

Criminal Justice System items to note

Meeting on 5.3.24

1. Statistics

1.1 Bromley Briefing February 2024

Key facts about the prison system:

- Scotland and England and Wales have the highest imprisonment rates in Western Europe
- The prison population rose by 75% in the last 30 years and currently stands at 87,982
- For more serious offences, the average prison sentence is now 62.4 months (>2 years cf 2010)
- Over two and a half times as many people were sentenced to >10 years in 2022 than 2010
- >44,000 were sent to prison in the 2022/23, most for non-violence & 2/5 for <6 months

Lesser-known facts:

- *Long sentences* More are serving complex and more punitive sentences. 99% of IPPs have served their minimum tariff
- *Recall* Almost 10,000 serving <12 months were recalled in the year to June 2023, 34% more than last year. 16% of the sentenced prison population are on recall
- *Life sentences* 7,257 are currently serving a life sentence. 14% have a tariff of <10 years, 48% between 10-20 years, and 36% >20 years. 22% have already served their minimum term. In 2021, post-tariff lifers had spent an average of 9.2 years extra in prison
- *Whole life sentences* There are currently 67 people unlikely to ever be released
- *Remand* 18% of the prison population are on remand – the highest level in at least 50 years. 32% had been held beyond the 6 month custody time limit, and 5% for >2 years
- *Deaths in prison* In the last 5 years 21% self-inflicted deaths occurred in the first 30 days of arrival in prison, 49% in the first week. 2022 saw the highest ever number of IPP self-inflicted deaths
- *New prisons* HMP Fosse Way opened in May 2023. All three new prisons are Cat. C holding nearly 5,000 adult men. A 2016 study found that prisons holding <400 were 7x more likely to receive a 'good' safety rating cf larger prisons, and 5x for respect and purposeful activity
- *Private prisons* 21% (18,061) were held in 15 private prisons
- *Women in prison* On 30.9.23 there were 3,570 women prisoners (12% increase). 72% on remand by magistrates did not receive a custodial sentence, 48% from crown courts.

1.2 Offender Management Statistics Prison population up to 31 December 2023

The headline trends include:

- The total number of first receptions was 20% higher than the same quarter last year
- cf 2022, both remand and recall admissions increased (Untried by 21%, 39% unsentenced). Recall admissions were up 19%
- Despite an increase in numbers eligible for HDC, 20% fewer were actually released early
- There were 53,087 adjudication outcomes between July-September 2023, up 35%. Additional days were awarded as punishment on 1,177 occasions
- 32% of proven adjudications were for offences of 'disobedience and disrespect', and 30% for 'unauthorised transactions'
- The total number of recalls increased by 13%, 26% involving further offending, 76% for non-compliance, 33% for failure to keep in touch, and 27% for failure to reside
- July-September 2023 - 100 IPPs and 50 lifers were rereleased

1.3 MoJ Costs 2022/23 National Audit Office report

The overall MoJ budget was £13bn. HMPPS' net day-to-day expenditure accounts for 47% of the expenditure with HM Courts and Tribunal Service the second largest area, and Legal Aid the next.

Noteworthy areas of expense are:

Prisons – £3.341bn

Courts – £2.327bn

Legal Aid – £1.916bn

Probation – £1.234 bn

MoJ costs – £1.161
Youth Custody – £166m
YJB – £102m
Parole Board – £23m

The MoJ has 27 new projects and programmes. The whole-life cost of these is £82.5 billion with only six having a delivery confidence assessment rating of 'green'. Main risks to delivery include inflationary pressures to the construction projects, recruitment and procurement difficulties, challenging timetables, and the complex nature of some of the transformation programmes. The NAO summarises the main pressures on the prison, probation and court systems: "There is a growing discrepancy between demand for CJ services, primarily created by the police, who make arrests and charging decisions, and the supply of services, primarily provided by HMCTS, which administers cases through the courts, and HMPPS, which manages those in custody and supervised in the community." It then provides details on the poor performance of prisons, probation & courts; detailing overcrowding, understaffing and growing court backlogs.

