

Justice Select Committee: 'Prison Population 2022'

December 2017

The Criminal Justice Alliance (CJA) is a coalition of 130 organisations - including charities, voluntary sector service providers, research institutions and staff associations – working across the criminal justice pathway. Our members now employ more than 12,000 people between them. The Alliance works to establish a fairer and more effective criminal justice system.

The CJA welcomes the opportunity to respond to this inquiry. This response focuses on the issues most pertinent to the CJA's collective voice.

1. What is the current and projected make-up of the (sentenced and unsentenced) prison population in England and Wales up to 2022?

2. What has led to the current size and make-up of the prison population?

At 24 November 2017, there were 85,556 people in prison. The prison population has nearly doubled since 1993, with an extra 41,000 people in custody, and is projected to increase by a further 1,600 by March 2022. Although the Prison Population Projections account for certain specific increases in population make up, such as older prisoners, they do not account for certain key cohorts which are disproportionately overrepresented, such as BAME (Black, Asian and minority ethnic) people, or women serving short sentences for non-violent offences.

Sentencing Practice

A material contributor to the growing size of the prison population is longer sentences. In the last ten years, both the average custodial sentence length and the sentence length for indictable offences have increased by over four months, from 12.4 to 16.5, and 15.3 to 19.5 respectively. For serious offences, the average sentence length is now 57 months, an increase of 23.5 months from ten years ago. There remains no firm evidence that this 'sentence creep' deters crime.

Between June 2007 and June 2017, the number of people sentenced to ten years or more has more than tripled. This is partly due to the increase in custodial for sexual offences. However, there is increase for nearly all indictable offence groups. There has also been an increase in the length of time those with mandatory life sentences spend in prison, up from 13 years in 2001 to a current average of 16 years.

In addition to longer prison sentences, all adult offenders are now also more likely to receive some form of custody. Fifty two per cent of adults convicted for indictable offences now receive some form of custody, compared with 41 per cent ten years ago.

People aged 60 and over are now the fastest growing age group in the prison estate, with three times as many over-60s as there were 14 years ago. Longer sentences have, in part, led to a significant increase in this cohort. Another key reason is the increase in late-in-

life prosecutions, most notably for sexual offences. Of the 234 people aged over 80 in prison last year, 204 – 87 per cent – were held for sex offences.

Recalled prisoners

In addition to changes in sentencing practice, the Offender Rehabilitation Act 2014 has also impacted the size of the prison population. The Act stipulates that anyone who committed an offence after 1 February 2017 and has served two days or more in custody must upon release now serve a minimum of 12 months under supervision in the community. Consequently, there has been a significant increase in the number of people recalled, up by nearly 1,000 since the changes were introduced in February 2015.

In the 12 months between 1 April 2016 and 31 March 2017, 21,721 individuals were recalled. However, over half - 56 per cent - had not committed a further offence, and were instead recalled for other licence breaches, such as failure to reside at a certain address, or drugs and alcohol issues. Some CJA members, as well as the Chair of the Parole Board, have expressed concern that some recalls may be for 'trivial' breaches, such as returning to a hostel drunk or being rude to a parole officer.

The problem is particularly acute for people serving IPP sentences. Last year 905 such prisoners were released, but in the same period more than half - 481 - were recalled. Despite the abolition of IPP sentences five years ago, 85 per cent of people serving an IPP sentence remain in prison beyond their tariff expiry date.

Fourteen per cent of people in prison currently don't know when, or if, they might be released as they are serving indeterminate sentences, up from nine per cent in 1993.

Remanded prisoners

A significant proportion – eight per cent, almost 7,000 – of the prison population have not been convicted of an offence and are in prison awaiting trial. A further three per cent are yet to be sentenced. More than one in ten people remanded in custody in 2017 were subsequently acquitted, and a further 14 per cent received a non-custodial sentence. This means that one in four of those on remand, at a cost of £6,250 per person for an average ten week period, is not subsequently imprisoned. This huge cost is something the Committee might like to consider.

