sentences commenced in 2009, alcohol treatment in only three per cent and mental health orders in less than 0.5 per cent of all cases<sup>54</sup>.

### **The use of fines has declined over the last twenty years.**

- 3.20 Fines are relatively inexpensive to administer, and offer opportunities for reparation to victims and society as well as for punishing offenders. Fines remain the most common disposal for adult offenders, although their use has

declined over the last twenty years in both magistrates' courts and Crown Court areas (from 1.16 million in 1989 to 929,162 in 2009). The biggest decline has been in the use of fines given to adults for indictable offences, which dropped by 59 per cent between 1989 and 2009<sup>55</sup> (figure 3.5).

Figure 3.5: Number of all offenders who received a fine 1989 - 2009<sup>56</sup>.



3.21 According to the HMCS annual report<sup>57</sup>, roughly 71 per cent (by value) of fines were paid in 2008/09. However, fines are not simply either paid or not paid: some are partially paid; and some, but not all, are paid only with enforcement. A 2006 National Audit Office report sampled 600 fines and found that after six months:

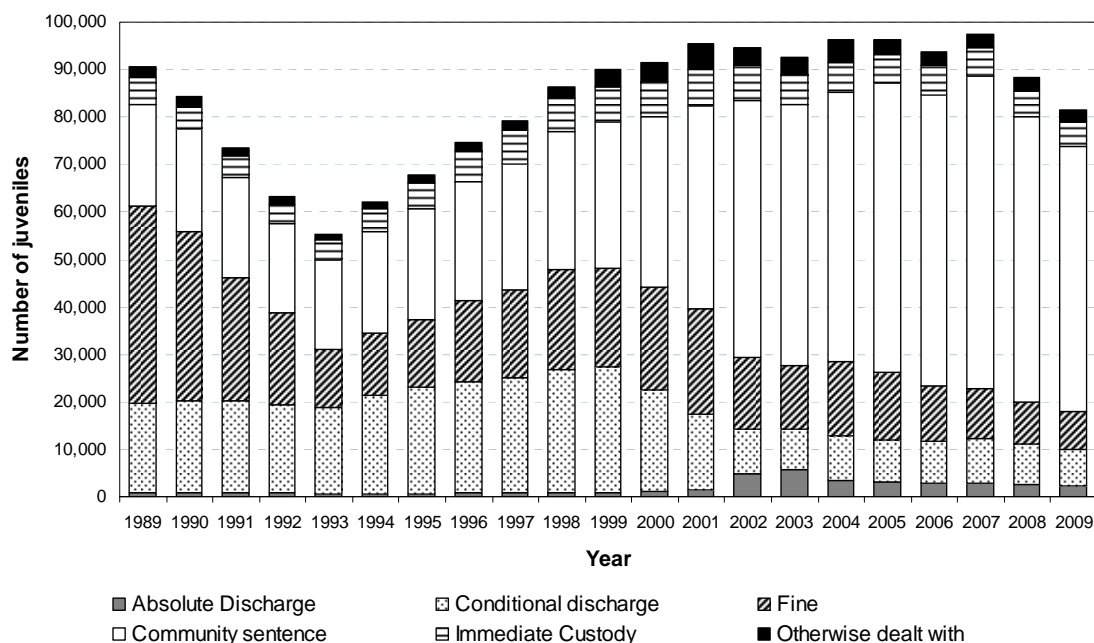
- fifty-two per cent had been paid in full;
- of those paid in full 31 per cent were paid without enforcement and 21 per cent were paid with enforcement;
- twelve per cent defaulted after partial payment;
- thirty per cent had paid nothing; and
- the remaining 6 per cent were remitted, jailed or put on a payment plan.

### Disposals in the youth justice system

3.22 Juveniles (aged 10-17) were most likely (53 per cent) to be dealt with out of court. Of those who received a court disposal in 2009 for an offence (just over 81,000), 69 per cent were given a community sentence, 6 per cent received a custodial sentence, 12 per cent were given discharges and another 10 per cent received fines. The remainder got 'other' disposals, which included detention in a secure hospital on mental health grounds and confiscation orders<sup>58</sup>.

3.23 There have been marked changes in court disposals given to juvenile offenders over the last twenty years and the key trends are illustrated in figure 3.6. Of those who are sentenced at court, the majority receive a community sentence, and this has increased over the last twenty years from 24 per cent in 1989 to 69 per cent in 2009. Custody rates for juveniles have reduced slightly as a proportion of all court disposals in the last twenty years from 6.5 per cent in 1989 to 6.1 per cent in 2009, and the population of juveniles in custody reached its lowest point for over a decade in June 2010<sup>59</sup>.

Figure 3.6: Number of juvenile offenders receiving each type of disposal in all courts 1989 - 2009<sup>60</sup>.



### Most young offenders are now dealt with out of court.

3.24 The youth out of court system operates hierarchically. There is an escalating system of out of court disposals that lead to an appearance in court if the young person offends repeatedly. The following disposals are available nationally:

- Reprimands and warnings – the equivalent of cautions for young people committing low-level offences. A reprimand would be given for a first offence if a restorative diversion was not appropriate. A warning is normally given for a further low-level offence and triggers a formal assessment by the Youth Offending Team (YOT), interventions are usually attached;
- Penalty Notices for Disorder (16 and 17 year olds) – a type of fixed penalty notice which can be issued for a specified range of minor disorder offences. These have a lower level of financial penalty than adult PNDs, they can only be used once and the parent/guardian of the offender is liable for the penalty.

3.25 In 2009, just over half (53 per cent) of juveniles received an out of court disposal (not including PNDs). Two thirds (69 per cent) of all out of court disposals were reprimands and a third (31 per cent) were final warnings<sup>61</sup>.

3.26 In addition to these national out of court disposals, there are several new disposals that are being piloted, including:

- Youth Restorative Disposal (YRD) – These use restorative justice techniques to allow a young person to apologise for committing an offence and make reparation to the victim at the scene. It can only be used for low-level offences, once per offender and when all parties agree to the approach.
- Youth Conditional Caution (YCC) – This is a statutory out of court disposal enabling the Criminal Prosecution Service, in consultation with the police and Youth Offending Service, to offer an offender a caution with conditions attached; if the conditions are not complied with the recipient can be prosecuted for the original offence. This will normally be used if a young person has already received a warning, but their offending does not warrant prosecution.

- ‘Triage’ – This involves placing a Youth Offending Team worker on call to take action to tackle young people’s offending at the point of arrest if it has not been identified and tackled earlier. At present, assessment by a Youth Offending Team worker is dependent on referral by the police and will typically take place several days after the young offender has been in police contact.

**The number of juveniles sentenced to custody has fallen.**

3.27 The Youth Justice Board established a discrete secure estate for boys under 18 in 2000, and for girls under 18 in 2006. These estates, collectively named ‘youth detention accommodation’<sup>xii</sup>, consist of three types of establishment:

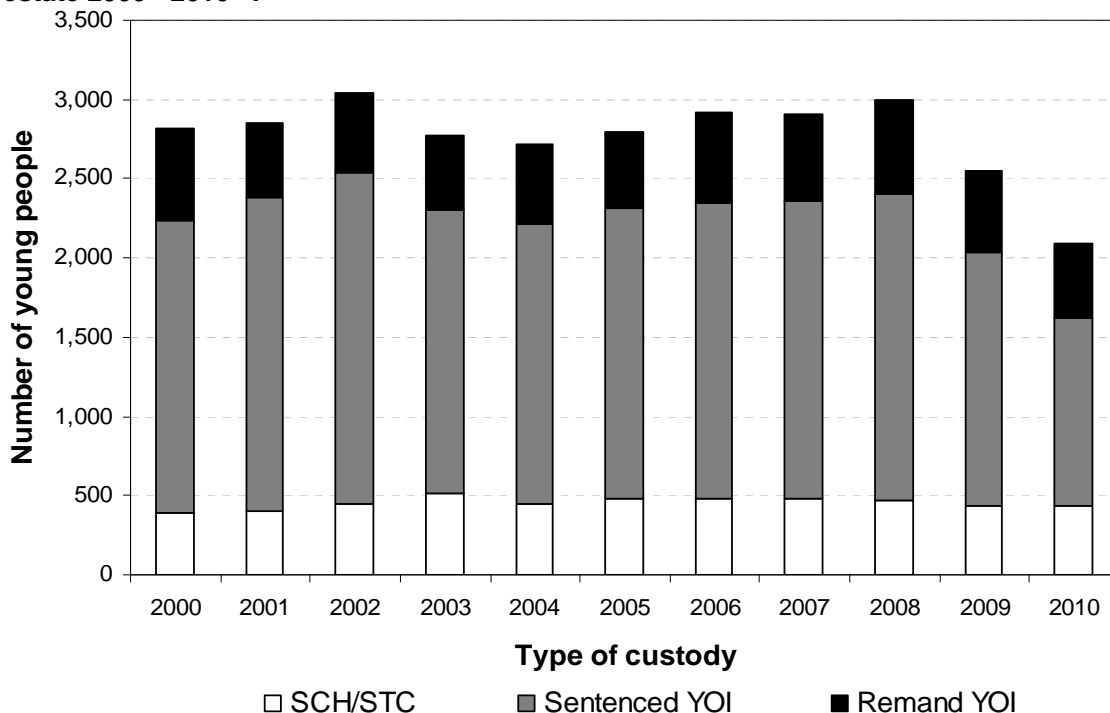
- Young Offender Institutions (YOIs) – These are for 15-17 year old boys and the majority of young people in custody are held in them. All but two Young Offender Institutions in England and Wales are run by the Prison Service.
- Secure Training Centres (STCs) – There are four privately run Secure Training Centres, which cater for some of the most vulnerable young people and operate a regime aimed at providing high-quality educational and vocational training together with a focus on addressing offending behaviour.
- Secure Children’s Homes (SCHs) – These accommodate young people sentenced or remanded by the courts and are run by local authorities (under the supervision of the Department for Education).

3.28 The population of juveniles in custody in 2010 (on 30 June) was 2,096<sup>62</sup> - the lowest for over a decade, and a 30 per cent decrease from the same period in 2008<sup>63</sup>. The biggest reductions have been among young people in Young Offender Institutions (figure 3.7). The majority of young people in custody are male; females accounted for only eight per cent of those given a custodial sentence in 2009<sup>64</sup>.

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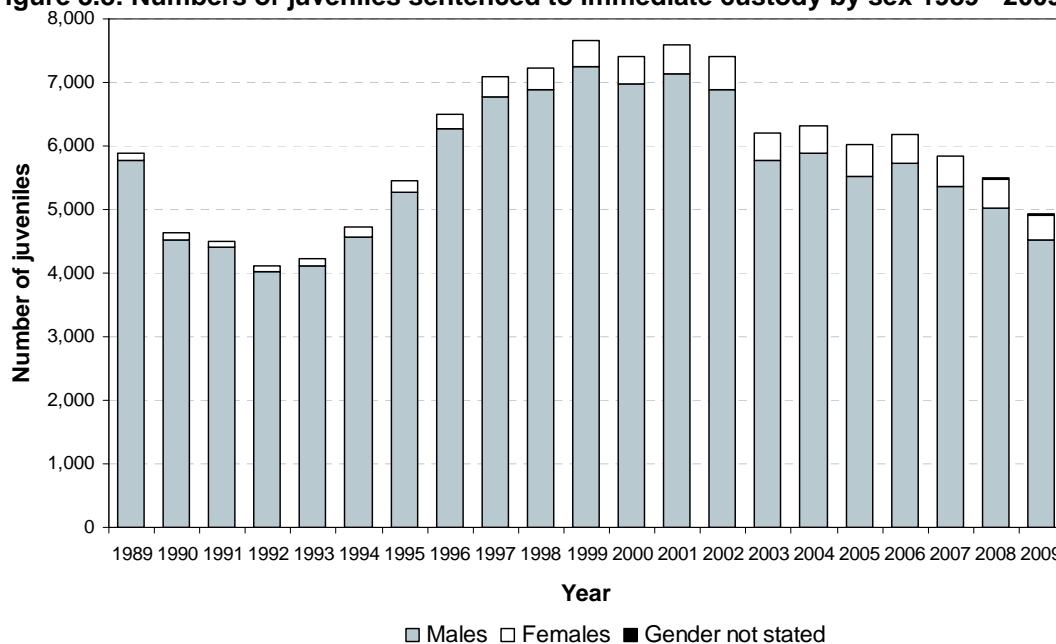
<sup>xii</sup> They were given this name in the Powers of Criminal Courts (Sentencing) Act 2000

Figure 3.7: Number of juveniles in custody on the 30<sup>th</sup> June each year by type of secure estate 2000 - 2010<sup>65</sup>.



3.29 The number of juveniles sentenced to immediate custody fell by 35 per cent between 1999 and 2009, and by 10 per cent between 2008 and 2009<sup>66</sup> (figure 3.8). This is accounted for both by a drop in overall numbers being sentenced by the courts – down 10 per cent between 1999 and 2009 – and by a drop in the proportion sentenced to custody – down from 8.5 per cent in 1999 to 6.1 per cent in 2009, but stable since 2007.

Figure 3.8: Numbers of juveniles sentenced to immediate custody by sex 1989 - 2009<sup>67</sup>.



**One third of young offenders receive community sentences.**

3.30 There are three main community orders that can be given to young people:



- Referral Orders – these are the main disposals for young defendants pleading guilty and convicted for the first time. The offender is referred to a youth offender panel attended by parents, victims (if the victim wishes to attend) and others. The panel agrees a contract with the young person lasting between 3 and 12 months and including reparation and interventions to address reoffending risk.
  - The Youth Rehabilitation Order (YRO) – introduced in November 2009 for offences committed after this date, this is the standard community sentence used for the majority of under-18s. A menu of 18 different requirements can be attached to a YRO, taking into account the individual circumstances of the young person and their offending behaviour. It can last for up to three years.
  - Reparation Orders – these are designed to help young offenders understand the consequences of their offending and take responsibility for their behaviour. They require the young person to repair the harm caused by their offence either directly to the victim (this can involve victim/offender mediation if both parties agree) or indirectly to the community. Examples of this might be cleaning up graffiti or undertaking community work. The order is overseen by the Youth Offending Team (YOT).
- 3.31 In 2009, one third (33 per cent) of all juvenile offenders (including those who received out of court disposals and PNDs) received community sentences. Of all juvenile offenders who were sentenced in the courts, just over two thirds (69 per cent) received community sentences<sup>68</sup>.
- 3.32 The Intensive Supervision and Surveillance Programme (ISSP) was introduced in 2003 and is the most rigorous non-custodial intervention available for young people who have offended, and aims to reduce the frequency and severity of offending. It combines high levels of community-based surveillance with a comprehensive and sustained focus on tackling the factors that contribute to the young person's offending behaviour. ISSP can be attached to court sentences for community orders as a condition of the order and may also be attached to a bail package and used during Detention and Training Order (DTO) licences.
- 3.33 The introduction of the Intensive Supervision and Surveillance Programme (ISSP) corresponds with the sharp fall in custodial sentences between 2002 and 2003. In 2008/09, 4,911 juveniles started an ISSP – slightly less (three per cent) than the number that started the previous year<sup>69</sup>; this represents the number of young people who completed the programme either successfully or unsuccessfully. Unsuccessful completions include being sentenced to custody for a new offence, for a breach of ISSP or being sentenced to a new community sentence<sup>70</sup>. ISSP sentences are relatively expensive; however, an evaluation concluded that the benefits were likely to outweigh the costs and that the scheme was therefore likely to provide value for money<sup>71</sup>.