2. CJS agencies

2.1 Lawyers

Access to prisons Report from the Association of Prison Lawyers

Lawyers face extensive difficulties in getting to see clients in prison, with countless examples of being told that prisons will not facilitate video links for them, or they will have to wait weeks or even months to get one. In person visits are extremely limited, with some prisons offering just one visit slot a week. A recent survey concluded that funding for legal aid work with prisoners has become unsustainable to the point where $\frac{3}{4}$ of prison lawyers do not think they will be doing prison law legal aid work in 3 years' time. Lawyers seeing their clients is a fundamental right that has long been protected in law. 16 prisons have been identified as not offering video links to solicitors. There are instances when a visit occurs in person, of huge difficulties on the day, including being denied authorised laptops or the person being brought to the visit late, or not at all, due to staff shortages or other issues in the prison. The Association calls for urgent steps to ensure that people in prison can have proper access to legal representation and justice. They highlight 3 priorities: Lawyers ought to be able to find out how to book a visit easily; confidential video links and in person visits should be available within a reasonable period of time in every prison; and prisons ought to prioritise legal visits to ensure they work smoothly once booked.

2.2 Prisons

2.2.1 Overcrowding

2.2.1.1 Prison population growth Parliamentary Office of Science and Technology (POST)

POST is an office of both Houses of Parliament which produces impartial briefings designed to make scientific information and research accessible to Parliament and general public. It states that "England and Wales have the highest per capita prison population in Western Europe. In October 2023, over 88,000 people were imprisoned, in an estate with a maximum capacity of 88,890 - the highest number recorded. The prison estate is operating at 99% of its usable operational capacity and over 60% of prisons are overcrowded. Nearing capacity can have negative implications for the safe operation of prisons, and for the health, wellbeing and rehabilitation of people in prison". Drivers of growth include:

- Longer sentences
- The increase in both minimum and maximum terms for a wide range of offences
- Increase in the number of remands
- Increase in the number of recalls
- The recruitment of 20,000 new police officers leading to more charges/ convictions /need for more prison places

Points of interest:

- Non-custodial alternatives to prison have been proposed by many but the difficulty of implementing this in practice is that use of community orders halved between 2009-19
- The influence of public opinion - polls consistently find that 70-75% of the public feel sentences are 'too lenient', despite substantial increases in average sentence lengths

- Stakeholders agree that long-term planning and cross-party consensus about the future of prisons would be beneficial. Policing, courts, prisons and probation are interconnected, so stakeholders also recommend more coordinated policymaking, to ensure that knock-on effects are identified and planned for, with timely investment upstream
- The Lord Chancellor has committed to an annual statement on prison capacity to facilitate a longer-term approach, and announced that changes to rape sentences will not commence until there is sufficient capacity in the system
- Tackling wider structural inequalities and biases at all CJS stages may help to reduce over-representation in the prison population
- An extra 6,000 prisoners are having to live in shared cells due to the capacity crisis in jails

2.2.1.2 “Future prison population and estate capacity” Justice Select Committee enquiry

Nick Hardwick, former Chief Inspector of Prisons has called for a radical rethink on CJ policy, complaining that prisoners are trapped in squalid, overcrowded conditions in their cells for up to 23 hours a day, and he accused the Government of a “panicky” response to the current capacity crisis eg early release scheme to let some prisoners out 18 days early, delaying sentencing for some convicted prisoners, and plans to send UK prisoners to live in hired cells in overseas jails. At the hearing he said the fundamental problem was increases in average sentence lengths, and called for a binding Prison Capacity Statement so that when capacity was reached, people would have to be released early or wait before starting to serve sentences. Among other experts giving evidence to the committee, Mark Day (PRT) said renting space in foreign jails would be an “expensive and complicated” way of increasing capacity, and would raise “practical, moral, ethical questions about whether it’s right that we should be sending people from UK jurisdictions to other countries.” The CCJS director suggested looking again at IPPs who have never been released (>1000). The MoJ said: “Public protection is our priority which is why we’re keeping the most dangerous offenders behind bars for longer while reforming short sentences and getting more prisoners into work to help break the cycle of reoffending. We’re also creating an additional 20,000 modern prison places – the biggest prison expansion programme since the Victorian era – with over a quarter already built, helping to rehabilitate offenders and keep our streets safe.”

2.2.1.3 Prisoners early release scheme

Leaked documents indicate that a scheme to allow early release of up to 18 days because of a lack of space has been extended indefinitely, and that Ministers have also expanded the number of jails involved. Officials insist this does not mean the scheme is permanent but have been unable to supply a date of when it will end. The changes could allow more people found guilty of domestic abuse related crimes, among others, to be released early. This has caused anxiety in HMPPS, prompting fears that some prisoners may be released with sped up risk management processes or wrongly released early. Statistics indicate that currently the overall system is at 110.6% capacity, or overcrowded, and whilst welcoming this move, the Howard League for Penal Reform states "It is unfortunate that the government has not acted more quickly to head off this crisis in capacity with sensible policy measures, but we welcome any move to reduce prison numbers and ensure that prisons can be safe and purposeful places where people can get support to move away from crime."