Mental Health Crisis

As highlighted by the National Audit Office (NAO) in June 2017, the Government – and others – do not know how many people in prison have a mental illness or what their needs are. From what is known – for example, 26 per cent of women and 16 per cent of men say they have received treatment for a mental health problem in the year before custody – there exists a high proportion of prisoners with significant mental health needs. The Centre for Mental Health estimates that some 21,000 mentally ill people, a quarter of the prison population, are currently imprisoned. However, figures from NHS England show that just 600 high-security and 3,000 medium-security beds for mental health patients are available. Additionally, we know that rates of self-harm in prison have risen significantly in recent years, by 73 per cent between 2012 and 2016. This may be due to an increase in the number people with poor mental health entering prison, but is also likely to be due to a decline in their mental health and well-being in prison itself.

While there is an urgent need for more information on mental health among prisoners, the evidence is clear that there is a mental health crisis within the prison system. We recognise that this may in part parallel significant cuts to mental health services for the general population. For example, the number of beds available nationally for mental health patients has dropped by three quarters since 1986-87, to about 17,000.

The NAO also recognised that the majority of the prison estate is not built to adequately provide healthcare and that training provided to prison officers to detect and manage prisoners with poor mental health remains insufficient. This raises serious questions about the suitability of prisons to deal with such a large proportion of people with mental health needs, as well as whether custody is an appropriate sanction for such people in the first place.

Women

Of 85,556 people in prison, just over 4,000 - 4.7 per cent - are women. Despite comprising less than five per cent of the prison population, ten per cent of all those sent to prison each year are women, many serving short sentences. This means that a large proportion of the women's estate has a very high turnover.

In 2016, 70 per cent of women entering prison has been sentenced to six months or less. In 1993, only a third of women received such sentences. In contrast, the number of community sentences for women has fallen by nearly half in the last ten years.

The current Justice Secretary recently argued that people should only go to prison if 'the crime they've committed is so serious that nothing else will do to satisfy the needs of justice and deterrence' or if 'they would be a threat to public safety if they were out in the community'. The CJA warmly agrees with him.

Given that the vast majority of women in custody - nearly three quarters - are there for non-violent offences and for very short periods of time, the Secretary of State's view might apply compellingly to them.

BAME Prisoners

While representing 14 per cent of the general population, 26 per cent of the prison population are from a minority ethnic group. Black people in particular are very significantly over-represented, making up 10 per cent of the prison population in contrast to less than three per cent of the wider population.

If the demographics within prison reflected those of England and Wales, there would – as David Lammy recently noted - be 9,000 fewer BAME people in prison, the equivalent of 12 average sized prisons. For children in prison, the discrepancy is even starker. BAME children now account for 43 per cent of children in custody, up from 24 per cent ten years ago.

4. What is the Ministry of Justice's existing strategy for managing safely and effectively the prison population?

5. What is Her Majesty's Prison and Probation Service's current capacity to manage safely and effectively the prison population?

In November 2016 the Government's White Paper on prison reform and safety acknowledged that prison safety had declined since 2012 and presented a strategy to reduce violence in prisons and transform them. In the words of the then Justice Secretary they were to be changed 'from offender warehouses to disciplined and purposeful centres of reform'.

The stated intention was to empower prison governors, reduce bureaucracy and give frontline staff the 'time and tools' needed to support prisoners. Crucially, there was also a commitment to recruit 2,500 new prison officers by 2018. (The number of frontline staff had been reduced by over 7,000 between 2012 and 2016, a period that saw the prison population continue to rise.)

At the time of the White Paper's publication, self-inflicted deaths in custody had risen 75 per cent since 2012 and incidents of self-harm incidents were up 57 per cent. Assaults in prison were up 64 per cent and assaults on staff, in particular, had doubled.

The White Paper focused in particular on the use of new psychoactive substances (NPSs) as a primary factor behind the decline in prison safety, emphasising their description by the Prisons and Probation Ombudsman as a 'game-changer'. These drugs have undoubtedly had a hugely destabilising effect on safety in recent years because of the difficulty in detecting them, as well as the volatility of their effects. Efforts to reduce the prevalence of NPSs in prisons through combatting drones and better detection of both the drugs and the mobile phones used to facilitate their entry are certainly needed. We were shocked, as the Committee might have been, by the Chief Inspector's comments in September this year that some prisons still lacked basic detection technology such as scanners.