#### **Fines are only issued to juveniles for minor offences.**

- 3.34 The number of fines handed down to juveniles has fallen by 64 per cent since 2001, down from 22,039 to 7,944 in 2009<sup>72</sup>. Less than one per cent of all 10-14 year old offenders received fines, while 6 per cent of 15-17 year olds were fined in 2008/09 (includes all disposals). In total, 14,661 compensation orders were issued to under-18s in 2008/09.

## Chapter Four: Offender characteristics

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### Overview

- 4.1 Around a third of men have received a conviction<sup>xiii</sup> by the age of 40. However, the majority of the general population do not commit serious offences and many first time offenders do not reoffend.
- 4.2 Most people in prisons and on probation supervision, both adults and juveniles, are male, white, and have previous convictions or cautions. The majority of offenders start committing crime at an early age and many of these will only come to the attention of the criminal justice system once. Other offenders continue to commit crime and a small group become prolific offenders and will commit a large number of crimes over their lifetimes. This group is not well covered by existing interventions.
- 4.3 Reconviction rates of those released from prison or starting a community sentence remain high overall, with those released from short custodial sentences having the highest reconviction rates. Recent analyses suggest that community sentences are more effective at reducing reoffending than short prison sentences, and cautions are slightly more effective than fines.
- 4.4 Offenders are more likely than the general population to come from disadvantaged backgrounds. They are likely to have a variety of social problems such as a lack of qualifications, having accommodation and employment needs, histories of drugs and alcohol misuse and mental health problems. These problems may be associated with higher rates of reoffending and therefore need to be taken into account when developing and targeting strategies and interventions to address offending.

### Criminal careers and reoffending

#### **Around a third of men are likely to have received a criminal conviction by age 40.**

- 4.5 Fifteen per cent of males born in 1963 had a conviction by age 18 and 33 per cent had a conviction by age 40<sup>73</sup>. However, the majority of the general population do not commit serious offences.

#### **Many first-time offenders come to the attention of the criminal justice system only once.**

- 4.6 In 2008, 21 per cent of the 84,200 juveniles receiving their first reprimand, final warning or conviction reoffended within a year. There were 208,800 adults who received a caution or conviction for the first time in 2008, of whom nine per cent reoffended within the first year<sup>74</sup>.
- 4.7 When looking over longer time periods, internal analysis shows that, of the six million people who have ever been proven to offend in their lives, 40 per cent are never reconvicted<sup>75</sup>.

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<sup>xiii</sup> A conviction in a court in England or Wales for a standard list offence. Standard list offences are all indictable and triable-either-way offences plus a range of the more serious summary offences such as assault, criminal damage (£5,000 or less) and driving without insurance.

**The majority of offenders start committing crime at an early age and stop offending as they get older.**

- 4.8 Offenders usually begin committing crime early in their lives. The Offending, Crime and Justice Survey (OCJS) was a survey of self-reported offending among the English household population, carried out between 2003 and 2006 by the Home Office (initially of those aged 10 to 65 and, from 2004, of those aged from 10-25)<sup>xiv</sup>. The 2003 survey found that among all those who had offended at some point in their lives, the average age at first offence was 15 (with males having an average onset age of 15 and females 16)<sup>76</sup>. Analysis showed that likelihood of offending generally increased during the early teens, reaching a peak between the ages of 14 and 16 before declining<sup>77</sup>.
- 4.9 A similar pattern is seen when looking at convictions. The peak age of convicted offenders is 18 years old, at which point people tend to offend less frequently and eventually stop offending through later life<sup>78</sup>.
- 4.10 A large number of studies have found an association between the increase in age and desistance. For example, the Cambridge study of desistance found that the peak increase in offending for a cohort of 411 young males was at age 14, the peak decrease in offending was at age 23 and that most participants had desisted from offending by the age of 32<sup>79</sup>.
- 4.11 In this study the association between age and offending or desistance was attributed to social influences at those ages. This included the influence of parents and peers during adolescence, and the fact that participants were more likely to be in stable employment and/or in a committed personal relationship at later ages. While most participants had desisted by the age of 32, there remained considerable variation in the age of desistance compared to the onset of offending. The study concluded that factors associated with an increase in age and maturity better explained desistance than age itself.

**Of those who continue to reoffend a small proportion do so very frequently.**

- 4.12 There are around 16,000 offenders a year who have been convicted 75 times or more (figure 4.1). These highly prolific offenders mainly commit acquisitive crimes, such as shoplifting and burglary, and have very high reconviction rates – 75 per cent are reconvicted within a year. They have an average of 41 court appearances and have, on average, received 14 previous custodial sentences, 9 previous community sentences and 10 previous fines<sup>80</sup>.

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<sup>xiv</sup> Self-reported offending surveys include coverage of incidents that did not come to the attention of the police or other agencies of the criminal justice system.

**Figure 4.1: Number and percentage of offenders in 2005/06 cohort banded by number of previous offences<sup>81</sup>.**

Number of previous offences	Number of offenders	Percentage of offenders
No previous offences	311,672	41.6%
1 - 9	261,776	35.0%
10 - 24	86,880	11.6%
25 - 49	51,747	6.9%
50 - 74	20,889	2.8%
75 or more	15,927	2.1%
Total	748,891	100.0%

- 4.13 In the 2005/06 financial year, this group accounted for only two per cent of the offenders cautioned or convicted during the year, but were responsible for around a quarter of the proven offences committed previously by the whole offender population<sup>82</sup>.
- 4.14 This group do not receive many rehabilitative interventions while in custody as many prison interventions are capable of being delivered only to offenders who are sentenced to longer periods in custody (often more than 12 months)<sup>xv</sup>. For this highly prolific group, 86 per cent of their prison sentences were for less than 12 months<sup>83</sup>.

**The most serious offenders generally reoffend at the lowest rate.**

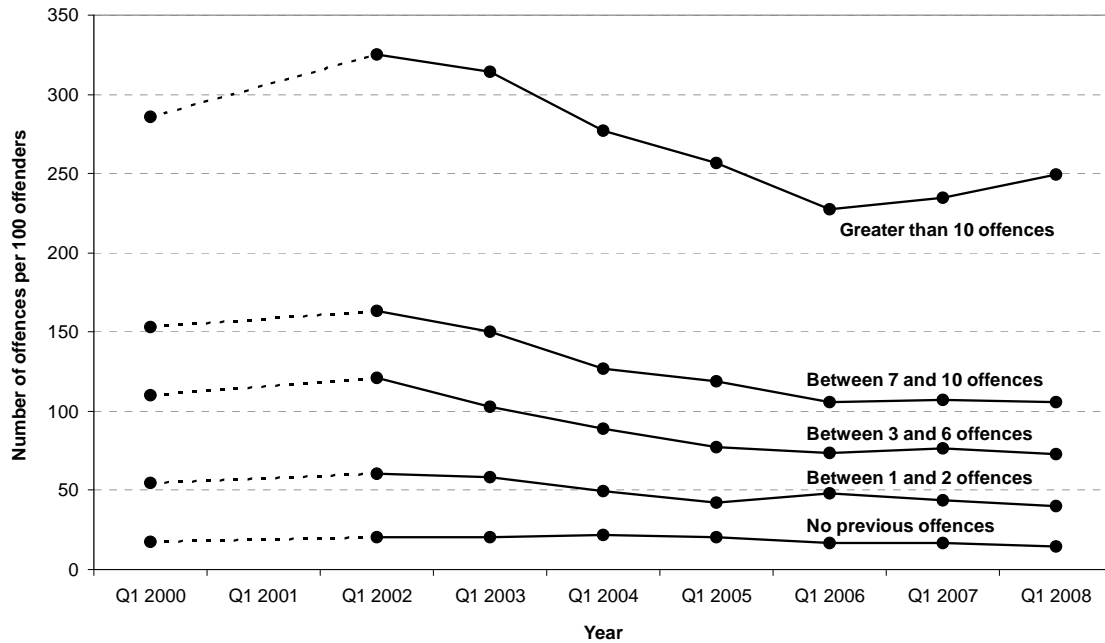
- 4.15 There were just over 1,407,400 offenders who were found guilty in all courts in 2009, of whom around 11,700 committed a serious offence (fewer than one per cent)<sup>84</sup>.
- 4.16 It is difficult to predict which serious offenders are likely to commit further serious offences partly due to their rarity<sup>85</sup>. These issues are particularly apparent with the offenders who are given Imprisonment for Public Protection (IPP). These sentences are similar to life sentences as they have a minimum term to be served in custody and thereafter release can only be authorised by the Parole Board. A reduction in risk needs to be demonstrated in order for an IPP prisoner to be released; however, predicting a sufficient reduction in risk with these types of offenders is very difficult.

**Reconviction rates of those released from prison or starting a community sentence remain high.**

- 4.17 Reconviction rates for adults released from prison or starting a community sentence have varied between 38.6 and 45.4 per cent between 2000 and 2008. The 2008 rate at 40.1 per cent is lower than in 2000 when it stood at 43 per cent but has increased since the low in 2006 of 38.6 per cent. The recent rise mainly reflects an increase in those with more than ten previous offences (figure 4.2)<sup>86</sup>.

<sup>xv</sup> The exception to this is drug interventions, with many clinical and psychosocial (CARAT) interventions delivered under the Integrated Drug Treatment System being aimed at prisoners in their first 28 days in custody.

Figure 4.2: Adult reconviction rates (number of offences per 100 offenders) by number of previous offences, Q1 2000 to Q1 2008<sup>87</sup>.



N.B. Previous offences for adults include both court convictions and out-of-court disposals.

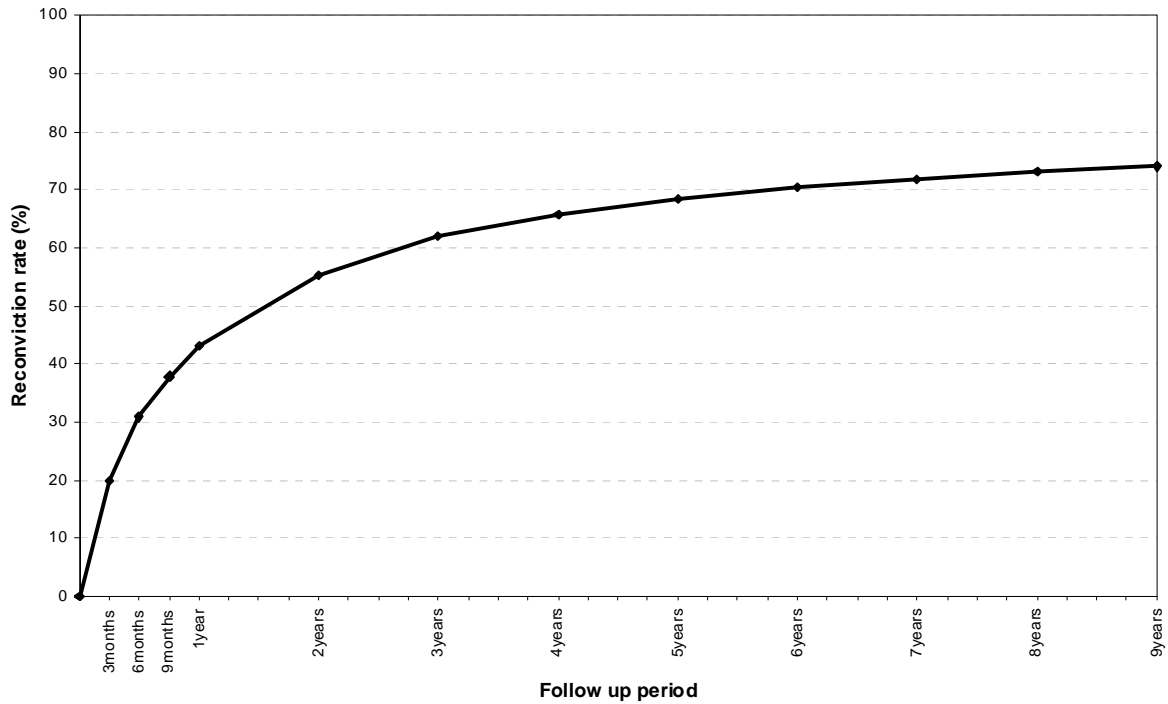
**Regardless of the nature of the sanction, the majority of adult offenders who serve prison or community sentences are reconvicted.**

4.18 Almost three-quarters of adults who either left prison or started a community sentence in the first three months of 2000 had been reconvicted after nine years (figure 4.3)<sup>88</sup>. The full breakdown shows:

- Twenty per cent had been reconvicted within three months;
- Forty-three per cent within a year;
- Fifty-five per cent within two years;
- Sixty-eight per cent within five years; and
- Seventy-four per cent had been reconvicted within nine years.

4.19 Overall, one in five offenders spent some time in custody the year after they were released from prison or started a community sentence<sup>89</sup>.