2.2.2 Mental health

2.2.2.1 Treatment of prisoners with mental health needs IMB report

This compiled the repeated failings that local IMBs have raised over recent years, as they continue to find mentally unwell men in care and segregation units (CSUs). The report says that owing to a lack of alternative provision, the prison service is too often using segregation as a way of managing and caring for prisoners with severe mental health needs. Key findings included:

- Almost all IMBs have repeatedly raised concerns over CSUs not being a suitable or appropriate place for prisoners with mental health needs
- They were often held for prolonged and long-term periods in CSUs, mostly due to prisoners struggling to cope or refusing to reintegrate back onto the residential wings; lack of capacity in prison healthcare units or prisons with specialist functions; delays in referral, assessment,

and transfer to a secure hospital; there being no alternative often because of a lack of diagnosis or men not having met the threshold for admission to a secure hospital

- Although most IMBs understood why CSUs were deemed the most appropriate place to be held, there were still widespread concerns that CSUs were the only alternative for those who were acutely unwell and in need of specialist care
- For men who were already struggling with their mental health, their wellbeing and behaviour often deteriorated further while being segregated for prolonged periods
- Prisoners were often moved between different CSUs, healthcare units, or returned to wings for short periods which made it harder to track the cumulative time some spent segregated.

In conclusion, the IMB found that the issues are not the fault of prison governors or staff working in CSUs who often went to extensive efforts to support prisoners whose mental health was deteriorating, to keep prisoners at risk of self-harm and suicide safe, and to liaise with healthcare professionals to get more appropriate care. While the prison service does need to find more humane and effective ways of caring for men with complex and severe mental health needs, the solution mainly lies outside of its remit, with a need for more appropriate mental health provision in the community. More mental health hospital beds of appropriate security levels, tighter controls on the transfer target and more effective monitoring of transfer time frames is necessary. As is so often the case, prisons are having to fill the gaps created by a broken system.

2.2.2.2 Thematic HMIP report

The chief inspector in his introduction makes it clear that the level of harm and distress inflicted on unwell prisoners, their peers and the staff trying to care for them is almost unimaginable to those with no experience of the prison environment. Key concerns raised included:

- Only 15% were transferred to a secure hospital within 28 days (average wait was 85 days)
- Despite a court diversion scheme for people with acute mental health issues, those placed in prison for their own protection continued and were arriving in prison very unwell
- 2/3 with mental health needs that could not be treated in prison had long waits for transfer
- There was little oversight or accountability for the long waiting times for assessment and transfers, of the responsible commissioned health providers
- An urgent referral due to rapid deterioration in mental/physical health did not guarantee prompt transfer
- The outcomes for and experience of patients were not central to the transfer process.
- Patients (deterioration), other prisoners and staff (assaults and the effect of supporting patients with a level of need for which they had not been trained) were coming to harm
- Very unwell patients were still being released back into the community while waiting for an MHA access assessment for admission, resulting in gate detention by the community team

2.2.3 Food in prisons briefing from the charity Food Matters

This examines the current state of food systems in UK prisons and makes key recommendations for improving prisoner welfare and security through food. Underpinning the briefing is the belief that food should be part of the “solution to criminal behaviour”, forming an integral part of a rehabilitative environment. Food served within prisons is constrained by a tight budget and can be served at inconsistent timings – in one prison, prisoners were receiving their evening meals at 2:30pm, leaving a substantial gap until their next meal. The main themes raised by people with lived experience of prison and prison food included:

- Women talked about food portion sizes (too large or small) and too high in fat and carbs. This related to wanting to lose weight, the triggering of eating disorders and meals not meeting specific health needs such as the menopause, gut disorders, allergies and intolerances. “I’m out in 4 months and I’m really struggling. I’ve put on 3 stone in 1 year and it’s affecting my mental and physical health”
- Men, particularly younger men, often said that portion sizes are too small, and that the meals are low in protein. This reflected the need for higher energy for those trying to build their muscles (possibly as a protective strategy) and those undertaking manual work

Key recommendations include:

- An HMPPS cross-cutting strategy (like for drugs and family ties), would encourage food, nutrition, & wellbeing to be integrated more widely into existing operational & strategic policies, developing prison food systems to become a focal point rather than a function
- Future procurement contracts for catering and canteen could provide greater flexibility around procuring local and seasonal produce
- Plans for more effective use of current prison spaces, and future prison buildings should be built with food production and preparation in mind
- The provision of education and skills should include access for prisoners to learn cooking, gardening, and other life skills, as well as work-focused skills, as part of the core curriculum and think creatively about how food related activities can provide purposeful activity