While recognising the 'change in the operating environment' created by NPSs, it is difficult to conclude that the crisis might not have arisen or been exacerbated, at least in part, as a result of the material reduction in staff numbers. When there are not enough officers safely to give prisoners the opportunity to engage in activity outside their cells, it's not surprising that they are – in the words of the Chief Inspector – 'all too often, turning to illicit drugs to break the boredom born of long periods locked in their cells.'

The Prisons and Courts Bill featured a number of the proposed reforms outlined in the White Paper, including a statutory purpose of prisons to 'protect the public, reform and rehabilitate offenders, prepare prisoners for life outside prison, and maintain an environment that is safe and secure.' The CJA felt this might also have been very usefully extended to include 'maintaining a humane and decent environment'.

Regrettably, the Bill was lost at the dissolution of Parliament in May and the Queen's Speech following the general election did not announce any new legislation in this area.

Nevertheless, the Justice Secretary has committed to building on the reforms begun in the previous Parliament, stating in June that the Government was on track to recruit the additional 2,500 prison officers by December 2018. We welcomed this. As of 30 September 2017 there were 1,207 prison officers more than 12 months earlier. However even if the full 2,500 were recruited by the end of 2018, this does not restore the 7,000 lost in recent years.

The current situation in the prison estate across England and Wales – demonstrated by a catalogue of metrics around things such as self-harm, violence to officers and the prevalence of drugs – does cast considerable doubt on whether the Ministry's strategy for prison reform and safety, and HMPPS's capacity to implement that strategy, is working.

Latest statistics show that prison safety continues to decline sharply. While self-inflicted deaths have fallen very slightly, self-harm reached a record high of 40,414 incidents in the year to March 2017, up 17 per cent in a year. The number of such incidents requiring hospital attendance also rose by 13 per cent, to 2,771. Assaults in prisons saw increases in both overall terms and in their gravity. There were 26,643 such assaults in the year to March 2017, up 20 per cent from a year earlier. Serious assaults also increased by 22 per cent, to 3,606. Shockingly, serious assaults on staff have tripled since 2013.

We remain unconvinced that the strategic separation of policy and delivery, effected through the creation of Her Majesty's Prison and Probation Service in April, has had any material beneficial impact. Andrea Albutt, President of the Prison Governors' Association, recently shared with a CJA members meeting her anxiety that governors consequently feel 'shackled by bureaucracy'.

- 6. What are the implications of the likely rise in the population for the resources required to manage prisons safely and effectively?**
- 7. What impact does reducing reoffending by existing prisoners and those under the supervision of probation services have on the size and make-up of the prison population?**

The decline in safety in prisons has been well-documented by various bodies, and acknowledged by the Government. But for all the changes in the division of policy and delivery, the introduction of better security to tackle NPSs and even the small increase in officer numbers the reality is that too many prisons remain unsafe for the people who live and work there and, on the evidence of increasing violence and self-harm, increasingly so.

Regrettably, the implication of the projected rise in the prison population is that the situation will only worsen. Already limited resources available are currently being expended on responding reactively to a growing crisis, rather than confronting the fundamental problem – that there are simply too many prisoners for the system to cope with effectively. Of course, reducing reoffending by existing prisoners and those under the supervision of probation services would materially help achieving this aim. But there remain very serious concerns about the current and future ability of probation services, in the wake of huge structural and operational changes, in carrying out this task. (We welcome the Committee's current Inquiry into this area.)

We warmly welcome the Justice Secretary's recently-stated desire to see the prison population reduced and prisons made safer. We would suggest that if the Ministry of Justice wants to engage with this problem effectively, it might need seriously to re-assess whether there are particular cohorts of people within the prison population who should not be there because prison is not 'working' for them, their victims, or indeed, the public.

We warmly welcome the Committee's decision to question exactly who is in prison, why they stay there and why they return. We hope that, when considering the answers to those questions and the current state of prisons, it might also question whether some of those people really ought to be there or could be dealt with more effectively in other ways.

For further information contact Ben Summerskill, Director, on 0203 176 1153 ben.summerskill@criminaljusticealliance.org.uk or Katherine Copperthwaite, Policy Officer, on 0203 176 1153 katherine.copperthwaite@criminaljusticealliance.org.uk

This response does not reflect the individual policy position of any member organisation of the CJA