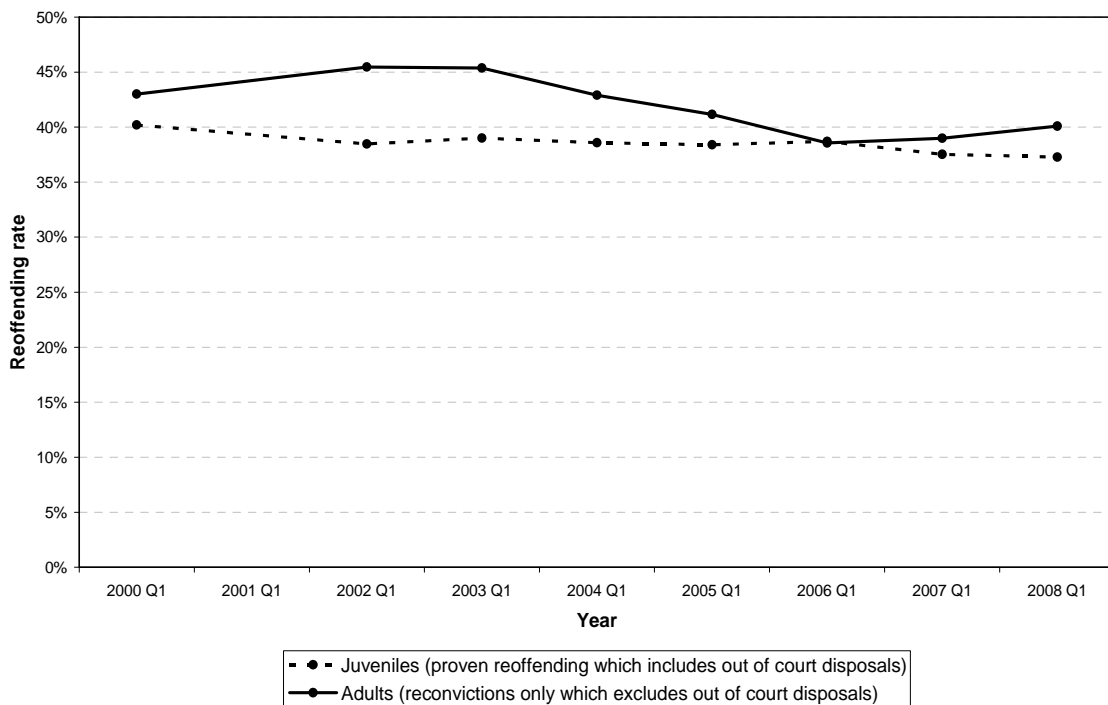
**Figure 4.3: Reconviction rates of all adult offenders leaving prison or starting a community sentence in 2000 by follow-up period<sup>90</sup>.**



**Juvenile reoffending has fallen since 2000.**

4.20 Juvenile proven reoffending has followed a more consistent downward trend and was 37.3 per cent in 2008 compared with 40.2 per cent in 2000 (figure 4.4). The proven reoffending rates for juveniles released from custody and community sentences are much higher than the overall juvenile proven reoffending rates (74 per cent and 68 per cent respectively)<sup>91</sup>.

**Figure 4.4: Adult and juvenile reoffending rates, Q1 2000 to Q1 2008<sup>92</sup>.**



**The reconviction rate for custodial sentences is high.**

4.21 Almost half of all adult prisoners (49 per cent) are reconvicted within a year of leaving custody. For short sentence prisoners, the rate is even higher with 61 per cent of offenders who were jailed for less than 12 months being reconvicted within a year<sup>93</sup>. This partly reflects the prolific offending history of this group.

**Reoffending rates for community sentences, fines and out of court disposals are lower mainly reflecting the different types of offenders receiving them.**

4.22 This range of reoffending<sup>xvi</sup> rates mainly reflects differences in the offenders rather than effectiveness of disposals (figure 4.5).

**Figure 4.5: Reoffending rates split by offenders receiving different disposals<sup>94</sup>.**

Disposal	Age group	Year	Number of offenders	Reconviction rate	Proven reoffending rate
PND	Adult	2008	143,406		24.5%
Caution	Adult	2008	233,999		19.2%
Fine	Adult and juvenile	2007	13,255		26.9%
CO	Adult	Q1 2008	27,504	36.8%	
SSO	Adult	Q1 2008	9,875	34.3%	
Custody	Adult	Q1 2008	16,099	49.4%	

**However, we have growing evidence of the effectiveness of different disposals – community sentences are more effective than short prison sentences at reducing reoffending and cautions are slightly more effective than fines.**

4.23 Proven reoffending of those offenders commencing probation supervision (both Community Orders (COs) and Suspended Sentence Orders (SSOs)) in 2007 was seven percentage points lower than for those who had served short-term custodial sentences (under 12 months) after controlling for differences between offenders.

4.24 Between 2005 and 2007 proven reoffending rates for those receiving cautions were up to 2.7 percentage points lower than for those offenders receiving fine or a conditional discharge after controlling for differences between offenders<sup>95</sup>.

**There is variation in the reconviction rate by prison mainly reflecting the different types of offenders in prison.**

4.25 Data for 2007<sup>96</sup> show that reoffending rates by prison varied from:

- Twenty-seven per cent to 77 per cent for offenders sentenced to less than 12 months; and
- Two per cent to 55 per cent for offenders sentenced to more than 12 months.

4.26 A large part of this variation reflects the different mix of offenders who are held in different categories of prisons and should not be interpreted as a performance measure. There is no evidence of a link between prison size and reconviction rates.

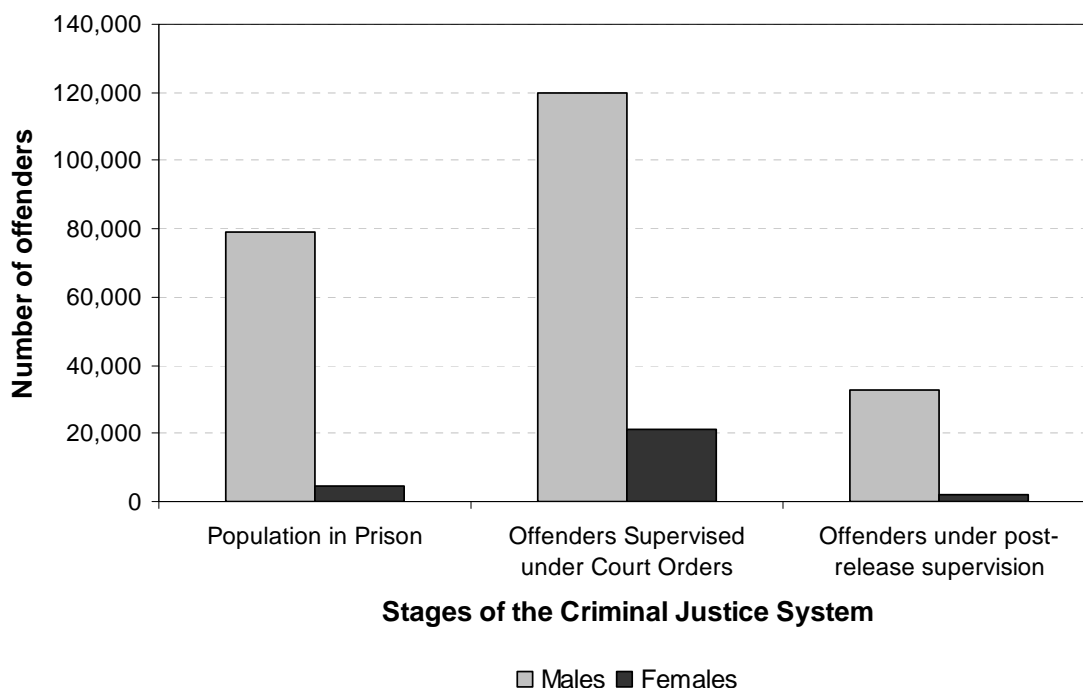
<sup>xvi</sup> A reconviction is where an offender is convicted at court for an offence committed within a one year follow up period and convicted within either that period or in a further six months. Proven reoffending is the same as reconviction but also includes other forms of criminal justice sanctions (in addition to conviction at court).

## Characteristics of offenders<sup>xvii</sup>

### Most offenders are male.

4.27 Young males have consistently been found, in self-report studies, to be more likely than females to offend across most offence categories and are more likely to be serious or prolific offenders<sup>97,98,xviii</sup>. This pattern is reflected at different stages of the criminal justice system (figure 4.6).

**Figure 4.6: Total offender management caseload in different parts of the system split by sex, 2009<sup>99</sup>.**



### Black and Minority Ethnic (BME) groups are over-represented at many stages of the criminal justice system.

4.28 Figure 4.7 provides details of how members of different ethnic groups in England and Wales are represented in the criminal justice system. The data highlights differences between ethnic groups; there are many reasons why apparent disparities may exist.

<sup>xvii</sup> More detail on the characteristics of offenders is available in the Green Paper Equality Impact Assessment.

<sup>xviii</sup> This will include offences that do not come to the attention of the criminal justice system.



**Figure 4.7: Proportion of offenders from different ethnic groups in areas of the criminal justice system<sup>100</sup>.**

	White	Black	Asian	Mixed	Chinese or Other	Not stated/Unknown
Population estimates by ethnic group, 2007	89.4%	2.6%	5.2%	1.3%	1.5%	0.0%
Stops and Searches	67.0%	14.8%	8.8%	2.8%	1.3%	5.4%
Arrests	80.6%	7.6%	5.4%	2.8%	1.4%	2.2%
Cautions <sup>(1)</sup> , 2009	82.6%	6.9%	5.0%	..	1.7%	3.8%
Court ordered supervision by probation service, June 2010	82.0%	6.5%	4.8%	2.9%	1.3%	2.5%
Prison population (Including Foreign Nationals), September 2010	72.1%	13.4%	7.1%	3.6%	1.3%	2.5%

.. Data is not available.

(1) The data in this row is based on ethnic appearance, and, as such, does not include the category Mixed ethnicity (the data in the rest of the table is based on self-identified ethnicity).

**On average, male offenders have higher reconviction rates and previous offending histories than female offenders, whilst reconviction rates vary by ethnic group.**

4.29 White and Black offenders had similar reconviction rates, which are higher than those for Asian or other ethnic groups. However, White offenders had a higher average number of previous offences than all other ethnic groups (figure 4.8).

**Figure 4.8: Adult reconviction rates, and average number of previous offences and custodial sentences by sex and ethnicity: 2008 cohort<sup>101</sup>.**

	Number of offenders	Reconviction rate	Number of offences per 100 offenders	Average number of previous offences	Average number of previous custodial sentences
<b>Gender</b>					
Males	46,649	40.8%	156.2	24	2.7
Females	7,069	35.6%	150.5	18.1	1.4
Total	53,718	40.1%	155.5	23.2	2.5
<b>Ethnicity</b>					
White	44,919	41.3%	163.4	24.9	2.6
Black	4,640	39.7%	136.8	18.9	2.4
Asian	2,603	32.7%	108	11.9	1.3
Other	440	26.6%	79.8	6.7	0.7
Not recorded	1,116	14.8%	55.4	8	0.8
Total	53,718	40.1%	155.5	23.2	2.5

Please note: Information on reconviction by ethnicity should be treated with caution as the ethnicity data are derived from an operational policing system and reflect the officer's view of the offender's ethnicity.

**Offenders are more likely than the general population to have certain characteristics, especially in terms of their childhood, which may be associated with their offending behaviour.**

4.30 These characteristics are true of offenders throughout the criminal justice system although many of the figures come from studies of offenders in custody.

- Offenders are more likely to come from disadvantaged backgrounds, for example to have witnessed violence in the home as children, experienced early contact with the criminal justice system, and suffered from addiction problems as children than the general population<sup>102 103</sup>.
- Offenders are more likely to have been a regular truant and to have been excluded from school compared to the general population<sup>104 105 106</sup>.
- Children who become prolific young offenders typically suffer from harsh or neglectful parenting and develop behaviour difficulties at an early age<sup>107</sup>.

- Offenders are also more likely than the general population to have been in care as a child<sup>108 109</sup>.
- Offending can be passed down through generations<sup>110 111</sup> and this has also been found internationally<sup>112 113</sup>.

4.31 Offenders who have experienced some of these early years factors are more likely to go on to reoffend in the future. Surveying Prisoner Crime Reduction (SPCR), a study looking at a sample of 1,435 adult reception prisoners sentenced to between one month and four years in England and Wales (2005/06)<sup>114</sup>, found that reconviction rates were higher for prisoners who had experienced emotional, sexual or physical abuse as a child, witnessed violence in the home, had an immediate family member found guilty of a non-motoring offence, had been expelled or permanently excluded from school and/or had been taken into care (figure 4.9)<sup>115</sup>.

**Figure 4.9: Reconviction rates of those with and without specific previous experiences<sup>116</sup>.**

Attribute	Proportion in sample	Reconviction rate	Reconviction rate for those without attribute
Experienced emotional, sexual or physical abuse	29%	58%	50%
Witnessed violence in the home	41%	58%	48%
Had an immediate family member found guilty of a non-motoring offence	37%	59%	48%
Expelled or permanently excluded from school	42%	63%	44%
Taken into care	24%	61%	49%

**Offenders have a variety of social problems such as low qualifications, lack of employment, and difficulties with accommodation which are also related to their offending behaviour. These issues need to be targeted to achieve a reduction in reoffending.**

- 4.32 Determining offenders' social problems is not an exact science, and can vary from self-reported need to objectively (by a practitioner or evidence-based) assessed need, or a combination of both.
- 4.33 SPCR<sup>117</sup> found that 68 per cent of prisoners reported that having a job would be important in helping them stop reoffending, and 60 per cent thought that having a place to live would help. Forty-eight per cent reported needing help finding a job on release from prison, and 37 per cent reported needing help with finding a place to live.
- 4.34 SPCR<sup>118</sup> found that prisoners had fewer qualifications were less likely to have worked in the past twelve months and were more likely to have been homeless than the general population. These characteristics are associated with higher reconviction rates (figure 4.10):
- nearly half of prisoners (49 per cent) reported having left school by the age of 16, and about half had a qualification (53 per cent) compared to around 85 per cent of the general population<sup>xix</sup>.
  - of those who had a qualification, about a quarter (24 per cent) of these qualifications were A-levels or equivalent, or higher<sup>119</sup>.
  - fifty-one per cent of prisoners<sup>120</sup> had been in employment in the year before custody. This is lower than the UK general employment rate, which was 75 per cent in 2006 for those of working age. Furthermore, 13 per cent reported that they had never been in paid employment.

<sup>xix</sup>This includes GCSE/ 'O' Levels or equivalent and higher qualifications, and trade apprenticeships.

- fifteen per cent of prisoners<sup>121</sup> were homeless prior to custody.

**Figure 4.10: Reconviction rates for those with and without specific attributes<sup>122</sup>.**

Attribute	Proportion in sample	Reconviction rate	Reconviction rate for those without attribute
Had at least one qualification	53%	45%	60%
Have been in employment in the 12 months prior to custody	51%	40%	65%
Homeless prior to custody	15%	79%	47%

**Drug and alcohol issues add particular pressure to the management of offenders. These issues also need to be targeted in order to reduce reoffending.**

- 4.35 Drug and alcohol problems related to offending behaviour can be detected from self-reports, and also indicated by proxies, such as level of drug and alcohol use.
- 4.36 The adult Offender Assessment System<sup>xx</sup> (OASys) indicates that around half of adult prisoners have a drug misuse need (48 per cent), slightly higher than the 37 per cent on probation. Conversely, alcohol needs are higher amongst offenders on probation (32 per cent) than prisoners (19 per cent)<sup>123</sup>.
- 4.37 Thirty-one per cent of prisoners in SPCR<sup>124</sup> reported needing help with a drug problem whilst only 15 per cent reported needing help with an alcohol problem. Eighty-one per cent of the same sample reported that they had used drugs at a point prior to custody.
- Fifty-eight per cent of the sample reported having been poly-drug<sup>xxi</sup> users at some point prior to custody. Seventy-one per cent reported using drugs in the year before custody. The British Crime Survey in England and Wales (2007/08) found that around 13 per cent of men aged 16-59 and six per cent of women in the general population had used illicit drugs in the past year.
  - The highest reconviction rate was observed for the 33 per cent of the sample who reported being poly-drug users in the four weeks before custody. Of these prisoners, 71 per cent were reconvicted compared with 48 per cent of those who only used Class B and/or C drugs in the four weeks before custody.
  - Sixty-two per cent of those who had taken drugs in the four weeks prior to custody were reconvicted within a year of leaving prison. This compared to 47 per cent of those who used drugs in the year prior to custody and 30 per cent of prisoners who had never used drugs (figure 4.11).
  - Twenty-two per cent of the sample drank alcohol every day in the four weeks before custody. These prisoners were more likely to be reconvicted compared with those who did not drink every day in the four weeks before custody (62 per cent compared with 49 per cent).