2.2.4 Prison chaplaincies

HMP Highpoint has appointed a paid humanist pastoral carer, making it the third prison to employ a humanist in its chaplaincy. In 2022, Wayland became the first prison to employ a non-believer in its chaplaincy department, when a humanist took up the post of Managing Chaplain, and HMP Stafford followed. However, Highpoint is the first jail to appoint a humanist to a regular chaplain position. He will provide sessional pastoral care as part of the chaplaincy team. Non-religious residents at the prison can now request, and be provided with, a non-religious pastoral carer, in the same way that a religious prisoner can access care from a chaplain of their faith. Pastoral care provides prisoners with support when they are facing difficulties such as bereavement, family issues, worries about life in or out of prison, or when they just need a compassionate listening ear. Non-religious pastoral carers are already present in other settings including hospitals, hospices, and universities, providing support that covers emotional, moral, ethical, and other aspects of life.

2.2.5 Alcohol and drug treatment in secure settings Office for Health Improvement & Disparities annual report 2022/23.

This covers adults and young people in contact with treatment services in prisons, youth custody and immigration removal centre settings. The headline findings include:

- There were 46,551 adults in alcohol and drug treatment in prisons/secure settings (up 3%)
- 77% started treatment during the year (up 6%, 47% of whom had a problem with opiate use)
- 86% started treatment within 3 weeks of arrival from the community
- 30% starting treatment were identified as also having a mental health need
- 28,065 left treatment, 36% discharged free of dependence. The non-opiate only group (52%), non-opiate and alcohol group (50%) and the alcohol only group (48%) had the highest rates of successfully completing their treatment
- 52% of adults leaving treatment were transferred for further treatment

The report concludes that although the number of people in drug and/or alcohol treatment in prison is still much lower than 7 years ago, there is a substantial increase from the COVID years.

2.2.6 Life sentence prisoners longitudinal research

"Sedative coping" is the capacity of lifers to suppress emotions, making their day-to-day prison experience the entire focus of their lives which was found to be an effective way of getting through very many years of incarceration but a recipe for a profoundly unsettling life on release. Many described how, over time, they had become stronger, more mature and more capable of managing their emotions. However, many described how, alongside this new-found "maturity", they had become hardened or emotionally blunt. Because they had so little control over their lives in prison and what happened to their families outside, many shut themselves down emotionally. Upon release, several talked about the difficulties of being with other people and needing time alone to replicate their survival mechanisms. Others struggled to regain any sense of emotional connection to their loved ones or the world in general. Humans confined in prison for long periods of time can achieve significant self-development but still be profoundly damaged by the experiences of institutionalisation on release. "Prison has made me emotionless. It's like a dark hole. I think that's the most thing that jail has done to me, it's just left me an emotionless person which I think is very damaging for me. I just can't grieve about anything. If someone just told me something, it's just like "Alright," nothing, the day just goes. I don't feel it".

2.3 Probation

2.3.1 Excessive workloads -HMIP thematic inspection of the role of the senior probation officer and management oversight in the Probation Service

This concluded that SPOs have an excessive workload, preventing them from focusing on their prime responsibility which is “ensuring effective management oversight of the probation caseload”. Findings included:

- there is no overall strategy for the delivery of effective management oversight which contributes to the confusion and uncertainty felt by operational staff. The Wales probation service has adopted a learning organisation model centred on a ‘human factors’ approach that accepts that humans are fallible, and errors are to be expected, even in the best organisations
- SPOs are responsible for too many areas, making it hard to give as much time as they would like to supervising practice and supporting staff eg health & safety, buildings issues and HR
- a reactive management oversight culture in which SPOs are generally dependent on staff raising concerns with them before they examine a case
- many staff talked of a culture of fear driven primarily by the fear of serious further offences and the consequent need to evidence management oversight activity
- There is no national SPO induction and training programme and local arrangements “do not fully meet the requirements of the SPO role’s demands and complexity”

The report makes 6 recommendations including evaluating the Welsh approach, and states that given the many misgivings about situating the probation service as part of the civil service; it is disappointing to see that the centralised system has not delivered coherent policies, structures and staff development – the functions it does so well for other disciplines.