<sup>xx</sup>There are significant groups of offenders in all categories (community sentences, prison, suspended sentence, on licence) who are unlikely to receive OASys assessments. As such, the data may not be representative.

<sup>xxi</sup>A poly-drug user is defined as one who used Class A drugs and Class B drugs, or Class A and Class C, or Class A and Class B and Class C drugs.

**Figure 4.11: Drug usage and associated reconviction rates from a sample of adult prisoners<sup>125</sup>.**

Drug Use	Percentage of sample	Reconviction rate
Never	19%	30%
More than a year ago	10%	33%
During the twelve months before custody (but not the four weeks before)	7%	47%
During the four weeks before custody	64%	62%

4.38 Between seven and eight per cent of all prisoners in this same sample reported having used heroin for the first time whilst in custody previously. This equates to about 19 per cent of the heroin users in the sample.

**Research shows those with mental health problems are disproportionately represented in prison.**

4.39 It can be difficult to determine what factors are considered to represent mental health problems. At the broadest level, this can include drug, alcohol, and other addictions, and at the narrowest, can be limited to formal psychiatric diagnoses. As offenders are not routinely screened for all types of mental health problems, and surveys of offenders do not usually involve formal clinical diagnoses, in general, estimates can only be made from proxies, such as self-reports, or extrapolated from small clinical samples.

4.40 For example, a large scale survey<sup>126</sup> published in 1998 found that around three-quarters of sentenced prisoners suffer from two or more mental disorders, compared to less than one-twentieth (4%) of the general population<sup>127</sup>.

4.41 SPCR<sup>128</sup> found that adult prisoners self-reported a number of mental health issues before custody, but these were not necessarily associated with a higher rate of reconviction on release from prison. Figure 4.12 shows the proportion of the whole sample reporting different indicators of mental health problems individually.

**Figure 4.12: Proportion of adult prisoners reporting mental health issues (categories are not mutually exclusive)<sup>129</sup>.**

Issue	Percentage of Sample
Said they needed help for an emotional or mental health problem at the time of interview	20%
Treated/counselled for a mental health or emotional problem in the year before custody	17%
Suicidal thoughts in the year before custody	16%
Mental health illness or depression as a long-standing limiting illness	12%
Attempted suicide in the year before custody	9%
Heard voices saying "quite a few words or sentences" when there was no one around to account for it	9%
Self-harmed in the year before custody	6%
Prescribed anti-psychotic medication in the year before custody	2%

4.42 Whether prisoners reported having been treated and/or counselled for a mental health or emotional problem in the year before custody was associated with a number of other factors, including whether they reported having been abused as a child, not being in employment in the year before custody, or being female<sup>130</sup>.

**Some of the problems outlined above are exacerbated when looking specifically at women.**

4.43 Female prisoners are more likely to report histories of violent and sexual abuse. In the SPCR survey, almost half of female prisoners, compared with a quarter of male prisoners, reported having suffered from violence at home. Furthermore, around one third of women prisoners reported suffering sexual abuse compared to fewer than one in ten men<sup>131</sup>.

4.44 Female offenders report higher levels of drug and alcohol problems compared to male offenders. Data from the adult offender assessment system (OASys) found that 77 per cent of female offenders reported drug needs (compared with 67 per cent of male offenders) and 70 per cent of female offenders reported alcohol needs (compared to 65 per cent of male offenders)<sup>132</sup>.

4.45 Female prisoners report higher levels of mental health needs compared with male prisoners. In the SPCR survey, more than a quarter (26 per cent) of women reported having been treated and/or counselled for a mental health and/or emotional problem in the year before custody, compared with 16 per cent of men<sup>133</sup>.

4.46 Female prisoners are more likely to attempt suicide and self harm compared to male prisoners. SPCR found that a fifth (19 per cent) of women reported having attempted suicide during the year before custody, nearly three times the rate

reported by men (seven per cent). Similarly, deliberate self-harm was more prevalent among female prisoners than males. Fourteen per cent of women reported harming themselves during the year before custody compared to five per cent of men<sup>134</sup>. A Ministry of Justice Safety in Custody report showed that 1,574 female offenders self harmed in 2009 in 10,426 separate incidents (an average of seven incidents per offender). In comparison 5,403 male offenders self harmed in 13,688 incidents (an average of three incidents per offender). This represents around seven per cent of male prisoners self-harming compared to over a third of female prisoners<sup>135</sup>.

**Juvenile offenders also often face a range of social and health problems, some of which are different to adult offenders**

4.47 Data from the juvenile needs assessment tool (ASSET) found that thinking and behaviour, lifestyle, family and personal relationships, and education, training and employment are the areas where the most juveniles have social problems directly related to their risk of offending. These problems were more prevalent amongst juveniles who were sentenced to custody compared to those who received a community sentence (figure 4.13)<sup>136</sup>.

**Figure 4.13: Factors most strongly associated with juvenile offending 2007/8<sup>137</sup>.**

	Thinking and behaviour	Lifestyle	Family and personal relationships	Education, training and employment
For offenders given a final warning	55%	32%	23%	26%
For offenders given a community sentence	73%	60%	50%	46%
For offenders given a custodial sentence	91%	87%	73%	68%

4.48 Other research has found:

- children who became prolific young offenders typically suffered from harsh or neglectful parenting and developed behaviour difficulties at an early age<sup>138</sup>.
- in 2006, around 46 per cent of children in the youth justice system were rated as underachieving at school and around 29 per cent had difficulties with literacy and numeracy<sup>139</sup>.
- in 2008/09, 88 per cent of young people in Young Offender Institutions had been excluded at some point from school<sup>140</sup>.
- having friends involved in problem behaviour has been associated with large and significant increases in the likelihood of being arrested (50 percent) and stealing (44 percent) identified in a 2001 report<sup>141</sup>.

4.49 Research conducted with a sample of 200 juveniles serving a custodial sentence found they often came from troubled and disadvantaged backgrounds. The findings indicated<sup>142</sup>:

- around three-quarters were known to have had absent fathers;
- around half lived in a deprived household and/or unsuitable accommodation;
- two-fifths were known to have been on the child protection register and/or experienced abuse or neglect;
- one third had had an absent mother;
- more than a quarter had witnessed domestic violence, with a similar proportion having had experience of local authority care; and
- A fifth of the sample was known to have harmed themselves, and 11 per cent to have attempted suicide.

- 4.50 Alcohol and substance use are also often associated with youth offending. In the 1998/9 Youth Lifestyles Survey, using drugs in the previous 12 months was the strongest predictor of serious and/or persistent offending: the odds of offending were nearly five times higher for boys who had used drugs in the last year compared with those who had not<sup>143</sup>. Cognitive function and mental health were also listed as 'individual' risk factors associated with youth offending in a 2008 report<sup>144</sup>.

## Chapter Five: Effectiveness of courts and offender management

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### Overview

- 5.1 There is a developing evidence base to inform how the aims of the criminal justice system might be delivered more efficiently and effectively. This includes:
- the potential for greater gains through prevention, early intervention, diversion and resettlement;
  - ensuring that interventions are targeted and tailored to match the characteristics of individual offenders, and improving knowledge on the best sequencing of interventions;
  - using the developing evidence base on desistance, to improve understanding of how and why people stop offending and the role of practitioners in supporting this process; and
  - making greater use of restorative justice and other approaches which enable greater reparation to the victim or community.

### Primary prevention and early intervention

- 5.2 There are a number of approaches to preventing crime that are targeted at children and young people, as there is evidence to suggest that people who start to offend at an early age are most likely to become prolific offenders<sup>145</sup>. This section describes some of the interventions which are being used, either in this country or abroad, to prevent youth offending and considers evidence on their effectiveness.

### Family-based and parenting interventions can reduce the risk of offending for young people.

- 5.3 While it is difficult to evaluate the direct impact of programmes aimed at preventing the onset of offending by young people, such as family- and parent-based interventions, they have been shown to promote other positive social outcomes that serve as protective factors against the risk of offending.
- 5.4 Studies have shown that family-based interventions are the most effective at addressing the risk factors associated with offending by young offenders. Several international studies have indicated positive effects from these types of intervention, on average reducing offending by nearly a third<sup>146</sup>. Examples of family-based initiatives that have shown positive findings include: Family Nurse Partnerships (US)<sup>147</sup>, and Family Intervention Projects<sup>148</sup> (FIPs) (UK) as well as Multi Dimensional Treatment Foster Care (US and UK)<sup>149</sup>, Functional Family Therapy (US)<sup>150</sup> and Multi-systemic therapy (UK)<sup>151</sup>. The benefits to cost ratios for these types of interventions have been calculated to be 5:1 or better – in other words, £1 spent on the intervention generates £5 ‘value’ to society<sup>152</sup>.
- 5.5 Parent management training programmes have been shown to be effective in reducing childhood behaviour problems including anti-social behaviour and delinquency<sup>153</sup>, and public opinion is also strongly supportive of interventions with parents. In one study, 75 per cent of parents believed that the parents of problem children should be made to attend parenting classes and 81 per cent thought that these classes help parents to control their children<sup>154</sup>.



### **Pre-school and school-based intervention programmes can reduce future offending.**

- 5.6 The 'Perry Pre-School Project' was trialled in the US, where deprived children aged three to five years attended a daily pre-school programme. This is now being used with 250,000 children in Sure Start Centres in the UK. Findings from the US (2005) suggest the programme leads to fewer lifetime arrests for violent crimes, property crimes, drug crimes and a significantly lower likelihood of being arrested more than once in later life. The calculated benefit to cost ratio is 7:1<sup>155</sup>. Other school-based programmes in the US have been found to be effective in preventing delinquency in older children<sup>156</sup>.

### **Diversion and rehabilitation**

- 5.7 Offenders can be diverted either from the criminal justice system itself or away from custody and into more appropriate settings for rehabilitation. Out of court disposals are also used as a way of diverting offenders away from the criminal justice system where they may be first time offenders, committing low level crimes.

### **Diverting juveniles from the criminal justice system may be an effective way of preventing escalation of youth offending and reducing crime.**

- 5.8 Diversion from the criminal justice system is especially important with juveniles, as early diversion provides opportunity to engage a young person in effective interventions designed to reduce their chances of reoffending. There is good international and some UK evidence that diverting young people away from the criminal justice system can help to prevent reoffending<sup>157</sup>.
- 5.9 An initiative known as 'Triage' is currently being trialled in police custody and aims to prevent young people from reoffending and slipping deeper into the criminal justice system through early assessment and support from a youth worker and, wherever possible, interventions are based on restorative justice. Triage has shown some positive indicative findings in the trial areas<sup>158</sup>.

### **Some adult offenders can be diverted from custody into more effective forms of rehabilitation.**

- 5.10 The current system already provides opportunities for low-risk offenders to be diverted into treatment at the point of arrest and at sentence through the drug rehabilitation requirement. However, for some offenders with multiple social problems, there are options for providing intensive, treatment-based, alternatives to custody.

#### Intensive Alternatives to Custody

- 5.11 A pilot programme, known as Intensive Alternatives to Custody (IAC), offers an intensive community order for targeted subgroups of offenders at risk of short term custody. It is currently being piloted in five sites in England and Wales and combines punishment and control elements alongside rehabilitative elements including accredited programmes, unpaid work, and drug treatment and mentoring. The delivery of the pilots is being evaluated by Sheffield Hallam University. There is some emerging evidence from the process evaluation of the IAC that suggests that it is viewed favourably by all involved and seems to be successfully engaging offenders who would otherwise have gone to prison. Outcome information, in terms of impact on reoffending, has not yet been studied<sup>159</sup>.

International drug treatment alternatives to custody

5.12 The Drug Treatment Alternative to Prison programme (DTAP) in New York has been in operation for two decades. The programme targets drug-addicted defendants arrested for non-violent felony (serious) offences and typically facing a mandatory sentence of at least four and a half years. Qualified defendants enter a guilty plea and receive a deferred sentence that allows them to participate in a residential drug treatment programme for 15 to 24 months. Those who successfully complete the programme have their charges dismissed; those who fail are brought back to court by a special warrant enforcement team and sentenced to prison. To prevent relapse and reduce recidivism, DTAP has a job developer to assist graduates in finding and maintaining employment.

5.13 As of 5 October 2010, over 1,200 defendants had completed the programme, with large reductions in reconviction and re-imprisonment compared to the control group. An evaluation found that the sample of participants were less likely to return to prison two years after leaving the programme than individuals in a matched comparison group two years after leaving prison<sup>160</sup>.

Diversion of psychiatric patients

5.14 In England and Wales in the late 1980s and through into the 1990s, there was considerable interest in diversion out of the criminal justice system of offenders with mental health issues, including some of those with relatively severe psychiatric problems. These were mainly court-linked schemes, though some of them also involved liaison with police stations. These diversion schemes (both court-linked and police liaison) are, in many cases, still in operation. One evaluation concluded that these court-linked schemes for psychiatric cases could in the first place divert some offenders from remand prison to hospital; and secondly, after treatment in hospital or elsewhere, that these led to highly significant reductions in reoffending, when comparing levels of offending for these individuals before and after the diversionary intervention<sup>161</sup>.

**Diverting women away from custody and crime.**

5.15 The Corston Review of women with vulnerabilities in the criminal justice system (2007) recommended a distinct approach to tackling women's offending which acknowledges that female offenders may have different problems compared to male offenders (see Chapter 4). Many female offenders are also exclusively, or mainly, responsible for childcare. In trying to break the inter-generational transmission of offending, related at least in part to inconsistent parenting and family breakdown<sup>162</sup>, it is important to divert women who do not present a risk to the public away from custody.

5.16 The Ministry of Justice has supported a network of community based centres for women which aim to tackle underlying causes of offending and divert those who have not offended, but have a number of risk factors for doing so, away from crime. An outcome evaluation<sup>163</sup> of some of the longer-established centres is under way which will examine their impact on reoffending. This builds on previous research which found the centres to have been swiftly and efficiently implemented and welcomed by local agencies and sentencers who perceived them to be filling an important gap. Service users who sustained contact valued the support and services offered.