2.3.2 Approved Premises HMIP Academic Insight on realising their rehabilitative potential

The report sets out the potential of APs to support desistance and rehabilitation whilst managing risks of harm to the public. Probation hostels are one of the least visible and least well known components of the justice system. The 104 APs (2,200 bedspaces) are arguably the most expensive and most intrusive resource available to the probation service. The authors make the case for widening the supply of hostel services for people on probation, so that residential support is available to more people on probation than solely those who are designated high risk. They also call for a more individualised service where location and length of placement is tailored to individual need. Many AP residents bitterly resent being released from prison only to have to comply with restrictive hostel regimes. However, many “grudgingly or otherwise, appreciate the respite and support given, particularly on re-entry from prison”. They also call for smaller establishments which are closer to home to enable people to rebuild their family and community ties in less institutional settings. There is untapped potential to make them more part of local communities to the mutual benefit of local people and hostel residents. This sort of approach is championed by many third sector providers who house vulnerable and stigmatised individuals, providing practical benefits for local residents whilst giving those living in the premises the chance to feel part of a community in a real and concrete way. They acknowledge that whilst most of the improvements outlined cannot take place without system change (and the considerable investment of resources), the potential of APs (and of their residents) is mainly ignored by current policy and practice.

2.3.3 Lifer release a study of the relationship between released lifers and their probation officers

Following a lengthy period of imprisonment and a successful Parole Board hearing, over 200 mandatory life-sentenced prisoners are released back into the community each year on life licence. As a result of being convicted of and having served a sentence for murder, they face strict licencing conditions, which if breached could result in their return to prison. The main findings included:

- 75% had never met their PO prior to release, as most were released to a new geographic area. Despite this, almost all participants characterised their relationship with probation as being positive, trusting, and constructive:

- Feeling able to trust their PO and turn to them for help provided comfort to them, easing concerns upon returning to the outside world. They firmly believed that probation was there to help, not hinder, them
- Developing positive working relationships encouraged and enabled them to be more open and honest with their PO, and to 'speak freely'. This included talking about their successes and progression, and also (perhaps more importantly) discussing the challenges they were facing
- They also described the ways in which their PO provided emotional and psychological assistance, most obviously by enhancing the individual's sense of value and worth
- Being treated with respect and humanity enabled them to feel 'more human', as if their PO was seeing them as 'a person' and not 'an offender'. Building genuine and caring relationships went beyond assessing 'risk', providing them with validation and recognition of their attempts to lead a normal and prosocial life
- There were 2 exceptions to this positive view, largely related to the addition of new licence conditions (that the men felt were unnecessary to manage their 'risk') and the degree of judgment they experienced. They begrudged how CJ professionals, and in particular those responsible for them remaining in the free world, failed to acknowledge their transformation, viewing them instead with great suspicion and as an enduring risk.

The main result was that the vast majority of participants described their relationship with probation as being overwhelmingly positive, which was surprising given previous research. Despite being largely complimentary about the treatment they received, they still criticised the operational need to be supervised and managed in the community. This suggests that positive and supportive treatment by supervising officers is not sufficient by itself to overcome broader and more entrenched negative attitudes related to licencing and supervision.

2.3.4 Mental Health Clinks article on the mental health of those on probation

There are many benefits to making sure that we understand the mental health needs of people on probation and address them. CJ and health agencies need to work together to make sure that people get the support for their mental health needs. Currently, the services provided are not always suitable to meet their needs, and those on probation can face numerous access barriers.

- 40% of people on probation are experiencing a mental illness at any given time, but not all are accessing treatment or support. Probation contact can provide an opportunity to engage people with support who may not otherwise access it. People with a mental illness need and deserve treatment and ensuring that people get appropriate support contributes to the Probation Service's rehabilitation role
- The relationship between mental illness and offending is complex, but mental health crises and behaviours such as self-medicating with drugs and/or alcohol can bring people into contact with the CJS. As part of Probation's public protection role, such risks need to be monitored
- Improving the mental health of people on probation can have wider societal benefits, for example through reducing health inequalities and fear of crime
- Generic services do not always work well for people on probation. It is important that their needs and experiences are fully considered in the commissioning process and for probation-specific elements such as clear access routes that staff can use to support people who may struggle to navigate services on their own to be available

The probation inspectorate produced an effective practice guide for mental health in 2022 aimed at a probation audience and emphasises a number of elements that relate to best practice. The critical success factors of working well with people with mental health problems are:

- A compassionate and person-centred approach in probation practice
- Routine screening, assessment and recording of mental health status when on probation using validated screening tools rather than simple self-report
- Routinely collecting feedback on people's experience of and satisfaction with care.
- Prevalence, experience, and satisfaction data informing local-level commissioning decisions as an essential step towards ensuring that services are available to meet needs
- Multi-agency collaborative working to create access routes for self and supported referral. It should be clear what MH services are available and their eligibility criteria

- Addressing current challenges around multi-agency working and information sharing
- Processes to support GP registration for people on probation
- Investment in training for probation staff, providing community-based MH services, and support for continuity of care on release from prison
- Investment in the probation service to ensure caseload sizes are appropriate and that the number of times that an individual's supervisor is changed is minimised
- Ensuring that initiatives aiming to improve MH care and access for people on probation are formally evaluated and findings are widely shared
- Lived experience input eg into training, mentoring, and providing feedback on care

The conclusion is that despite very committed staff, there are multiple failures especially for people with a serious mental illness. They recommend that probation staff receive systematic MH training with discussions between probation and local MH services about developing referral pathways.

2.4 Youth Justice

2.4.1 Annual YJ statistics report 2022/23

Key points include:

- An increase of 13% of stop and searches involving children. 20% were black
- 77% of these stop and searches resulted in No Further Action, while 10% resulted in arrest
- Arrests rose by 9% to around 59,000
- There were just under 8,400 child first time entrants to the YJS with a 7% increase of those aged 10 to 14
- Around 13,700 children received a caution or sentence, a fall of 4% (Black children are over-represented)
- 63% of children remanded to youth detention accommodation did not subsequently receive a custodial sentence. 79% were bail remands, with youth detention accommodation remands accounting for 10%, and 12% being community remands with intervention
- An average of 440 children were in custody at any one time during the year, a fall of 3%
- Black children remain overrepresented in custody (26%)

The conclusion is that there is a lot of good news but there is some real concern around the increase in younger children entering the YJS which will need careful analysis and responses from police, social services and youth offending services

3. Other issues

3.1 CJS Recovery Institute for Public Policy Research study

Public services will not recover until the 2030s even under a Labour government, and it will take a decade to clear the backlog in the NHS and the courts. The study stated that "the next government will inherit one of the most challenging contexts in terms of public services of any new government since the second world war," warning that reform and higher spending would be necessary. Some of their ideas include rolling out AI tools, such as ChatGPT, to the public sector to save an estimated £24bn a year, with a "right to retrain" for workers whose jobs are affected. Labour is expected to fight the next election with a promise to change public services, but the party will have little money to promise a major spending programme. The political parties are casting round for policies to put in their manifestos and looking to thinktanks to supply some of the ideas. The backdrop of tight public finances and rigid self-imposed fiscal rules means they are looking for policies that will be cost-neutral or involve little upfront cost. Analysis of the court service predicts that it will take until 2033 for case backlogs to fall to pre-pandemic levels. Previous attempts to change public services focused on targets and outcomes, choice and competition, without paying enough attention to "intrinsic motivation", which can be found with a better trained, more trusted and more autonomous workforce. One of its core recommendations is legislating for new missions or overarching goals for the country, such as making the UK the healthiest country, the safest country, and the country with the best start in life. Each mission would have its own independent body to hold the government to account. The next government will need an ambitious, long-term, modern reform agenda for a decade of reform and renewal

3.2 CJS staffing CJI Efficiency spotlight joint report (extract)

In our 2022 report, we concluded that most agencies had not been able to move into full recovery, even to their pre-Covid-19 position. As Chief Inspectors, both individually and jointly, we have continued to voice deep concern about the difficulties facing the CJS. In this report we focus on recruitment and retention in the agencies that we inspect: the police, CPS, Probation and YOS, and the Prison Service. An effective and efficient CJS relies on each organisation having staff with the requisite skills, experience, capability and capacity to deliver their roles and functions within the wider system. We have found some worrying levels of inexperience across the CJS and in some areas significant problems retaining staff. The courts backlog has continued to rise to an unprecedented high and has had an adverse impact on all those involved in the CJS. It is increasingly necessary to ensure that all organisations have the right people with the right skills in the right places, to enable the CJS to recover and address the challenges and backlogs that remain. We are concerned that the loss of experienced personnel offers limited opportunities for new starters to learn from seasoned colleagues resulting in many finding themselves navigating a high-pressure environment without adequate support and supervision to develop their skills. Despite a high level of commitment and dedication, we find staff grappling with heightened pressures, from the point at which a crime is reported through to detention in overcrowded prisons. The strain inevitably impacts morale, staff well-being and absenteeism. This not only affects the quality of work within the system but also erodes public confidence, impacting defendants, witnesses and victims alike. Key points from the report include:

- The police, CPS and Probation have all successfully recruited over the past 2 years and seen a resultant increase in staff in post. The prison service has also recruited but less successfully, mainly due to the current employment climate and market forces, but evidence from inspections also indicated other factors including a negative prison culture, lack of management support and unmet expectations about the nature of prison work
- The additional 20,000 police officers were recruited over a 3 year period, heightening the potential that people unsuited to policing may join the service ie there are examples of forces granting vetting clearances to substantial numbers of unsuitable applicants
- The CPS has continued to recruit but report that they are only able to fund 92% of what is required. Some have struggled to recruit prosecutors, and nationally the CPS acknowledged that fewer people are choosing a career in criminal law, causing them to review their approach
- While probation staffing levels have improved in some areas, significant issues continue with insufficient staffing levels
- The prison service has also recruited but there remains an issue over retention, leading to staff shortages which has had a devastating effect on the delivery of good outcomes for prisoners
- While the overall staffing position for YOS is much more positive than for probation, there is a specific concern around ongoing vacancies in probation officer posts within the YJS

The report concludes that all CJS agencies are under immense operational pressure with the primary issue no longer being one of unfilled vacancies, but rather one of varying levels of experience. This creates additional pressure within an already overloaded system adding to delay and reduced capacity and capability. Further focus must be on all agencies understanding why staff leave, and should regularly review caseloads, capacity, capability and productivity. This will help to ensure there is adequate supervision and support for staff across the CJS.

3.3 Sentencing of a pregnant prisoner

The court of appeal quashed the prison sentence of a heavily pregnant woman so that she can give birth safely, in a case hailed as a landmark by campaigners. The woman, 22, is almost 8 months pregnant and has been diagnosed with potentially life-threatening pre-eclampsia. She was sentenced to 5 years for possession of a firearm and ammunition, and was serving 2½ years in prison. She did not discover she was pregnant until given a routine pregnancy test on arrival in prison. Campaigners have previously argued that no pregnant women should be housed in the prison estate. In September 2019, a newborn baby was found dead in a prison cell in HMP Bronzefield after her mother gave birth alone. In 2022/23 there were 44 births in custody, 98% in hospital. The judges stated: “We regard this as a quite exceptional case” and replaced it with a 2-year suspended sentence with a rehabilitation requirement. A co-director of Level Up, said: “This

landmark judgment marks a sea change in sentencing practices. Several other countries do not imprison pregnant women or new mothers and England's courts are beginning to catch up. Prison will never be a safe place to be pregnant. The prison ombudsman, MoJ and NHS have declared all pregnancies in prison as high risk. This means that when a judge sentences a pregnant woman to prison, they are sentencing her to a high-risk pregnancy. That is unconscionable."

3.4 IPPs

3.4.1 IPP Campaign CCJS "How to resolve the IPP crisis for good" 5-point plan

The campaign to right the ongoing injustices of the IPP sentence has gathered impetus since the Justice Committee's report in September 2022 which made a number of recommendations including reducing the licence period and re-sentencing everyone subject to an IPP. The main action points in the document are:

- The standard regime restrictions on those over tariff should be eased, to allow for greater access to visits and better cell conditions
- The Secretary of State should release on compassionate grounds the most distressed prisoners and advise the Parole Board to facilitate release of those serving the longest periods beyond their tariffs
- Following expert advice and review of resentencing options, Parliament should legislate for the systematic commutation of IPPs in broad categories, where necessary authorising referrals to mental health tribunals, & reserving fresh judicial examination for complex cases
- A Recovery and Reparations programme to address the disastrous personal consequences of the sentence should be designed with urgency and due scope

A fundamental legislative review of all forms of preventive detention should be set in motion

3.4.2 Cost of IPPs

Taxpayers have spent more than £1 billion keeping people in prison on endless IPP sentences since 2012, when the sentence was abolished but not retrospectively. The finding will pile more pressure on the Government to hasten the process for releasing IPPs years over their tariff. The analysis comes as data released by the MoJ shows 2,852 IPPs remain incarcerated including 1,227 who have never been released, of whom 1,210 are beyond their original tariff. There have long been calls from campaigners for the government to review the use of IPP sentences, and the UN torture expert has described the punishment as "cruel and degrading". The House of Lords will be discussing amendments to the Government's Victims and Prisoners Bill, currently going through Parliament, which are aimed at enabling those over tariff to be released. The current Justice Secretary is in the process of changing the stringent licence conditions that have led to IPP becoming a revolving door due to returns to prison for technical and not criminal reasons. The MoJ said: "We have reduced the number of unreleased IPP prisoners by three-quarters since we scrapped the sentence in 2012, with a 12% fall in the last year alone, where the Parole Board deemed prisoners safe to release. We have also taken decisive action to curtail licence periods and continue to help those still in custody to progress towards release, including improving access to rehabilitation programmes and mental health support." Justice Secretary Alex Chalk has described IPP as "a stain on the justice system."