## **Interventions given to offenders in custody and the community can rehabilitate offenders and reduce reoffending.**

- 5.17 A wide range of interventions for offenders are used in the criminal justice system to rehabilitate offenders and reduce their reoffending. Some of these are known as ‘accredited programmes’, meaning that they have been assessed against rigorous criteria by the Correctional Services Accreditation Panel and approved for use in prisons and the community. In addition, there is a wide range of interventions and activities that have not been formally accredited but which are delivered to offenders by a range of agencies both in the statutory and voluntary sectors.
- 5.18 There is a variety of evidence relating to the effectiveness of interventions. Much of the existing evidence base focuses on accredited programmes. Interventions which have not been accredited are often harder to evaluate as they may be small-scale, delivered in a limited number of locations and lack access to resources to conduct rigorous evaluations of outcomes.
- 5.19 It is well established that interventions are most successful when they target higher risk offenders, address factors that are known to raise recidivism, such as impulsivity or management of emotions, and when they are delivered in ways that are responsive to the ways in which offenders typically learn (e.g. are active, participatory, and strongly generalised to real-world situations).
- 5.20 There is good evidence that cognitive/motivational programmes and sex offender treatment programmes can reduce reoffending; and there is promising evidence about the impact of drug treatment programmes, education, training and employment, and violence/anger management programmes.
- 5.21 Much of the evidence, which comes principally from North America, is summarised in reviews carried out by the Home Office in 2005<sup>164</sup> and, more recently, by the Washington State Institute for Public Policy (WSIPP). The latter systematic review analysed 571 evaluations of adult corrections, juvenile corrections, and prevention programmes, and considered their effect on crime outcomes and cost benefits<sup>165</sup>. The WSIPP review found that, for adult offenders, education in prison (vocational and basic education), certain types of intensive supervision, and cognitive-behavioural therapy had the greatest benefits<sup>166</sup>. For juvenile offenders, the greatest benefits were seen for multi-dimensional treatment foster care, adolescent diversion projects for lower risk offenders, and certain types of family-based therapy programmes.
- 5.22 In contrast, the review found that ‘boot camps’ (intensive regimes of training, drilling, and some treatment) were not shown to reduce reoffending and ‘scared straight’ programmes (involving organised visits to prison and interaction with adult prisoners) increased offending rates by an average of almost seven per cent, based on ten studies.
- 5.23 One example of a Cognitive Skills Programme is Enhanced Thinking Skills (ETS)<sup>xxii</sup>. This is an accredited offending behaviour programme that has been extensively delivered in prison custody and the community. It addresses thinking and behaviour associated with offending, through which it aims to reduce levels of general reoffending among participants. A recent research study examined the impact of the prison-based programme on the one-year

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<sup>xxii</sup> In 2009, ETS was replaced by the Thinking Skills Programme (TSP), representing a refresh and update of the cognitive skills programme in line with advances in theory and practice. Evaluation of reoffending outcomes of TSP participants is not yet possible as not enough time has passed since its introduction.

reconviction outcomes of 257 offenders who participated between 2006 and 2008. The cost to deliver this intervention has been estimated at £2,000 per prisoner.

- 5.24 Findings show that, in comparison to a group of matched offenders who did not participate in the programme, ETS participants showed a significantly reduced reconviction rate and frequency of general reoffending. The following were observed:
- a statistically significant reduction of six percentage points (equivalent to 20 per cent) in the one-year reconviction rate;
  - a statistically significant reduction in the frequency of reoffending of 60 recordable offences per 100 released prisoners (equivalent to a reduction of around 50 per cent in the frequency of proven reoffending);
  - no statistically significant impact was found on the severe reconviction rate.
- 5.25 Although a full cost-benefit analysis has not yet been completed, the evidence suggests that for a relatively small investment, substantial savings to the criminal justice system and wider society could be generated, based on the number of crimes prevented.
- 5.26 The research also found that the programme was not always delivered to the most suitable prisoners. A stronger reduction in the rate and frequency of reoffending was found for participants who met the suitability criteria. This suggests that a stricter application of the targeting criteria could further enhance the effectiveness of the programme in reducing reoffending. The National Offender Management Service reported that it has introduced much stricter targeting in recent years.
- 5.27 Therapeutic Communities may also be effective in reducing reoffending. Unlike other group-based programmes, the offenders live together in a community that is intended to be fully focused on encouraging and supporting positive change. They typically cater for people with similar problems, for example some focus on people with drug problems, others on people with mental illness. In prisons, some are focused on sex offenders. They tend to be very small units and vary in the specific interventions they use, although some use cognitive behavioural programmes. This makes them difficult to evaluate: there is limited robust evidence on their effectiveness and most of the evidence is American, but there is some promising evidence of their effectiveness for drug misusers<sup>167</sup>.

**Evidence on the effectiveness of non-accredited interventions is generally less well-developed.**

- 5.28 A large number of non-accredited interventions are delivered in this country to offenders in prison and the community. These programmes address a wide range of offender problems (for example, relating to family relationships, finance and debt advice, attitudinal/motivational issues and employment and skills training). In principle, because these interventions tackle issues which have been shown to relate to reoffending, they have the potential to reduce further offending. However, as yet there is insufficient conclusive evaluation evidence to show this. This may be due to a range of factors: the offenders taking part may be those most motivated to succeed and finding matching control groups is therefore not straightforward; initiatives are often small-scale; their delivery may vary between areas; and their aims may often not primarily be to reduce reoffending – although this may be a by-product – but to bring about other beneficial change (for example, in prisoners' family relationships).

**Problem-solving courts deal with offenders with specific needs ensuring they receive effective rehabilitation.**

- 5.29 Problem-solving courts take a specialist approach to deal with offenders with specific needs, from mental health, to drug abuse or domestic violence. They aim to address the causes and consequences of offending, dealing with the underlying problems associated with criminal behaviour. A key principle is continuity in relationships between the judiciary and individual defendants. Dedicated courts around mental health needs, domestic violence and drugs have been piloted in England and Wales.
- 5.30 The early process evaluation of the drug court pilots<sup>168</sup> found positive indications from the Dedicated Drugs Court (DDC) in Leeds magistrates' court that (full or partial) continuity of the judiciary was associated with a reduction in the likelihood of reconviction. In addition, greater continuity of magistrates also appeared to be associated with offenders being less likely to miss a court hearing and more likely to complete their sentence. However, challenges in maintaining complete continuity of a bench of magistrates were noted. Other national and international evaluations of drugs courts have indicated that the courts could produce savings seven times greater than the cost of the treatment<sup>169</sup> and other pilots have also found evidence of reductions in offending behaviour and increased compliance<sup>170,171,172</sup>. However, these encompass a variety of drugs courts in other countries and may not be directly comparable with the DDCs in England and Wales.
- 5.31 Other indications of positive outcomes from problem-solving courts include increased efficiency of court proceedings (in terms of high guilty plea rates<sup>173</sup>), high levels of satisfaction for victims and witnesses and qualitative evidence of improvements in multi-agency working<sup>174</sup>.

**The supervisory relationship between the offender and case manager is important in rehabilitating offenders and reducing reoffending.**

- 5.32 Research suggests that the supervisory relationship between the offender and the case manager plays an important role in securing compliance and promoting desistance; this includes the quality of engagement between the two parties<sup>175</sup>. Pro-social modelling (where the case manager acts as a positive role model and encourages and rewards pro-social statements and actions) has been found to be associated with higher rates of compliance and lower rates of recidivism. A study in Australia indicated that pro-social modelling produced significantly lower reconviction rates for those supervised using this method compared to those supervised without pro-social modelling<sup>176</sup>.
- 5.33 Interventions have been found to be more effective when delivered by staff deploying core correctional practices, including building relationships that support and manage change<sup>177</sup>. The evidence suggests there is a need to adopt an individualised approach to managing offenders in order to ensure that their personal needs are identified and addressed. This is in order to address personal obstacles to desistance and to maximise an individual's positive opportunities and networks. Through an Offender Engagement Programme, NOMS is currently looking at how to promote the quality of engagement in one-to-one supervision, and overcome the barriers to effective engagement, in order to increase the effectiveness of community orders in reducing reoffending.

**The desistance evidence highlights the importance of an offender's motivation and belief in the ability to change.**

- 5.34 In addition to the delivery of interventions known to be associated with reducing reoffending, desistance evidence suggests that an offender's motivation and willingness to change can play an important part in achieving a reduction or cessation of offending<sup>178</sup>.
- 5.35 Studies have found evidence that renegotiation of personal identity away from an 'offender identity' through hope (believing that it is possible to 'go straight'<sup>179</sup>, especially when those working with the offender communicate the same belief), confidence or agency<sup>180,181</sup> (taking responsibility for their own actions and futures) is associated with desistance from crime. These findings suggest that psychological and motivational factors may be important in promoting desistance.
- 5.36 The Good Lives model<sup>182</sup>, a strengths-based theoretical model for offender rehabilitation, hypothesises that offenders seek to meet their basic human needs through offending and that offending can therefore be addressed if they learn other, pro-social, ways of meeting their needs. This is seen as a more motivational and engaging way to work with offenders than more traditional models of rehabilitation. Although based on established theory, the Good Lives model is currently lacking in empirical evidence to support its effectiveness in reducing reoffending or promoting desistance.

**The evidence points to the importance of effective resettlement of offenders in reducing reoffending.**

- 5.37 As noted in chapter 4, offenders often have multiple problems and addressing these is therefore an important element to their effective resettlement in the community and the prevention of further offending<sup>183</sup>. The consensus of opinion is that multi-modal interventions, which address a range of problems, are most likely to be effective in reducing reoffending<sup>184</sup>. However, interventions developed to assist resettlement may often target specific issues, such as accommodation, education, employment or addiction problems, largely in isolation.
- 5.38 Many interventions have focused on employment, an area most often noted by offenders as crucial<sup>185</sup>. There is strong evidence of an association between employment and reduced offending, although it is difficult to determine a causal relationship. Studies have shown that the extent and frequency of offending diminishes when offenders gain employment<sup>186</sup>, and prisoners who had a job prior to reception were less likely to reoffend post-release<sup>187</sup>. A resettlement survey in England and Wales<sup>188</sup> found that work intentions after release were related to reoffending rates. The lowest one-year reoffending rate (45 per cent) was for those with a paid job to go to, over 10 per cent lower than those with training or education arranged for release (56 per cent). The small number (two per cent of the sample) who reported not wanting to work or train had the highest average reoffending rate (75 per cent). This seems to suggest that attitudes towards employment and training are important to reoffending/desistance.
- 5.39 It is difficult to single out specific interventions as effective. Striking success rates in reducing reoffending are sometimes claimed. For example, a National Grid programme for training and employing young prisoners claimed a reoffending rate of just seven per cent among those taking part in its scheme<sup>189</sup>. However, those taking part may have been offenders most motivated to

succeed, making matching with comparable offenders who did not take part in the scheme problematic. There is little information about the success of employment interventions with offenders serving community sentences.

- 5.40 There is some evidence of the benefits of working in prison. Two U.S studies have pointed to reduced reoffending linked with employment-focused prison programmes<sup>190 191</sup>. A rapid evidence assessment conducted by the then DFES in 2006<sup>192</sup> concluded (based on two U.S studies) that participation in correctional industry ‘works’ in terms of positive effects on employment outcomes for offenders. One of the studies<sup>193</sup> observed that offenders who participated in prison industries had statistically higher rates of employment than offenders who did not participate, and that they earned higher wages within one year of release. However, this difference could be attributed to the factors that caused offenders to be selected for or apply to the work in prison, rather than the experience itself.
- 5.41 As well as having the potential to teach offenders technical skills that can be used in the job market or specific industries, the experience of work can also provide offenders with a chance to develop ‘softer’ skills such as the ability to work well with other people. In a survey of 518 women<sup>194</sup> who had held jobs whilst in prison in England and Wales, participants reported the following benefits:
- fifty-one per cent said that prison work had helped them to learn to work regular hours (amongst 18-20 year olds this was 60 per cent and this benefit decreased with age of prisoner);
  - forty-six per cent said it had helped them learn to take orders from a boss;
  - fifty-nine per cent said it had helped them to work with other people;
  - fifty-two per cent said it had helped them take more responsibility.
- 5.42 Education is also important to offender resettlement, since it may improve employment prospects. However, there is only limited evidence, mainly from the U.S, that basic skills training leads to a reduction in offending<sup>195</sup>.
- 5.43 Accommodation issues are significant for offenders, especially those released from prison<sup>196</sup>. However, the relationship between accommodation needs and offending is complex<sup>197</sup> and understanding of the precise link between meeting accommodation needs and reducing reoffending is still developing.
- 5.44 Some interventions have adopted more holistic approaches to tackling offenders’ resettlement issues, but so far strong evidence of effectiveness in reducing reoffending is under-developed. One promising programme is the FOR (Focus on Resettlement) programme, which aims to increase offenders’ motivation to become committed and active in setting their own agenda for change and to increase their take-up of services that would help with resettlement upon release. There is some evidence from pathfinder projects that certain groups of prisoners were reconvicted at a lower rate than comparison groups from the same prisons<sup>198</sup>.
- 5.45 A range of interventions have also been established in recent years to tackle the resettlement needs of short-term prisoners – for example, under the EXODUS scheme. This group typically has multiple problems but is often not in prison long enough for these to be addressed<sup>199</sup>. Currently, the evidence base about what works in this area is relatively undeveloped, although a number of qualitative studies and process evaluations have been conducted.

- 5.46 Mentoring may help both young people<sup>200</sup> and adults<sup>201</sup> desist from reoffending. Mentoring has also been used for young people who are considered at risk of offending. Mentors may help offenders or 'at risk' individuals tackle a wide range of problems (for example to get skills and qualifications or work, to get stable accommodation), including by facilitating access to other services, or help them by addressing their attitudes to offending. It is not clear from research to date what are the most valuable features of mentoring or how cost-effective it is in comparison to other interventions.

**Effective resettlement support for young people leaving custody is also an important factor in reducing reoffending.**

- 5.47 As discussed in chapter 3, certain risk factors may add to a young person's likelihood of offending and reoffending. Post-custody support has been found to be particularly important in the first few days of release<sup>202</sup>, and is especially effective when it addresses accommodation needs, and education, training and employment problems. The Youth Justice Board's Resettlement and Aftercare Provision (RAP) programme (which focused on substance misuse and mental health in 2007/08) and NACRO's 'On-Side' project (2003)<sup>xxiii</sup> demonstrated that tackling health needs and having a key worker may have provided the extra support needed to reduce the likelihood of reoffending. Other, more comprehensive resettlement schemes have suggested that supporting young people more effectively on their release from custody could potentially save substantial amounts of money through the reduction of reoffending<sup>203</sup>.

## Reparation and restorative justice

**A range of reparative and restorative justice approaches are already in use.**

- 5.48 Restorative processes used by the police include offenders apologising to victims, returning or replacing stolen items, or making good any damage caused directly to the victim or society. These approaches are particularly used for shoplifting, assault and criminal damage. If the police employ restorative approaches instead of more resource intensive disposals such as cautions and reprimands, this could potentially provide cost savings. However, more research is required to test this.
- 5.49 Financial penalties can compensate society whilst punishing offenders as some allow direct reparative compensation to be paid to victims. Financial penalties also provide reparation to victims through the victims' surcharge, a levy on financial penalties which funds services for victims.
- 5.50 To provide reparation to the victim, conditions can be set that coerce offenders to repair damaged property, replace stolen goods, pay compensation or simply apologise to the victims. In one recent survey it was found that victims' satisfaction was highest where the aims of the conditional cautioning had been explained to them and they were consulted on whether the offender should receive this disposal<sup>204</sup>.
- 5.51 Unpaid work/community payback can be given as a requirement of a community sentence. It requires offenders to complete a specified number of hours' work that benefits their local community. In 2009 over 67,000 Community Payback sentences were successfully completed in England and Wales.

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<sup>xxiii</sup> However, the sample size was very small, with only 55 participants aged 15-17.



Twenty-five per cent of offenders subject to a stand alone unpaid work requirement (community payback) were reconvicted<sup>205</sup>.

- 5.52 Fine Payment Work is a voluntary arrangement which makes provision for people from whom fines cannot be recovered by any of the normal means, to work off the outstanding fine through unpaid work. It was initially piloted in five court areas in 2004 (Cambridgeshire, Cheshire, Cumbria, Devon and Cornwall, and South Yorkshire) and later extended to South Wales in 2007 and Cleveland in 2008. The pilot was discontinued in April 2009. The pilot evaluation found attitudes towards fine payment work to be generally positive, but take-up was low. However, take-up was improved by having a 'champion' in place either in HMCS or in the Probation Service to promote the use of the scheme, maintain momentum and ensure close working between HMCS and the Probation Service<sup>206</sup>.
- 5.53 Youth referral orders are disposals available to juveniles in the community and involve the offender being referred to a young offender panel which consists of a YOT representative, two lay members and can also be attended by victims. The panel agrees a contract with the young person which includes rehabilitation and reparation.
- 5.54 Reparation Orders require a young offender to undertake reparation either directly for the victim or for the community at large (for example, cleaning up graffiti or undertaking community work). In 2008/09 there were 25,865 referral orders given (14 per cent of all disposals) and 4,720 reparation orders (3 per cent of all disposals).

**The evidence on restorative justice is promising.**

- 5.55 A range of restorative justice approaches are used at various stages of the criminal justice process in Australia, New Zealand, Canada, Germany and Northern Ireland. Evidence suggests that a variety of restorative justice approaches have a positive impact on victim satisfaction and may have a positive impact on reoffending in some circumstances.
- 5.56 The Youth Conference Service, introduced in Northern Ireland in 2003, for example, is used for a wide array of offences with a quarter of referrals (between 2003 and 2005) for violence against the person offences. There are two types of conference – diversionary, where a person is referred prior to conviction, and court-ordered, where a young person is referred post-conviction. It is too early to reach definitive conclusions about the effectiveness of youth conferencing but there is evidence to suggest that victims are satisfied with the process and outcomes.
- 5.57 A 2005 evaluation of the court-referred Restorative Justice (RJ) Pilot in New Zealand found that 92 per cent of victims who participated in court-referred RJ conferences said they were pleased they took part and three-quarters felt better as a result of taking part. Ninety-four per cent of the victims in the pilot said their needs were met, at least partly, through the conference agreement. The evaluation also concluded that the effect of conferences on reoffending rates was not statistically significant.
- 5.58 A meta-analysis of the effectiveness of 35 individual restorative justice programmes in Canada concluded that, in general, the programmes had a positive impact on reoffending rates, in comparison with non-restorative justice interventions<sup>207</sup>.

- 5.59 A joint Home Office and Ministry of Justice commissioned evaluation of a number of restorative justice pilots found that 85 per cent of victims who participated in the restorative process said they were satisfied with the experience. The evaluation also found that when looking at these pilots together, they were effective in reducing the frequency of reoffending<sup>208</sup>. Recent further analysis of the data by the Ministry of Justice has suggested that the size of this impact was around 14 per cent.

## Deterrence and incapacitation

**Various aspects of the criminal justice system have a deterrent effect. Evidence suggests that the likelihood of being caught is more of a deterrent than the severity of the punishment given<sup>209 210 211</sup>.**

- 5.60 The deterrent effect of punishment on crime can, in theory, come from either the probability of detection or from the severity of the punishment (type and length of sentence). There is good evidence that the probability of being detected and punished generates deterrence. The evidence in support of a deterrent effect via punishment severity is much weaker and much more mixed. Most robust studies of sentence severity find no evidence of a deterrent effect although there are a few less robust studies that do find an impact<sup>212</sup>.
- 5.61 The impact of deterrence depends on the individual. One model of criminal behaviour assumes that everyone is 'rational' in that they behave in a way that gives them the biggest overall possible benefit. As law-breaking brings with it the risk of being caught and punished, this model assumes that people who like taking risks will spend more of their time committing crime than people who dislike taking risks. As this model assumes the most active criminals are likely to enjoy risk-taking, it follows that making punishment more certain would reduce crime by more than making punishment more severe. However, this approach depends on people being reasonably well-informed about the likelihood of getting caught as well as the punishment that would follow.
- 5.62 Some research indicates that deterrence via severity of punishment is less likely to apply to 'crimes of passion'. In the immediate moment (e.g. at the scene of a potential crime), the effect is likely to be small, especially where crimes are impulsive or offenders' judgement is impaired (e.g. through alcohol). Analysis of the deterrent effect of disposal severity in the longer term is hampered by the difficulty in disentangling deterrent effects from incapacitation.

### **Prison may provide an incapacitation effect on individual offenders.**

- 5.63 Incapacitation can prevent an offender from committing crime during their period of imprisonment by removing them from society. Incapacitation in itself cannot prevent crime in the future occurring after release (this would arise from deterrence, rehabilitation and offenders ageing and maturing), nor can it prevent others committing the crimes the incapacitated offender would have committed (this is determined by the effectiveness of crime prevention in the community).
- 5.64 To date there has been no clear consensus from criminologists and commentators about whether there is an incapacitation effect at all, and if so, its scale. At the extremes:
- some argue an incapacitation effect exists and is large. To assess how large in terms of crimes committed, analysts need to estimate how many offences are committed that go undetected for each conviction that is

secured. Some reports have estimated this could be as high as 140 offences per conviction<sup>213</sup>;

- there are also some who argue that there is no such thing as an incapacitation effect – and all that imprisonment achieves is a postponement of a given level of offending<sup>214</sup>. This implies that imprisonment has no impact on crime levels, other than by acting as a deterrent or by acting as a place for rehabilitation. Under this hypothesis, it is irrelevant how many offences would have been committed during the period of incapacitation as these offences would be postponed and committed on release.

5.65 There is evidence that incapacitation through short periods in custody can be criminogenic, meaning that it can actually lead to further crime in the future when compared to alternatives such as community sentences<sup>215 216</sup>.

### **Public protection**

5.66 In addition to incapacitating offenders in custody, public protection is achieved through monitoring and managing offenders in the community.

### **Sexual and violent offenders are managed in the community through Multi-Agency Public Protection Arrangements (MAPPA).**

5.67 MAPPAs are a multi-agency approach to managing sexual and violent offenders in the community. The police, probation and prison services have a statutory obligation to lead the MAPPA process, while other agencies (health, local authorities and other agencies) have a 'duty to cooperate'. The research on MAPPA to date has been largely qualitative, focussing on evaluating the operation of MAPPA. One study<sup>217</sup> found that MAPPA areas advocated the use of various methods to manage offenders, including: controls to restrict offender behaviour; programmes to address offending behaviour; and the use of discretionary powers to disclose information regarding the offender to third parties.

### **Offenders in the community can also be monitored through electronic tags.**

5.68 Electronic monitoring can be added as a requirement to a community order. Home Detention Curfew (HDC) was introduced across England and Wales in January 1999 and involves electronically monitoring offenders upon release from custody. Reoffending figures for those on HDC show that in 2008/09 4.6 per cent offenders' reoffended whilst on HDC<sup>218</sup>. A forthcoming report on HDC uses centrally held data on sentencing and offender criminal histories to evaluate the effectiveness of HDC in terms of reducing reoffending.

### **Sentencing: public knowledge and perceptions**

5.69 Although overall sentencing trends show increasing use of custodial sentences and reduced use of financial penalties, the prevailing public perception is that the criminal justice system is too lenient. In 2007/08 just over three-quarters of British Crime Survey respondents felt that the sentences passed by the courts were too lenient,<sup>219</sup> a proportion that has remained fairly stable since the question was first asked in the mid-nineties<sup>220</sup>.

- 5.70 The British Crime Survey has also shown, however, that this is in part because knowledge of crime and actual sentencing practice is limited: many people are unduly negative about crime trends, the proportion of crime that is violent, and under-estimate the severity of sentencing<sup>221</sup>. When the public are presented with all the facts of a case and asked to decide for themselves what an appropriate sentence would be, they tend to suggest sentences which are no more severe, and in some cases less severe, than those handed down by the courts. There is evidence that the public want sentence lengths to correspond with the time served and that they recognise this is not currently the case<sup>222,223</sup>.
- 5.71 In general, knowledge of community sentences tends to be poorer than custodial sentences and there is some evidence that the public tend to see community sentences as less effective. However, the public are still open to considering community sentences as an appropriate option in certain circumstances, and consider that they should be used as a way of making offenders pay back to the community<sup>224</sup>.
- 5.72 More generally, there is good evidence that providing information can in itself improve levels of knowledge and confidence in the system<sup>225,226</sup>. Research has also shown that an 'informed' public are more likely to support part of a custodial sentence being served in the community and more likely to favour incentives for early release<sup>227</sup>.
- 5.73 Recent research found that people recognised that the different purposes of sentencing are conceptually and empirically intertwined in ways that make it difficult to rank them. Survey respondents placed high value on four out of five sentencing purposes, reparation being the one that secured least support and public protection securing the most<sup>228</sup>.

## Chapter Six: Delivery systems

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### Overview

- 6.1 Given the demands on the system and the current financial resource climate there is scope to increase effectiveness and efficiency through the use of different delivery systems. A number of approaches – which encourage and provide incentives for local joint working and greater focus on outcomes – have been tried in other sectors in the UK and abroad. Not all of these have been fully evaluated yet but some of the early results are promising and offer practical lessons for applying these ideas to the criminal justice context in England and Wales.
- 6.2 There is a strong case for investing in rehabilitation. The economic and social costs of crime are far greater than those costs which offenders place on public services. Focusing on rehabilitation could therefore generate significant benefits to society through having fewer victims of crime, less damage and destruction of property and more offenders becoming productive members of society. In addition there could be cost savings to government through reduction in demand for services, such as the criminal justice system, and increases in taxable earnings.
- 6.3 The evidence suggests that particular gains can be made by focusing strategies on prolific offenders because this group places the greatest demand on the system, causes the greatest costs to victims and wider society, and is typically dealt with through short custodial sentences where there is limited scope for intervention.

### Promising approaches

#### **Criminal Justice agencies and wider partners can deliver services in a more joined up way in order to increase effectiveness.**

- 6.4 Multi-agency working is not new but has received increasing attention in recent years as a way of tackling the multiple problems of offenders. There are indications of potential benefits of joint working at a local level and adopting a case-management approach to addressing individuals' circumstances. The following section outlines some of the initiatives that have been trialled in the UK and internationally.

#### Integrated Offender Management (IOM) Pioneer Areas

- 6.5 IOM is a partnership approach that brings together statutory criminal justice agencies and wider partners including the voluntary sector in joint work to reduce reoffending. IOM has been developed through a 'bottom-up' approach and provides a strategic framework for targeting resources to ensure that offenders do not fall through the gaps of existing provision.
- 6.6 Six pioneer IOM areas received central support to develop IOM approaches and share learning between 2008/09 and 2009/10. A process evaluation, break-even analysis and impact evaluation feasibility study have been jointly commissioned by the Ministry of Justice and the Home Office on five of the pioneer IOM areas.

### Diamond Initiative

6.7 The Diamond Initiative took a slightly different approach to IOM, based on a Justice Reinvestment (see below) model called 'million dollar blocks' in the US, which invested money in neighbourhoods with high concentrations of offenders with the aim of saving money through preventative interventions. In London, new multi-agency teams consisting of officers from police, probation, local authority and other partners were set up in targeted wards to provide local and flexible delivery of resettlement assistance to adult offenders returning to the community following short-term custody (under 12 months)<sup>xxiv</sup>. There is some early, tentatively positive evidence in support of the Diamond Initiative. The Metropolitan Police is undertaking a fuller and more conclusive assessment which is expected in 2011<sup>229</sup>.

### Total Place Approach

6.8 The Total Place Approach aims to overcome the inefficiency and expense of multiple reporting and recording systems, with public spending focusing on the consequences rather than causes of problems, complex lines of accountability for public spending and barriers to data sharing. Each of the 13 pilot areas reviewed their current spending and identified many potential areas where they could save money and increase efficiency by delivering services differently. For example, one local authority estimated that by adopting the single assessment approach and allowing this assessment to be passed between organisations it could achieve efficiency gains to the value of £135k per annum for those on short term sentences<sup>230</sup>.

### Community Justice

6.9 Community Justice aims to deliver a more holistic approach to offender management through the court working collaboratively with other criminal justice agencies, support services and community groups to address problems related to offending behaviour. A process evaluation of the North Liverpool Community Justice Centre<sup>231</sup> reported improvements in efficiency of court proceedings when compared with the national average. For example, a higher number of guilty pleas and a lower number of hearings per case indicated that cases in the centre were, on average, dealt with quicker than in mainstream courts in England and Wales.

6.10 An initial evaluation of reconviction rates in North Liverpool and Salford<sup>232</sup>, found there was no significant difference between the reconviction rates of offenders in the Community Justice Initiatives and a control group of similar offenders in Greater Manchester. However, the breach rates of those sentenced in the Community Justice Initiatives were found to be significantly<sup>xxv</sup> higher than those in the comparison group, although this could have been attributable to increased scrutiny of this group.

### Community Justice Panels

6.11 Community Justice Panels can be used to engage communities and give people more of a say in sentencing/punishment. They aim to bring the CJS closer to communities and increase transparency and visibility and in turn increase confidence. A Community Justice Panel (South Somerset) was set up in January 2005. There has been no evaluation of the impact on reoffending to date.

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<sup>xxiv</sup> There is no licensed supervision for these offenders and rehabilitation services are limited.