3.4.3 Experiences of IPP User Voice report

This shares the voices and experiences of 111 IPPs, a sentence regarded by all political parties and anyone involved with the CJS as unjust and a stain on our justice system. This is the largest study of what people caught up in the nightmare of being an IPP is really like. For the vast majority, their experiences across nine domains have left them "devasted," "hopeless" and "living in fear." 69% had served more than 5 years over their original tariff before their first release and 13% served more than 10 years. Key findings include:

- 2/3 rated the quality of the support they received from prison staff in the preparation for their most recent release as 'Poor' or 'Very Poor.' Most described a distinct lack of support in general, particularly with accommodation, finances, and getting identification
- People found real benefit in progressing to a Cat-D prison which helped with the anxiety and stress of transitioning to life on the outside

- People reported that the Parole Board consistently “move the goalposts” at each parole hearing to avoid releasing those serving IPP sentences which leads to general feelings of pessimism and hopelessness when preparing for and attending hearings. They expressed frustration at frequent adjournments and changes in key members of staff
- IPPs spend significant periods in prison and therefore often find release to be an overwhelming experience in which adjustment to the outside world is difficult
- It is mandatory for IPPs to be released to Approved Premises for varying amounts of time. Participants often described the financial burden of APs and the environment as not conducive to rehabilitation and desistance
- Over half rated the quality of the support they received in the community as ‘Poor’ or ‘Very Poor’ and described a lack of support from probation and continuity of staff. The ease of recall and subsequent fear of repercussion is a barrier for openness and honesty with probation staff which means people often “suffer in silence”
- ¾ said they ‘Disagree’ or ‘Strongly Disagree’ that their most recent recall was fair and just, mainly because they had not been charged with a further offence and were recalled for “hearsay” often without any evidence. Many stated they have developed various MH issues since their most recent recall eg insomnia, anxiety, and depression and are now on prescribed medication. Recall has a significant impact on IPPs’ ability to maintain close relationships. Several decided that cutting off ties with loved ones reduced their chances of future recall

The report presents seven recommendations from IIPs:

- They want to be resentenced and would sign a waiver to any compensation. People just want their lives back
- Specialised training for prison and probation staff to increase understanding and provide improved support
- Specific houseblocks/wings for IPPs with specialist staff
- Implement a clear progression plan for release for each IPP
- Removal of the requirement of staying at approved premises or the time period shortened.
- Better access to mental health services that are tailored to the needs of IPPs
- IPPs want group forums to share experiences and hear updates from informed staff

3.4.4 Victims

Victims and Prisoners Bill Extract from a Victims' Commissioner and Domestic Abuse Commissioner joint blog

With its return to Parliament, victims and campaigners alike stand united in urging lawmakers to transform the victim experience. As Commissioners, all too frequently we hear of victims being failed. Though our focus differs, we are united in our mission to champion the rights and safety of victims of crime, including domestic abuse. Victims are not asking for much; they simply want fairness – a level playing field, where their needs and rights are considered alongside those of the offender. But too often, when victims need them, our justice agencies are found wanting, with few repercussions when they fail to deliver. It is time for change. Certainly, there is much in the Victims and Prisoners Bill to commend it, but we require a transformation in victim treatment, not more tinkering around the edges. To this end, we are collaborating with peers across all parties who want to strengthen the Bill and give it the “teeth” it needs. We want to see more robust mechanisms for holding justice agencies like the police and CPS to account in delivering victim rights. The Bill, and the CJS, must be there for all victims. Currently, some 32,000 victims of domestic abuse have no recourse to public funds, meaning that they are turned away from lifesaving support – unable to flee and seek refuge when they need it most. Equally, migrant victims are unable to safely report to the police for fear that they will be reported to immigration authorities. All victims of crime must be able to seek safety and justice without fear and regardless of their immigration status. This Bill represents a rare chance to radically revamp how victims navigate our justice system. We must get it right. Victims deserve no less.