<sup>xxv</sup> Significance level =  $p < 0.05$

**Financial incentives can also be used to encourage local areas to work together to reduce demand on the system.**

- 6.12 Justice Re-Investment (JR) is a data-driven approach to reduce corrections 'spending and reinvest savings in strategies that can decrease crime and strengthen neighbourhoods in US states<sup>233</sup>. JR proposes moving funds spent on punishment of offenders to programmes designed to tackle the underlying problems which give rise to the criminal behaviour<sup>234</sup>.
- 6.13 The introduction of JR initiatives across different US jurisdictions has been linked to reductions in prison population numbers and easing of fiscal pressures<sup>235</sup>. In 2007, the Kansas prison population was expected to increase by 22 per cent by 2016 at a cost of approximately \$500 million in additional construction and operating costs. The state legislature decided to create an incentive for locally operated community corrections programmes to employ risk reduction strategies that were already in place for parolees with the aim of reducing or flattening the rate of growth projected for the prison population.
- 6.14 The 2007 legislature provided an additional \$4 million to local community corrections programmes, and at the same time created an expectation that programmes receiving the additional funding reduce by 20 per cent the number of revocations for violating conditions of supervision and convictions for committing new crimes. In his statement to a hearing on justice reinvestment in 2009, Roger Werholtz, Secretary of Kansas Department of Corrections reported that the programs achieved the 20 per cent reduction within one year and exceeded it in the second year. As a result of this, and existing risk reduction strategies, he also reported that the State had been able to close three small prison units and a cell house at a fourth that would save over \$4 million annually, in addition to other additional costs that would be avoided over a five year period<sup>236</sup>.
- 6.15 In the UK, a pilot is being planned in which the Ministry of Justice would pay local authorities and service providers if they were successful in reducing court convictions and court disposals for adult and youth offenders in the local areas. The Financial Incentive Model would share the savings that accrue to the Ministry of Justice if the pilot area was successful in reducing convictions, so that they would be available to the local authority for reinvestment in further crime prevention activity at the local level in line with their priorities. Two tests are currently proposed in Manchester City Region and across a number of London Boroughs, in order to gather evidence on the potential for local partners (such as police, probation and the local authority) to work together more efficiently and effectively, and specifically to test if financial incentives can motivate local areas to allocate resources in a more efficient and effective way to reduce crime and criminal justice costs. The success of these tests will be assessed.

**Providers can be incentivised to innovate to deliver results by paying them according to the outcomes they achieve.**

Aims and rationale for payment by results:

- 6.16 The central concept of payment by results is that voluntary, private and potentially other public sector organisations are contracted by government to achieve a specified outcome (e.g. a reduction in offending), rather than being paid for processes or outputs (such as number of offenders passing through a programme). It is intended to incentivise greater efficiency: evidence from organisational economics states that financial incentives can lead to higher effort and performance, particularly in the private sector. Prescription as to how they achieve the outcome is minimal, to encourage innovation. Focusing on just one outcome can also remove the need for multiple performance management and reporting arrangements and could reduce the data burden placed on contractors.
- 6.17 The contractor carries the risk of losing the money invested upfront if the outcome is not achieved, but is rewarded financially if the outcome is achieved. Payment by results can therefore allow investment in longer term, preventative measures without risking large sums of public money on an ineffective intervention. The idea is that these investments can essentially pay for themselves by providing long term savings to the system, a share of which may be used for the outcome payments for successful providers.

Applying payment by results to criminal justice aims

- 6.18 The use of payment by results in the UK to reduce offending, reoffending or demand on certain areas of the criminal justice system is in the early stages of development. At present only one pilot has begun in the UK and formal evaluation will not be complete for some time. However, elements of payment by results are being used in: NOMS to contract resettlement interventions; some US states; and other sectors in the UK. The following gives a brief outline of these projects and some of the early lessons learned.

Payment by results and employment

- 6.19 The payment by results approach has been used by the Department for Work and Pensions (DWP) in developing the welfare-to-work system. A review commissioned by the department reported that an outcome-based approach could deliver significantly improved results for the hard to help and that there were clear potential gains from contracting services, bringing in innovation with a different skill set. Subsequently DWP developed a new approach to the commissioning of employment services, and adopted it for the contracted element of a number of employment programmes.
- 6.20 While there has been insufficient time to assess fully the impact of provision commissioned in this way, DWP has recently published a survey of providers' early experiences of this approach. Early findings suggested that there had been positive changes in the marketplace; there was a healthy level of competition during the tendering processes and active participation from the voluntary and private sectors in delivery. However, the scheme was not equally appealing to all service providers. The model also encouraged some interesting and helpful innovations which could be applied elsewhere, such as a strong focus on customer satisfaction, performance monitoring systems, and the introduction of a common IT system across the provider network.



Payment by results in the US

- 6.21 America Works is a for-profit organisation, financed through incentive payments, that specialises in moving unskilled and minimally experienced welfare recipients into existing private sector jobs. It has run welfare-to-work programmes since 1984 and began running a programme to place ex-offenders in employment in 2001 in New York. Their approach operates through intensive work-readiness training and basic skill-building, rapid job attachment, and intensive support services during the probationary period to ensure job retention of ex-offenders<sup>237</sup>. The programme has since been extended to Oakland, Newark and Baltimore.
- 6.22 America Works is paid differential rates depending on how long an offender sustains employment; the total payment for an average ex-offender (who remains in place for 180 days) is \$5,000. The for-profit organisation estimates that each ex-offender placed in employment by them saves the US taxpayer \$30,000 annually. However, America Works have recognised that their evaluation to date has been limited by problems of self-selection of participants and therefore they have begun a two-year control/experimental study in New York to assess the impact of work on recidivism. They intend to publish their findings in 2011.

Payment by results in the criminal justice context

- 6.23 The NOMS Co-Financing Organisation (NOMS CFO) secures external money from the European Social Fund in order to contract out resettlement activity aimed at reducing reoffending. It is operational in 80 per cent of English prisons. All externally funded contracts offered by the NOMS CFO team since 2002 have operated under the principles of payment by results. Current NOMS CFO Contracts are let on a prime/sub provider model with prime providers receiving 30 per cent of the contract costs based on performance. NOMS CFO use the specifically designed Caseload And Tracking System (CATS) to assist them to measure the 'distance-travelled' by offenders against a range of outcomes related to education, training and employment. The 70/30 per cent split is designed to acknowledge the expertise offered by small local voluntary and community sector organisations as well as social enterprises - NOMS CFO has found that offering a larger percentage of the contract as payment by results excludes these organisations from the tendering process. Using a regional performance management structure the NOMS CFO contracting model is viewed as an effective mechanism for the delivery of good quality, effective, value for money outcomes to offenders which in turn should contribute to reducing reoffending.
- 6.24 The first project to use payment by results directly to attempt to reduce reoffending is the pilot of a Social Impact Bond (SIB) initiative, which began at HMP Peterborough in August 2010. The Ministry of Justice has signed a contract with a social investment organisation which will aim to reduce the reoffending of three cohorts of 1,000 men who are serving custodial sentences of less than 12 months and are discharged from the prison. If the contractor achieves a 10 per cent or greater reduction in reconviction events within the first year after release, compared with a matched comparison group, for each cohort (or 7.5 per cent across all three cohorts), they will receive a pre-agreed sum of money for each prevented conviction event. If they do not achieve this target, they will be paid nothing.
- 6.25 Prisoners sentenced to short term custodial sentences currently get no or very little rehabilitative support on release, and yet have the highest reoffending rates. The SIB aims to reduce the reoffending of this group, without risking public money on an unsuccessful intervention. The money that the contractors

will receive if they are successful is a share of the savings expected to be made through the reduced number of conviction events. However, we would expect that there would be additional wider benefits to reducing the offending of this group. The primary contractors have employed sub-contractors to deliver their interventions, which are based around 'through-the-gate' mentoring and 'signposting' to resettlement services. An evaluation of this pilot is being commissioned and early qualitative findings around the set-up and implementation of the pilot will be available in 2011.

#### Practical lessons in developing payment by results models

6.26 The evidence suggests some potential benefits to using payment by results in the field of offender management. The literature has also identified some valuable lessons which will aid the development of effective payment by results approaches and the design of effective evaluation strategies:<sup>238 239 240</sup>

- thought needs to be given to the design of contracting models to ensure the market for payment by results contracts includes smaller organisations. These might include sub-contractors (which are being trialled in the Peterborough pilot) or a split between outcome-based and more traditional payment mechanisms (as used by DWP and NOMS CFO);
- the specification of baselines and outcome measures determining payments need to take account of the potential influence of macro-economic impacts, local labour market conditions and wider government policies; for example, it may become more difficult to place an offender in employment in circumstances or areas where there are higher levels of unemployment;
- it is important to design organisational and staff incentive structures that promote effective management of offenders, and mitigate against a range of risks such as:
  - organisations focusing only on low-risk offenders who require less intensive support;
  - staff fail to report client failures or tolerate a degree of relapse, or refer more difficult clients back to the courts rather than tackle non-compliance in other ways.
- there are some specific design considerations associated with the involvement of for-profit companies, including the need to ensure consistency of service should a company need to withdraw its services, for example as a result of bankruptcy.

### **The case for investment in rehabilitation**

6.27 As discussed in earlier chapters, reoffending remains high despite the significant increase in public expenditure on offender management in recent years. There has been a marginal improvement in reoffending rates for some offender groups in recent years, but reoffending increased for those released from prison or starting a community sentence since 2006. This has mainly been driven by those with more than ten previous offences, and there has been an increase in reoffending rates for those offenders sentenced to less than 12 months in custody from 58 per cent in 2000 to 61 per cent in 2008.

6.28 The economic and social costs of crime are far greater than those costs which offenders place on public services. Focusing on rehabilitation could therefore generate significant benefits to society through having fewer victims of crime, less damage and destruction of property and more offenders becoming productive members of society. In addition there could be cost savings to government through reduction in demand for services, such as the criminal justice system, and increases in taxable earnings. These savings, however, are likely to form only a small percentage of the total benefit to society and

reductions in demand for government services can be difficult to turn into realisable cash savings due to the difficulty in liquidising assets (e.g. prisons). As such, any cashable benefit to government is likely to be significantly less than the total benefit to society. The Treasury Green Book and the Cabinet Office Social Return on Investment guidance both provide guidance on how this should be considered when making investment decisions.

- 6.29 Overall, the evidence on cost effectiveness of running rehabilitation programmes and the wider benefits to society is still being developed. A promising example is the Drug Treatment Outcome Research Study<sup>241</sup>. This longitudinal study into drug treatment programmes in England has estimated that for every £1 spent on treatment, society is estimated to gain a benefit worth £2.50. Whilst this study has some limitations, especially around control groups and participation rates, it demonstrated the potential size of benefits to society from increased rehabilitation.
- 6.30 The evidence suggests that particular gains can be made by focusing strategies on prolific offenders, because this group places the greatest demand on the system, causes the greatest costs to victims and wider society, and is typically dealt with through short custodial sentences where there is limited scope for intervention.

## Glossary

### **Absolute discharge**

A sentence of the court which does not impose any punishment on the offender following conviction, but the offender's discharge will appear on his or her criminal record.

### **Accredited programmes**

Programmes which have been assessed against rigorous criteria by the Correctional Services Accreditation Panel and approved for use in prisons and/or the community.

### **Acquisitive crime**

Crime committed in order to gain money or possessions, e.g. shoplifting, fraud, theft or drug trafficking.

### **Acquittal**

A verdict or direction of not guilty.

### **Adult offender**

Offenders aged 18 and over.

### **Average custodial sentence length (ACSL)**

Average length of determinate custodial sentences (in months); this excludes indeterminate sentences (life or Imprisonment for Public Protection Sentences) as the length of these sentences is not recorded.

### **Breach**

Breach of a Court Order (for breach of licence see Recalls).

### **British Crime Survey (BCS)**

The British Crime Survey is a large nationally representative survey of adults over the age of 16. Respondents are randomly selected from the population resident in households in England and Wales. The survey asks people in detail about their experiences of crime in the 12 months prior to interview. Since January 2009, children have been included in the survey. The first (experimental) results for this age group were published in Spring 2010 (Millard and Flatley, 2010). This paper focuses only on results for adults aged 16 or over.

### **Cannabis warnings**

Cannabis warnings were introduced in April 2004 and can be administered to persons aged 18 or over if they are found to be in possession of a small amount of cannabis and have not previously received a cannabis warning, PND for cannabis possession or any previous convictions.

### **Caution**

Cautions include 'simple cautions', 'conditional cautions' and reprimands and warnings (which replaced cautions for juveniles on 1 June 2000). A caution may be given to an offender aged 18 or over when there is sufficient evidence for a conviction and it is not considered to be in the public interest to instigate criminal proceedings. Offenders must admit guilt and consent to a caution in order for one to be given. For offenders aged 10 to 17, there is a system of reprimands and warnings.

### **Community Order**

This non-custodial sentence was introduced under the Criminal Justice Act 2003 and replaced all existing community sentences for adults. The maximum length of the order is three years and the court must impose one or more of 12 possible requirements, such as supervision, unpaid work and drug treatment.

### **Community sentences**

Offenders sentenced to a community sentence serve their whole sentence in the community rather than prison. Since 2003 this includes Community Orders and Suspended Sentence Orders. Pre 2003 Community sentences included: Community Punishment Order (CPO); Community Rehabilitation Order (CRO); Community Punishment and Rehabilitation Order (CPRO); and Drug Treatment and Testing Order (DTTO).

### **Compensation Orders**

Compensation Orders allow a court to make an order requiring an offender - convicted of any offence - to pay compensation for any personal injury or loss resulting from that offence or to make payments in respect of a death resulting from any such offence (excluding motoring offences). There is a limit of £5,000 per offence that can be imposed by a magistrates' court. The Crown Court has unlimited powers but must have regard to the means of the offender. There are different arrangements for payment for young offenders.

### **Conditional discharge**

A discharge of a convicted defendant on the condition that s/he does not reoffend within a specified period of time (not exceeding three years). If the offender commits an offence during that period the court may re-sentence the offender for the original offence.

### **Confiscation Orders**

A Confiscation Order is an order made against a convicted defendant ordering them to pay the amount of their benefit from crime. Unlike a forfeiture order, a confiscation order is not directed towards a particular asset. It does not deprive the defendant or anyone else of title to any property.

### **Convicted unsentenced**

Those who have been convicted of an offence and are awaiting sentence.

### **Conviction**

A conviction in a court in England or Wales for a standard list offence. Standard list offences are all indictable and triable-either-way offences plus a range of the more serious summary offences such as assault, criminal damage (£5,000 or less) and driving without insurance.

### **Correctional Services Accreditation Panel (CSAP)**

The Correctional Services Accreditation Panel is a panel of experts, which helps the Ministry of Justice and NOMS to develop and implement high quality offender programmes and promotes excellence in programme design. Its main work is to accredit programmes which are designed to reduce reoffending. It uses an evidence base approach to assess programmes. Applications are assessed against a set of accreditation criteria based on the lessons learnt from international research about what works in reducing reoffending. Accreditation is subject to review in recognition that the weight of evidence may shift as new evidence becomes available.

### **Criminal offence**

A criminal act punishable by law.

### **Crown Court**

The Crown Court deals with all criminal cases committed for trial by magistrates' courts and sent to the Crown Court for sentencing by the magistrates' courts. Cases for trial are heard before a judge and jury. The Crown Court also acts as an appeal Court for cases heard and dealt with by the Magistrates.

### **Custodial sentence**

A sentence where immediate detention is imposed on the offender. A suspended custodial sentence may also be imposed, where the custodial period is suspended with a presumption that it will be served if the offender breaches any community requirements imposed or commits a further offence whilst the sentence is operational. If the offender is given a sentence of 12 months or over, or is aged under 22 on release, the offender is supervised by the Probation Service on release. [It is important to note that the sentence length imposed will be longer than the time served in custody. For more information please refer to Appendix A of the Offender Management Caseload Statistics 2008].

### **Custody rates**

This is a measure of all persons sentenced to immediate custody as a proportion of all persons sentenced. It excludes offenders sentenced to non-custodial sentences and Suspended Sentence Orders, but includes all determinate custodial sentences, life sentences and Imprisonment for Public Protection (IPPs).

### **Desistance**

Desistance is a process by which someone moves from a state of offending to non-offending and maintaining that state. This can be a gradual process involving a reduction in frequency of offending and/or seriousness of offending. There is some academic discussion about the point at which someone should be recognised as having successfully desisted from crime.

### **Detention and Training Order (DTO)**

The Detention and Training Order (DTO) is the main custodial sentence for juvenile offenders aged 12 to 17 years old. The DTO can be for a term of 4, 6, 8, 10, 12, 18 or 24 months, up to half of which may be served in detention, the remainder in the community under the supervision of a probation officer, social worker or a member of a YOT. It is available for young offenders who have been convicted of an offence punishable by imprisonment in the case of someone aged 21 or over. It is available for males and females.

### **Deterrence**

There are two different types of deterrence:

- Specific deterrence focuses on the individual. It is concerned with whether undergoing a particular punishment discourages the individual from future criminal acts by instilling an understanding of the consequences.
- General deterrence focuses on prevention of crime in the general population. It is concerned with whether punishment in public view (for example, making example of specific offenders) discourages other individuals from future criminal acts.

### **Disposal**

A disposal is the result when an offender is found responsible for committing an offence and can be administered either out of court or will be the sentence of a court on either a plea or finding of guilt.

### **End of custody licence (ECL)**

This scheme existed between June 2007 and March 2010 whereby all prisoners aged 18 years and over who were serving a determinate custodial sentence of between four weeks and under four years were eligible for release from prison under temporary licence up to 18 days earlier than would otherwise have been the case subject to serving a minimum 7 days in custody from date of sentence, except for those excluded as a result of their offence type or for other reasons.

### **Financial penalty**

In this paper, a sentence of the court which involves the offender being ordered by a court to pay money as punishment for his/her crime. This includes fines and compensation orders.

### **Fine**

Fines are a monetary penalty imposed on individuals and organisations who have committed a criminal act. Fines are given to punish an offender financially by limiting the amount of money they have to spend and are usually given for less serious offences that do not merit a community or prison sentence. They can also be given in conjunction with certain other sentences.

### **First time entrant**

An offender receiving his or her first conviction, caution, reprimand or warning in England or Wales, as recorded on the Police National Computer.

### **Foreign national offenders**

Those convicted offenders who are non UK citizens.

### **Her Majesty's Courts Service (HMCS)**

Her Majesty's Courts Service is an executive agency of the Ministry of Justice. Its remit is to deliver justice effectively and efficiently to the public. It is responsible for managing the magistrates' courts, the Crown Court, county courts, the High Court and Court of Appeal in England and Wales.

### **Homicide**

In this paper, the term 'homicide' covers the offences of murder, manslaughter and infanticide. Murder and manslaughter are common law offences that have never been defined by statute, although they have been modified by statute. The offence of infanticide was created by the Infanticide Act 1922 and refined by the Infanticide Act 1938 (s1).

### **Immediate custodial sentence/ Immediate custody**

An immediate custodial sentence is the incarceration of a guilty offender either in prison or secure therapeutic centre. This differs from a suspended custodial sentence which is served in the community (see definition below).

### **Impact assessment**

Impact Assessments (IAs) are prepared as part of the process to make policy and provide an assessment of the costs, benefits and risks to society.

### **Imprisonment for Public Protection (IPP)**

A sentence of Imprisonment for Public Protection (IPP) is available for adults aged 21 or over convicted of serious specified violent and sexual offences where the court considers that there is a significant risk of serious harm to the public because of the likelihood of the offender committing further specified offences. When imposing an IPP, the court sets the minimum term to be served in full before the offender is considered for release by the Parole Board. If released, the offender must be on

licence for at least ten years before he or she can apply to the Parole Board for the licence to be terminated. Similar sentences are available for persons aged under 21.

### **Indeterminate sentences**

These cover life sentences and Imprisonment for Public Protection.

### **Indictable offence**

Comprises offences triable only on indictment (indictable only) and 'triable-either-way' offences. Indictable-only offences are the most serious breaches of criminal law and must be tried in the Crown Court. Triable-either-way offences are those where, if committed by an adult, is triable either on indictment in the Crown Court or summarily in the magistrates court (see summary offence below).

### **Intensive Supervision and Surveillance Programme (ISSP)**

The Intensive Supervision and Surveillance Programme (ISSP) combines high levels of community-based surveillance with a comprehensive and sustained focus on tackling the factors that contribute to the young person's offending behaviour. ISSP can be attached to court sentences for community orders for young offenders as a condition of the order and may also be attached to a bail package and used during Detention and Training Order (DTO) licences.

### **Intervention**

Any action taken during the course of a prison or community sentence with the aim of reducing or eradicating further offending behaviour. Interventions may range from formal programmes to address specific issues related to an individual's offending behaviour (e.g. attitudes to offending, anger management) to advice and support to assist with resettlement. Interventions may be delivered by a range of providers, including statutory agencies, the voluntary and community sector and social enterprises.

### **Juveniles**

Juveniles are those aged between 10 (the age of criminal responsibility) and 17 (inclusive). In most cases the age at sentence will determine the appropriate sentence but in some cases it is the offender's age when s/he committed the offence that will affect the sentences that are available to the sentencing judge. The majority of juveniles are sentenced at youth courts.

### **Legal Aid**

Facility for the fees and expenses of counsel, solicitors or other legal representatives retained by those of modest means to be paid from a fund administered by the Legal Aid Board.

### **Licence**

Adult offenders receiving a custodial sentence of 12 months or more are released from custody on licence. For the duration of the licence, an offender is obliged to comply with the terms of that licence. These may include requirements to report to the Probation Service, restrictions as to where they may live and what work they may undertake, and requirements to attend programmes. If an offender breaches their licence they are liable to be recalled to prison, potentially until the end of their sentence.

### **Magistrates' courts**

A court where criminal proceedings are commenced before Justices of the Peace, or District Judges, who examine the evidence/statements and either deal with the case themselves or commit to the Crown Court for trial or sentence.



### **National Offender Management Service (NOMS)**

NOMS is an executive agency of the Ministry of Justice, bringing together the headquarters of the Probation Service and HM Prison Service to enable more effective delivery of services.

### **Notifiable offences/ recorded crime**

Police recorded crime statistics cover all 'notifiable' offences recorded by the police. This does not mean all criminal offences, as almost all the more minor summary offences are excluded (even though the police may record them for their own investigations). The term 'notifiable' covers offences that are notified to the Home Office. These are collectively known as 'recorded crime'.

### **Offence group**

A split of offences into twelve separate groups. A more detailed split of the ten indictable offence groups (violence against the person, sexual offences, burglary, robbery, theft and handling and stolen goods, fraud and forgery, criminal damage, drug offences, other indictable offences (excluding motoring), indictable motoring) and the two summary offence groups (summary non-motoring and summary motoring offence types).

### **Offences Brought To Justice (OBTJ)**

An offence is brought to justice if it results in either a caution, a conviction, a penalty notice for disorder, a formal warning for a cannabis offence, or is taken into consideration by a court.

### **Offender management services**

The structures and processes through which NOMS manages the entire population of offenders for whom it has responsibility. Also refers to the particular model applied in managing individual offenders.

### **Out of court disposals**

An alternative way of dealing with an offender rather than prosecuting them in the criminal courts, depending on the seriousness and consequences of the offence. Out of court disposals for adults comprise Penalty Notices for Disorder, a caution (including conditional cautions) or a cannabis warning.

### **Penalty Notices for Disorder (PND)**

A PND is a type of fixed penalty notice that can be issued for a specified range of minor disorder offences, such as low-level, anti-social and nuisance offending. The police may issue a PND for one of twenty five offences including three notifiable offences.

### **Programme**

Offender programmes are structured work with offenders aimed at reducing reoffending, typically by identifying key factors associated with offending behaviour and addressing those factors through a variety of means. These might include cognitive behavioural therapy, drug treatment, education and anger management. The basis for programmes is usually informed by a theory underlying the mechanism of change and formal direction to those delivering programmes about the content of programme sessions, the sequencing of delivery and the evaluation of progress.

### **Percentage point change vs. percentage change**

These are different ways of representing numerical change in observed events, for example reoffending. If the reoffending rate in one year is 50 per cent and in the following year it is 40 per cent, this could be explained as a 10 percentage point change in reoffending, or a 20 per cent change.

### **Percentage rounding**

In this report, percentages have been rounded to whole numbers for ease of reading; where it was felt the significance of the percentage at one decimal place was needed the decimal figure remains.

### **Police National Computer**

The Police National Computer (PNC) is the police's administrative IT system used by all police forces in England and Wales and managed by the National Policing Improvement Agency. As with any large scale recording system the PNC is subject to possible errors with data entry and processing. The Ministry of Justice maintains a database based on weekly extracts of selected data from the PNC in order to compile statistics and conduct research on reoffending and criminal histories. The PNC largely covers recordable offences – these are all indictable and triable-either-way offences plus many of the more serious summary offences. All figures derived from the Ministry of Justice's PNC database, and in particular those for the most recent months, are likely to be revised as more information is recorded by the police.

### **Post-release supervision**

All prisoners given a custodial sentence of 12 months or more serve a proportion of their sentence in custody and are then released on licence. They are supervised by probation staff before and after release from custody. In addition, offenders with sentences of less than 12 months who are aged under 22 receive a minimum of 3 months post-release supervision, provided this does not extend beyond their 22nd birthday.

### **Pre-release supervision**

Home supervising officers along with probation staff in prisons work jointly with prison staff on sentence planning and management, including consideration of post-release issues.

### **Previous criminal history**

Previous occasions when an offender has received a conviction, caution, reprimand or warning, as recorded on the Police National Computer

### **Principal offence**

Where proceedings involve more than one offence the principal offence is defined as follows:

- where a defendant is found guilty of one offence and acquitted of another, the offence selected is the one for which they are found guilty;
- where a defendant is found guilty of two or more offences, the offence selected is the one for which the heaviest sentence is imposed;
- where the same disposal is imposed for two or more offences, the offence selected is the one for which the statutory maximum penalty is the most severe.

### **Probation Service**

The Probation Service generally deals with those aged 18 years and over. (Those under 18 are mostly dealt with by Youth Offending Teams.) They are responsible for supervising adult offenders who are given community sentences and suspended sentence orders by the courts, as well as offenders given custodial sentences, both pre and post their release.

### **Recalls**

Prisoners who are returned to custody having breached the terms of their licence.

### **Reconviction/proven reoffending**

A reconviction is where an offender is convicted at court for an offence committed within a one year follow up period and convicted within either that period or in a further six months. Proven reoffending is the same as reconviction but also includes other forms of criminal justice sanctions (in addition to conviction at court).

### **Remand**

When adjourning a hearing, or committing a defendant to the Crown Court for trial or sentence, a magistrates' court may remand the defendant either in custody or on bail. There is a general statutory right to bail (though there are exceptions), but this may be denied in specific circumstances: including where the court has substantial grounds for believing that if a defendant were remanded on bail, he or she would fail to surrender to custody, commit an offence while on bail, interfere with witnesses, or otherwise obstruct the course of justice.

### **Reoffending**

The basic concept of reoffending is that someone who has received some form of criminal justice sanction (such as a conviction or caution) goes on to commit another offence in a set time period. [See reconviction and proven reoffending for definitions of the terms used in official statistics].

### **Reprimands and warnings**

These replaced the system of cautioning for young offenders aged under 18 from 1 June 2000. Reprimands can be given to first-time offenders for minor offences, after which a warning must be given. The latter involves the intervention of a Youth Offending Team.

### **Serious offence**

Serious offences presented in this paper are those defined in the Ministry of Justice Reoffending of adults: results from the 2008 cohort England and Wales (2010) Annex G.

### **Severe reconviction rate**

The number of serious offences that result in a conviction per 100 offenders.

### **Short sentences – under twelve months**

Those sentenced to under twelve months (made under the Criminal Justice Act 1991) spend the first half of their sentence in prison and are then released and considered 'at risk' for the remaining period. This means they are under no positive obligations and do not report to the Probation Service but, if they commit a further imprisonable offence during the at risk period, they can be made to serve the remainder of the sentence in addition to the punishment for the new offence. The exception to this is those aged 18 to 20 who have a minimum of three months' supervision on release.

### **Specified activities**

Particular specified activities, such as improving basic skills including reading, writing and numeracy, attendance at a community drug centre or reparation to victims.

### **Summary offence**

These offences are triable only by a magistrates' court (unless a defendant is tried at the Crown Court for a mixture of indictable and summary offences). This group is dominated by motoring offences for some of which fixed penalties can be issued, but also includes such offences as common assault and criminal damage up to £5,000.

### **Suspended Sentence Order (SSO)**

A Suspended Sentence Order is made up of the same requirements as a Community Order and, in the absence of breach is served wholly in the community. It consists of

an 'operational period' (the time for which the custodial sentence is suspended) and a 'supervision period' (the time during which any requirements take effect). Both may be between six months and two years and the 'supervision period' cannot be longer than the 'operational period', although it may be shorter. Failure to comply with the requirements of the order or commission of another offence will almost certainly result in a custodial sentence.

**Time period of graphs**

All graphs have been shown for the previous twenty years; 1989 to 2009. Where data for this time period was not fully available or was considered inconsistent or uncertain, graphs were produced for the time period for which data was available, consistent and/or certain.

**Untried**

In this paper, persons charged with an offence awaiting commencement or continuation of trial prior to verdict.

**Violence against the person**

In this paper non-fatal violence including serious violence offences where the injury inflicted or intended is life threatening, and offences resulting in death, regardless of intent. The offence group also includes offences involving less serious injury, certain offences that involve no physical injury and some involving serious intent.

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